

To: Joint Audit Committee

Date: 27th April 2022

By: Alison Bolton - Chief Executive

Title: Scheme of Governance - Annual Review

Purpose of Report/Issue:

This report provides the Joint Audit Committee with recommended changes to the current Scheme of Governance following the annual review process.

The role of the JAC is to consider and comment on the adequacy of the Scheme of Corporate Governance before the Scheme is approved by the PCC and Chief Constable.

The overarching Scheme of Governance includes a number of documents as follows:

- Surrey's Code of Corporate Governance
- Decision making and Accountability Framework for Surrey OPCC
- PCC's Scheme of Delegation;
- Chief Constable's Scheme of Delegation;
- Memorandum of Understanding (and Schedule to the MOU)
- Financial Regulations
- Contract Standing Orders

Once agreed, the amended documents will be presented to the PCC and Chief Constable for approval and published.

Recommendations -

The Committee is asked to:

- i) Consider and comment on the adequacy of the Scheme of Governance and comment on the desirability of any proposed changes.
 - ii) Recommend that the Scheme be approved by the Chief Constable and PCC
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Summary

The Office of the Surrey Police and Crime Commissioner (OPCC) and Surrey Police, together with the Sussex OPCC and Sussex Police, have committed to undertake an annual review of all Governance documentation to ensure that it is up to date and fit for purpose.

The Scheme of Governance comprises a number of documents, some of which (marked with *) are shared with Sussex to reflect the collaborated teams that work across services such as finance, DDAT, procurement and People Services.

The Scheme of Governance comprises:

- **Code of Corporate Governance**
This sets out how the PCC/CC will achieve the core principles of 'good governance'
- **Decision Making and Accountability Framework**
This explains how the PCC will make decisions and hold the Chief Constable to account in a fair, open and transparent way
- **PCC Scheme of Delegation***
This sets out the key roles of the PCC and those functions they delegate to others.
- **Chief Constable Scheme of Delegation***
This sets out the key roles of the CC and those functions they delegate to others.
- **Memorandum of Understanding and Schedules***
The MOU attempts to describe how, in an arrangement where the CC employs the majority of the staff and the PCC owns all assets, the two parties will work together and ensure sufficient support in areas such as estates management, procurement, finance, HR, communications and corporate development.
- **Financial Regulations***
These set out the framework for managing the PCC's financial affairs.
- **Contract Standing Orders***
These describe the rules for the procurement of goods, works and services. Contracts are issued in the name of the PCC and the CC operates within the parameters of Contract Standing Orders.

Process of Review

All of the documents within the Scheme of Governance have been reviewed and updated in line with CIPFA guidelines and recommended good practice.

The Committee has been provided with 'clean' versions of the documents (rather than including tracked changes) as in the most part, minimal amendments have been made. A summary of changes made to all documents is included at Appendix 1. The exception is Contract Standing Orders and a separate document sets out the changes made to this document (Appendix 2).

The Sussex JAC considered the Scheme at its meeting earlier in March.

Consultation with the JAC's Lead on Governance, Lorna Harnby

The Chief Executive has had a number of conversations with Lorna Harnby to try and ensure we are following best practice in respect of governance documentation. Lorna raised a number of points, summarised as follows in italics:

Review naming conventions to ensure the name reflects the content of the documents in accessible language

Whilst this is an understandable and fair point, on balance, we concluded that most staff who need to know about these documents (e.g. Contract Standing Orders) would understand the current terms as they are widely used across the public sector. Almost every Office of the PCC has structured their Scheme of Governance in the same way as ours and to rename the individual components is likely to cause confusion.

Review how the documents are disseminated to the right cohort and improve accessibility to documents

We are very much agreed that the documents need to be more accessible and that everyone who needs to, should know where to find them. We have initiated some work to ensure that this happens following this year's review and the Chief Constable will be giving thought to how he will make sure the Scheme is filtered through the Force. A Sussex colleague is writing up a summary of each document that forms part of the Scheme, using more accessible language to explain what it's for and following review by the JAC and approval by the PCCs and CCs, we will progress this.

Consider how to evidence achievements set out in the Scheme of Governance documentation

A Part 2 supplementary document, evidencing performance against the Governance targets will be provided to a future meeting.

Next steps

Following review by the JAC, the PCC and CCs of Surrey and Sussex will be asked to approve the documents before they are published and distributed as per the above.

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Summary of Changes to Governance Documents:

Code of Corporate Governance

No substantive changes.

Framework of Decision-Making and Accountability

No substantive changes, but updated to ensure it reflects the revised governance arrangements implemented by the current PCC and that description of how the JAC interacts with the OPCC & the CC is correct.

PCC Scheme of Delegation

Reference at 3.3. to the requirement for the PCC to put in place a succession plan in the event of a vacancy or incapacitation.

CC's Scheme of Delegation

No substantive changes

Memorandum of Understanding (and Schedule to the MOU)

No substantive changes

Financial Regulations

- Addition of references to compliance with CIPFA guidance on the role of the CFO
- Deletion of outdated references around the role of the Internal Audit function
- Addition of ability for PCCs/DPCCs to have purchase cards

Contract Standing Orders

See separate document

Contract Standing Orders 2022

Summary of Key Changes

Section 2

Legislation sets the threshold values at which certain obligatory requirements apply. Above these threshold values we must fully adhere with all aspects of legislation, below the threshold there are some areas of discretion.

