

Polisiâu a Gweithdrefnau / Policies and Procedures

Summary

The purpose of this policy is to set out the decision making process that the Police and Crime Commissioner for North Wales will adhere to. To establish the parameters, approach and principles and outline the procedures for recording and publication of decisions made by the Police and Crime Commissioner.

This procedure has been adopted by the OPCC for North Wales.

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Decision Making Process

1. Introduction

- 1.1 The aim of this document is to set out the decision making process that the Police and Crime Commissioner (“the Commissioner”) for North Wales will adhere to, in line with The Elected Local Policing Bodies (Specified Information) Orders 2011 (and subsequent Orders) and other relevant legislation. This includes:
 - 1.1.1 establishing the parameters, approach and principles for decision making by the Commissioner for North Wales,
 - 1.1.2 outlining the decision-making process for the Commissioner for North Wales,
 - 1.1.3 outlining the procedures for the recording and publication of decisions made by the Commissioner for North Wales.
- 1.2 Decisions taken by the Commissioner will primarily arise from discharging his/her statutory functions: moreover, a statutory duty has been placed on the Commissioner to record and publish decisions of significant public interest arising from the exercise of those statutory functions, whether made by the Commissioner in private or as a result of a meeting of a public or private nature.
- 1.3 The statutory requirements for the recording and publication of information surrounding decisions, requires specific elements to achieve transparency and ensure integrity of those making decisions. The Commissioner will adopt rigorous standards of probity, regularity and transparency in their decision-making and all decisions will be taken solely in the public interest, going beyond the basic statutory requirements where possible.

2. The Statutory Framework

- 2.1 The Police Reform and Social Responsibility Act 2011 (the Act) sets out the functions of the Commissioner and provides the legal framework for the Commissioner’s decision-making. Under Section 1(2) of the Act both the Commissioner and the Chief Constable are corporations sole, with the functions of the Commissioner being set out in Section 1 (5)-(8). As corporations sole, the bodies can only do the things that the legislation expressly or by necessary implication says they can do.
- 2.2 The Act does not define how Police and Crime Commissioners will be expected to make decisions, but it does establish the Police and Crime Panel, which has a responsibility to review and scrutinise decisions taken by the Commissioner, therefore it is essential for a robust system to be established. Some of these decisions (such as the proposed precept and the appointment of the Chief Constable) must be considered in a particular way; however the scrutiny general decisions will be subject to local determination.

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- 2.3 Should an allegation of maladministration be made, Schedule 16 paragraph 121 of the Act makes it clear that the Commissioner can be investigated by the Commission for Local Administration in Wales under the provisions of Section 25 of the Local Government Act 1974.
- 2.4 The Police and Crime Commissioner (Declaration of Acceptance of Office) Order 2012 requires the Commissioner to make a declaration committing him/ her to serve local people without fear or favour and to set out publicly their commitment to tackling their role with integrity, impartiality and fairness.
- 2.5 The Policing Protocol Order 2011 sets out the framework within which the Commissioner and Chief Constable should work.
- 2.6 The Policing Protocol Order 2011 also requires all parties (including the Commissioner) to abide by the Nolan Principles.
- 2.7 The Financial Management Codes of Practice for the Police Service provides clarity around the financial governance arrangements and specifies the need to embed the principles of good governance into the way the office for the Commissioner operates.
- 2.8 The Information Orders specifies the information that must be published by the Commissioner including specific reference to decisions. It sets out both the time scales and requirements for recording and publications of decision and related policies.
- 2.9 The statutory framework of the Information Orders and the Freedom of Information Act 2000, General Data Protection Regulations UK and Data Protection Act 2018, will set minimum standards for publication.
- 2.10 Disclosure of any personal information will be conducted within the legal framework of the General Data Protection Regulations UK (GDPR UK), Data Protection Act 2018, the Human Rights Act 1998 and in compliance with the common law of the duty of confidence. Only the minimum necessary personal information will be shared and only when it supports the delivery of the purposes and functions of the Commissioner and Chief Constable. Personal information may be lawfully shared without consent only where there is a legal requirement to do so.
- 2.11 Our Privacy Policy contains information on how we process personal information and individuals' rights under GDPR UK.
- 2.12 The Freedom of Information Act 2000 provides a further level of public access to information. Public authorities must publish information about their activities including decision making, and members of the public are entitled to request information from public authorities, subject to specific exemptions.

