



OFFICE OF THE POLICE & CRIME COMMISSIONER FOR NORFOLK

ORIGINATOR: CHIEF EXECUTIVE

DECISION NO. 2013/16

REASON FOR SUBMISSION: FOR DECISION

SUBMITTED TO: POLICE AND CRIME COMMISSIONER

**SUBJECT: COLLABORATION – GOVERNANCE – DISCHARGE OF CHIEF FINANCE
OFFICER RESPONSIBILITIES**

SUMMARY:

1. The report attached at Appendix 1 from Temporary Assistant Chief Constable Hamlin is self-explanatory. It sets out a proposal by which the Assistant Chief Officer – Norfolk would discharge the single Chief Officer lead roles in respect of joint estates and facilities, ICT and transport. The Assistant Chief Officer – Suffolk would discharge the Chief Finance Officer roles for the Chief Constables of both Norfolk and Suffolk and further, act as a single Chief Officer lead for joint procurement. The reasons for the proposal which would run for an interim period until 30 March 2014 are set out in the attached report.
2. The financial, service and risk implications are similarly explained.
3. If agreed the arrangement will need to be formalised through a collaborative agreement under S22A of the Police Act 1996.

RECOMMENDATION:

1. The recommendations contained within the attached report, namely:
 - *“It is recommended that the role of Chief Constable’s Chief Finance Officer in both Norfolk and Suffolk will be undertaken by ACO Clayton, Suffolk. ACO Clayton will also act as the single Chief Officer lead for joint procurement.*
 - *It is recommended the ACO Birtles will act as the single Chief Officer lead for joint Estates & Facilities, joint ICT and joint Transport.*
 - *It is recommended that each ACO will operate as a member of both Constabularies’ Command Teams. This means that each ACO will be empowered to make decisions on their area of business on behalf of both Forces and as provided for by the Governance Schemes of the PCCs.*

- *It is recommended that this arrangement will commence upon an agreed start date and will operate until 30th March 2014. From the start date, the reporting lines for the respective joint Heads of Department will be to the single Chief Officer lead as follows:*
 - *Joint Head of Finance and Joint Head of Procurement will report to ACO Clayton*
 - *Joint Heads of Estates & Facilities, ICT and Transport will report to ACO Birtles*
- *The collaboration agreement will define governance arrangements and the mechanisms by which each Chief Constable will satisfy themselves that their financial duties are met and how any political conflicts arising can be appropriately handled.”*

be agreed.

2. The Chief Executive be authorised to execute the collaboration agreement under Section 22A of the Police Act 1996 on behalf of the Police and Crime Commissioner for Norfolk in order to give effect to the proposed arrangement.

APPROVAL BY: POLICE AND CRIME COMMISSIONER

The above recommendations are agreed.

Signature



Deputy PCC

Date

4/6/13

DETAIL OF THE SUBMISSION

1. KEY ISSUES FOR CONSIDERATION:

1.1 The attached report sets out the key issues relating to the collaborative proposal.

2. FINANCIAL IMPLICATIONS:

2.1 The financial issues are addressed within the attached report.

3. OTHER IMPLICATIONS AND RISKS:

3.1 The Chief Executives (and Monitoring Officers) for both the Norfolk and Suffolk Police and Crime Commissioners have been consulted as to whether the proposed arrangement is permissible under the Police Reform and Social Responsibility Act 2011. In considering the matter the advice of the Home Office and opinion from leading counsel have been sought. As a consequence it is clear that should the arrangement be formalised through a collaborative agreement under Section 22A of the Police Act 1996 it will be a lawful arrangement into which the Chief Constables and Police and Crime Commissioners for Norfolk and Suffolk may enter. The Chief Executives are therefore content for the arrangements to proceed.

3.2 The existence of any risks are explained in the report.

PUBLIC ACCESS TO INFORMATION: *Information contained within this submission is subject to the Freedom of Information Act 2000 and wherever possible will be made available on the OPCC website. Submissions should be labelled as 'Not Protectively Marked' unless any of the material is 'restricted' or 'confidential'. Where information contained within the submission is 'restricted' or 'confidential' it should be highlighted, along with the reason why.*

ORIGINATOR CHECKLIST (MUST BE COMPLETED)	PLEASE STATE 'YES' OR 'NO'
Has legal advice been sought on this submission?	Yes – the Chief Executives of the Police and Crime Commissioners for Norfolk and Suffolk (both solicitors) have been consulted and as a consequence the leading counsel's opinion has been sought.
Has the PCC's Chief Finance Officer been consulted?	Yes
Have equality, diversity and human rights implications been considered including equality analysis, as appropriate?	Yes
Have human resource implications been considered?	Yes – the Joint Director of Human Resources has been directly consulted in the production of the report and in the handling of the terms and conditions issues relating to both Assistant Chief Officers.
Is the recommendation consistent with the objectives in the Police and Crime Plan?	Yes
Has consultation been undertaken with people or agencies likely to be affected by the recommendation?	Yes. Both Assistant Chief Officers have been consulted in the development of the proposals.
Has communications advice been sought on areas of likely media interest and how they might be managed?	Yes
In relation to the above, have all relevant issues been highlighted in the 'other implications and risks' section of the submission?	Yes

APPROVAL TO SUBMIT TO THE DECISION

Chief Executive

I am satisfied that relevant advice has been taken into account in the preparation of the report and that this is an appropriate request to be submitted to the (add decision-makers title i.e. PCC).