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3. Decision Making Process

3.1 The key to achieving well informed decisions is through sound process, good management and effective leadership. The following checklist will be used in advance of making key strategic decisions:

- a) understand local needs, resources and priorities and consider the views of partners and stakeholders,
- b) based on this knowledge agree outcomes and the Chief Constable will determine how they can be delivered effectively, efficiently, equitably and sustainably,
- c) establish all the relevant and material facts,
- d) consult those who might reasonably consider they would be adversely or significantly affected,
- e) consider all reasonable courses of action open to the Commissioner,
- f) seek appropriate specialist advice,
- g) consider risk, performance and financial information,
- h) consider Welsh language provision,
- i) ensuring value for money is obtained,
- j) adhere to the Commissioner's Social Value Policy.

4. Approach to Decision Making

4.1 The Commissioner will demonstrate probity and regularity in their decision-making, not just as a matter of good governance but also as a matter of law. Therefore, the approach to decision making will adhere to the Good Governance Standard for Public Services and the Good Administrative Practice.

4.2 The decisions of the Commissioner will fall along a sliding scale of interest to their communities, complexity and impact (e.g. from local to national). This sliding scale of decision-making will usually demand a related and proportionate scale in the amount of information, advice, support, challenge, scrutiny and consultation given in advance of, and following the decision.

4.3 Decisions will range from single, internally focussed, low impact decisions through to those of significant public interest, consequences and cost. For those decisions which sit towards the upper end of the sliding scale, in the category of complexity and significant interest there is likely to be existing guidance, practice or procedure to guide the action prior to making the decision.

5. Local Controls and Mechanisms

5.1 In order to ensure good governance in relation to decision making the Commissioner will have arrangements in place within a Manual of Governance, which will cover the code of governance, delegations, consents, financial regulations, and standing orders relating to contracts.

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5.2 The Commissioner's governance arrangements will set out the parameters for decisions delegated to both police staff and those of the Commissioner's staff, along with any conditions that the Commissioner has imposed.

6. Principles of Decision-Making

6.1 **Decision-making will be well informed:** Decisions will be taken based on good quality information and clear objective advice in order to reduce the risk of taking decisions that fail to achieve the Commissioner's objectives or have unintended consequences.

6.2 **The decision-making process will be open and transparent:** In order to make well informed decisions the Commissioner will give proper consideration to all relevant parties and for some decisions consultation and engagement will be a statutory requirement.

6.3 **To have 'due regard' within the decision making process:** The Act places a duty on the Commissioner, the Chief Constable, community safety and criminal justice partners to consider the plans and priorities of each organisation, satisfy themselves that plans and priorities have been interpreted correctly and making clear the reasons for departing from those plans if appropriate.

6.4 **Be rigorous and transparent about how the decisions are taken:** The decision making process will have regard to the principles as set out in The Good Administrative Practice.

6.5 **All decisions of significant public interest will be recorded and published:** The statutory requirement for the recording and publication of information surrounding decisions is set out in the Information Orders.

6.6 The Commissioner will uphold the highest standards of integrity and honesty when taking decisions, as set out in the Nolan Principles and will adhere to a code of conduct for the Commissioner.

7. Urgent Decisions

7.1 There may be occasions where the circumstances of a decision dictates that only some elements of the checklist will be employed, for example an urgent decision would limit the amount of engagement that could be undertaken. However, all measures will be taken to ensure that urgent decisions are limited.

8. Contentious Issues/Decisions

8.1 Recognising the duty of the Chief Constable in respect of the delivery of operational policing, rare occasions will arise when the 'line' between the strategic and operational will be ambiguous. These issues/decisions will be classified as 'contentious'. To avoid possible conflict in who should take the decision the principle of 'due regard' will be employed.

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8.2 Contentious decisions can be defined as those of a political nature, matters of high public/media interest, matters likely to impact on a community/communities, high risk issues (e.g. upon reputation, public confidence) and could include the following:

8.2.1 Actions that conflict with the priorities set out in the Commissioner's Police and Crime Plan that will impact on the delivery of the Plan's outcomes,

8.2.2 Policy Changes - A decision that has a direct impact on local communities, for example the re-organisation of local policing,

8.2.3 Political Issues - These could be any number of areas and a checklist could be derived from the Police and Crime Plan.

9. Recording Decisions

9.1 To ensure the Commissioner adheres to the principle of openness and transparency the information used to inform the decision making process will be recorded in documents and reports used by officials and the Commissioner. An accurate record of the discussion prior to taking a decision will be recorded and will include the rationale for discounting options.

9.2 The Commissioner's publication scheme, which includes the requirements of the Information Orders, will be met in respect of the making and recording of decisions, including decisions of significant public interest.

9.3 The definition of decisions of significant public interest must be determined on the relevant facts, on a case by case basis. However, general guidelines are set out below.

- a) decisions requiring expenditure outside of the Capital and Revenue Budget for the year,
- b) decisions on expenditure above the limits in respect of delegations to officers set out in the Financial Regulations,
- c) decisions in relation to the senior officer ranks of the Force and the Office for the Police and Crime Commissioner,
- d) decisions affecting service delivery to the communities within North Wales,
- e) policy decisions in relation to the structure of the Force and the Office for the Police and Crime Commissioner,
- f) performance of the Force against targets within the Police and Crime Plan,
- g) any matter considered by the Commissioner to be of significant public interest.

9.4 These general guidelines are for illustrative purposes only and the information to be published overlaps with other requirements of the Information Orders. Key criteria to be applied in determining whether a decision should be published are its relevance to the fundamental duty of the Commissioner to ensure that the Police Force is efficient and effective and the obligation of the Commissioner to obtain the views of the community on policing and his / her role as their elected representative.

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10. Exclusions / Exemptions

10.1 Although the principle of openness and transparency is uppermost in maintaining confidence of local people, there will always remain some information that must remain confidential. Examples include information, the disclosure of which may:

- a) be against the interests of national security,
- b) jeopardise the safety of someone,
- c) prejudice the prevention or detection of crime, the apprehension of offenders or administration of justice,
- d) be prohibited by any enactment,
- e) relate to confidential information pertinent to commercial and personal interests,
- f) received under commercial confidence.

10.2 There may also be restrictions on publication of information for the following reasons:

- a) security restrictions placed on information held by the Police which cannot be made publicly available,
- b) potential to breach statutory restrictions on disclosure of information e.g. personal data, maintaining confidence of information provided by third parties.

10.3 Wherever possible careful consideration will be given to the classification of restricted information to ensure that the public has access to the widest range of information properly disclosable.

11. Process

11.1 The Project Lead will refer a decision referral form to the Chief Executive/Monitoring Officer for approval before it is put to the Police and Crime Commissioner for a formal decision.

11.2 The decision referral form must include the business case or supporting papers to enable the Chief Executive/Monitoring Officer to approve the referral.

11.3 The decision referral form must provide information on how the decision will impact those that live and work in North Wales and specifically give consideration to the policing priorities, financial, legal and social value implications, to equality and human rights issues and impact on the Welsh language, as appropriate.

11.4 A full impact assessment on equality, privacy and data protection will be carried out as necessary by the Project Lead.

12. Publications of decisions and information relating to decisions

12.1 As a minimum the Commissioner will comply with all statutory requirements in relation to publishing but will also publish decisions which are directly relevant to his / her statutory

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obligations to ensure an efficient and effective Police service and that he / she is able to fully represent the interests of the community by engaging in a dialogue in which the community is well informed.

12.2 Appropriate forms of communications will be utilised, including website, press/media releases, public meetings and social media.

13. Monitoring

13.1 This Policy will be reviewed by the Chief Executive every four years.