Signature: 

Date 04/06/2013



16TH May 2013

AGENDA ITEM:

GOVERNANCE-DISCHARGE OF CHIEF FINANCE OFFICER RESPONSIBILITIES

Report by: T/ACC Hamlin

This report is for decision.

1. INTRODUCTION

- 1.1 The Police Reform and Social Responsibility Act 2011 established new governance arrangements for the police service. Police Authorities have been abolished and replaced by elected Police and Crime Commissioners, who, together with Chief Constables, have been given the legal status of separate corporations sole. Inter alia, each PCC and each Chief Constable is required to appoint a Chief Finance Officer to be responsible for the proper administration of their respective financial affairs.
- 1.2 The legislative requirements, roles and responsibilities relating to the Chief Finance Officers are set out in the 2011 Act, in the Financial Management Code of Practice presented to Parliament pursuant to the Act, and in the CIPFA Statement on the role of the Chief Finance Officer of July 2012.
- 1.3 One of the many requirements of Chief Finance Officers is the statutory requirement for the CFO to be a member of one of the bodies listed in s113 Local Government Finance Act 1988. Membership requires qualification and this in effect means that the CFO must possess a recognised formal accountancy qualification.
- 1.4 Until the relevant parts of the 2011 Act took effect on 22 November 2012, the respective Chief Finance Officers in Norfolk and Suffolk Constabularies were ACO Birtles and ACO Clayton. They were appointed in accordance with the legislative requirements, roles and responsibilities relating to Chief Finance Officers set out in the Financial Management Code of Practice under the Police Act 1996. This previous legislation required that all force finance directors appointed after 1 April 1995 should have membership of one or more of the bodies listed in Section 113 of the Local Government Finance Act 1988, but made an exception that for existing postholders (as was ACO Birtles), extensive experience of financial administration should be regarded as an acceptable qualification. Because of the increased complexity of the role of the Chief Finance Officer within the structure of a corporation sole, this exception was not made in the 2011 Act and other issues referred to at paragraph 1.2 above.

- 1.5 ACO Birtles does not possess a recognised formal accountancy qualification as required by the new regulatory regime.
- 1.6 A number of options to manage this issue were considered and discounted. These are set out below:
- Head of Finance Peter Jasper to carry out the role. This was considered unworkable due to the significant and substantial workload currently assigned to him
 - Norfolk PCC Chief Finance Officer Bob Summers to carry out the role. This was considered to create a conflict of interest and due to his high National/Home Office portfolio would be unworkable.
 - Employ a qualified ACO in Norfolk. This was discounted on the grounds that ACO Birtles has significant experience in the organisation. Given the existence of a critical period of change it was felt that redistributing the roles of both ACOs to balance out workload would be a better interim solution, thereby retaining skills and experience whilst ensuring the legal responsibilities in both Forces are met.
 - ACO Clayton to pick up CFO responsibilities for both Forces in addition to his workload. CIPFA Guidance advises that the CFO's core financial responsibilities must not be compromised through the creation of too wide a portfolio. This option is therefore discounted on the grounds that there needs to be a balance of workload and this arrangement would overload ACO Clayton when ACO Birtles can manage other responsibilities.
 - Consideration was given to terminating both ACO contracts and rewriting them so that each ACO is employed by both PCCs. This was felt to be a cumbersome process and would require a significant timeframe to achieve.

2.0 **PROPOSED INTERIM ARRANGEMENT**

- 2.1 Having discounted the above options the preferred way of proceeding is that on an interim basis each ACO will operate as a member of both Constabularies' Command Teams. The division of responsibilities is necessary, even in the interim, to ensure a fair distribution of command responsibilities. Therefore the following is proposed:
- The role of Chief Constable's Chief Finance Officer in both Suffolk and Norfolk will be undertaken by ACO Clayton, Suffolk. ACO Clayton will also act as the single Chief Officer lead for joint Procurement.
 - ACO Birtles will act as the single Chief Officer lead for joint Estates & Facilities, joint ICT, and joint Transport.
- 2.2 It is proposed that this arrangement will operate until 30th March 2014 and until that date the reporting lines for the respective joint Heads of Depts will be to the single Chief Officer lead as follows:
- Joint Head of Finance and Joint Head of Procurement will report to ACO Clayton.

- Joint Heads of Estates & Facilities, ICT, and Transport will report to ACO Birtles.

- 2.3 Legal advice including leading counsels' opinion has been sought upon the proposal. Accordingly in order to comply with legislation, the delivery of this option would be by way of a collaboration agreement entered into by both Chief Constables, and both Police and Crime Commissioners.
- 2.4 The option will also require the agreement of the ACOs. In particular, ACO Clayton will need to ensure that he can comply with the financial legislation, rules and guidance applicable to his role as CFO for both forces and that he will be able to undertake the role without any conflict arising under the rules of his Accountancy Body.
- 2.5 The Chief Constables are responsible for compliance with financial legislation, regulation and guidance applicable to their Force and must ensure that the discharge of the CFO role will allow those duties and requirements to be met. The governance arrangements will need to reflect how the respective duties of the Chief Constables and the CFO will be met by a joint CFO post. They will also need to agree a mechanism for dealing with any conflict that may arise as a result of joint working. These issues will be addressed within the collaboration agreement.
- 2.6 Should there be a requirement to extend this period this will require review before 30th March 2014. If at any time it appears to one of these parties, ie either Chief Constable, PCC or ACO that the arrangement is or has become unworkable for a justifiable reason, then the arrangement will be terminated with three months notice or such lesser period as agreed between the parties.
- 2.7 The proposed interim arrangement will meet the statutory requirements and will further meet the the dual requirements of the Chief Constable of Norfolk to retain the continuity of ACO Birtles' employment and experience in the Norfolk Constabulary Command Team during the ongoing period of organisational change (whilst ensuring that the role of Chief Constable's Chief Finance Officer is discharged in both Forces) and it will provide an opportunity for the four corporation soles to decide on the long term provision of Business Support delivery and strategic leadership.

3. **ADMINISTRATION AND LOGISTICS**

- 3.1 Both ACOs will be required to attend the current meetings of both forces covering the disciplines pertaining to their new portfolios. Steps will need to be taken to ensure that the PCC Governance schemes (including schemes of delegation) accommodate the proposed arrangement. Additionally, each ACO will be directly accountable to both Chief Constables and indirectly to both PCCs. Meetings with Chief Constables and PCCs will be as per normal practice in each force and on demand. Both ACOs will be expected to respond to and deal with issues in both forces on an equal basis.
- 3.2 The ACOs will by necessity spend increased time in their new roles in the adjacent force, meeting and further developing relationships with officers and staff. Extensive use of videoconferencing is already made within both forces and it is anticipated that this will assist in alleviating some of the time lost to additional travelling.

3.3 As each of the departments managed by the two ACOs already has a joint head, line management and professional development review will be simpler. However, in order to reassure all parties involved It is proposed that the ACOs will have a joint monthly catch-up meeting with each of the joint heads to ensure that both ACOs remain fully aware of all current developments

3.4 If this proposal is agreed, the next step will be to draft a Section 22A Agreement to formalise the interim arrangement, together with documentation to confirm the necessary amendments to contracts of employment. For ACO Clayton this will consist of a temporary variation to contract. For ACO Birtles a Fixed Term Contract will be offered.

3.5 The proposed arrangement will cease on 30th March 2014.

If it is required to continue such continuation will require the agreement of the ACOs, Chief Constables and PCCs

It is proposed that either ACO may terminate the arrangement before that date by giving three months notice in writing.

It is also proposed that a notice period of three months will be included within the section 22a agreement that may be operated by any one of the Chief Constables or PCCs.

4.0 RECOMMENDATIONS

4.1 It is recommended that the role of Chief Constable's Chief Finance Officer in both Suffolk and Norfolk will be undertaken by ACO Clayton, Suffolk. ACO Clayton will also act as the single Chief Officer lead for joint Procurement.

4.2 It is recommended that ACO Birtles will act as the single Chief Officer lead for joint Estates & Facilities, joint ICT, and joint Transport.

4.3 It is recommended that each ACO will operate as a member of both Constabularies' Command Teams. This means that each ACO will be empowered to make decisions on their area of business on behalf of both Forces and as provided for by the Governance schemes of the PCCs.

4.4 It is recommended that that this arrangement will commence upon an agreed start date and will operate until 30th March 2014. From the start date, the reporting lines for the respective joint Heads of Depts will be to the single Chief Officer lead as follows:

- Joint Head of Finance and Joint Head of Procurement: will report to ACO Clayton.
- Joint Heads of Estates & Facilities, ICT, and Transport will report to ACO Birtles.

4.5 The collaboration agreement will define governance arrangements and the mechanisms by which each Chief Constable will satisfy themselves that their

financial duties are met and how any political conflicts arising can be appropriately handled.

4.6 There are no financial or risk implications associated with this option.