Previously the threshold values were derived from EU Directives. Following the Brexit transitional period, the UK is now a direct member of the World Trade Organisation Government Procurement Agreement (GPA) and this defines the thresholds and how they are calculated. Whilst values for 2022 (which should remain for 2 years) are comparable to previous thresholds under GPA these need to be inclusive of taxes. Therefore, whilst Contract Standing Orders (CSO's) has previously considered values nett of tax, now values including and excluding VAT are expressed when considering the threshold value and whether the PCC / Force's expenditure sits above or below the threshold.

Section 2 also covers waivers to CSO's and these used to have different levels of approval than contract awards under Section 3. As there are proposed changes to the contract approval thresholds within Section 3 it is proposed to align waiver approvals with contract approvals for continuity.

Critically, this empowers local delegated budget holders to approve waivers (up to £25k aggregated over 4 years) where the expenditure is not covered by an existing PCC / Force contract. This must still be audited by capturing any approval on the waiver form with the rationale which will be held by the JPS and where required, a public notice will be published with the rationale for the waiver.

Section 3

At 3.1.3 the Approval levels have been revised. The Delegated Budget Holder approval has reduced, but this is to align with the requirement for expenditure over £25k to be directed through the JPS (see revisions to Processes 1 through 4).

All other approval levels have been increased to allow for greater coverage, agility and expediency in the approval process. It is important to note that contract approvals are conditional upon budget confirmation (both before a procurement process is commenced and then also prior to award) and therefore no expenditure should get to the point of contract award without having first been through budgetary approval. The Contract award approval is therefore predominantly about validating that the process was compliant with PCC / Force Policy and Legislation.

Authority to sign a contract has also changed, Budget Holder signing for contracts up to threshold, several roles with the ability to sign above threshold.

It is again important to note that the signing of a contract is not an approval to spend, that authority has been sought prior, but around ensuring that the contract terms are correct and proportionate to protect the interests of the PCC / Force (as per 3.1.5).

All of the above will need to be reflected in the Scheme of Delegation subject to approval of the revised CSO's. All contracts under seal remain solely with the PCC for signing.

The Processes

Process 1

This is to cover low value tactical purchases. Previously the value was £5,000 but has been revised to £10,000. Whilst this is double the value, the current £5,000 limit has been in place for almost 20 years and no longer remains proportionate when balancing risk against the efficiency of the process.

Process 2

This process also covers tactical procurements but requires a mandatory competitive assessment (whereas Process 1 only requires a single quote). The value for this process has changed from £50,000 to £25,000. This is to align with Legislative obligation to publish public notices of contract awards. It is not practical nor efficient for these notices to be done locally without a disproportionate level of training. Furthermore, contracts need to be published and retained centrally. This has rarely been done for procurements undertaken locally, demonstrating the need to introduce governance for this.

Process 3

For the reasons set out above for process 2, the lower value for this has changed to £25,000, to ensure the PCC / Force adheres with its legislated obligations. However, this remains an agile process and does not mandate a full tender but allows for quotations or other compliant routes proportionate to the requirements being procured. The key difference is that the JPS will undertake procurements between £25k - £50k that may previously have been undertaken locally by Budget Holders.

Process 4

This is largely untouched as the processes are set out in legislation.

Section 4

This is a new section to cover Social Value in procurement activities, there is now a requirement to allow for a minimum weighting of 10% for social value in evaluations for above threshold procurements. It is drafted in anticipation that a PCC / Force Social Value Strategy is published at a similar time.

Section 6

This section on contract management remains largely unchanged, but we have included a requirement for Contract Managers to feed back to the JPS on performance and contract risks to be captured on the central PCC / Force Contract Register such that commercial performance and risks can be reported consistently and holistically for the PCC / Force.

Section 7

This is a new section specifically addressing contract changes. Historically there has been a misunderstanding by some Contract Managers that once a Contract has been approved and awarded that they are empowered to make any changes and this has resulted in significant contract value increases in the past, and/or other changes (such as scope changes) that are not lawful and expose the PCC / Force to undue risk and financial damages (as they effectively become unlawful awards).

Further, contract changes were not always shared with JPS so neither the contract register nor public records would be updated. On occasions, contract changes have not been documented but undertaken verbally or simply by e-mail correspondence.

The section seeks to add clarity around what contract changes can be done locally, what needs to be shared with the JPS, and what approvals are required for financial changes to contracts.

Section 11

This has been significantly varied from the current drafting in CSO's. Presently CSO's references 'Breaches', but the language is proposed to be changed to 'Non-Adherence' or 'Failure to Adhere'. When recording these instances of Non-Adherence, they will be classified based upon the level of risk generated from the failure to follow due process. This is with a view to allowing a focus to be put on those instances of negligent practice or high risk to the PCC's rather than just classify all breaches as being equal as is presently done.

Removed from CSO's

Old Process 1

Current CSO's has a specific process for sub-£500 bracket of spend being under Procurement Cards. This has now been removed and Procurement Cards are simply referenced in the new Process 1 as an option for payment in accordance with the standalone GPC Policy.

Old Process 5

This made special reference to Agency Staff, however there are no discrete requirements for Agency Staff under Public Contract Regulations (PCR) and spend on Agency Staff is subject to the same processes as any other expenditure.

Old Process 6

This addressed disposal of assets, however, is covered in Financial Regulations and does not need to be included in CSO's.

Old Section 4

Essential conditions of contract.

A number of these were not essential and subject to inclusion being proportionate to the contract being entered into, also it was far from extensive and by only including some clauses it inferred others may not be as important.

As expenditure over £25k will be directed via JPS, more contracts will be subject to review by commercial professionals, or where contentious by Legal Services, to ensure that the wider terms are appropriate for the goods, works or services being procured.

Old Section 5

Referenced Framework Agreements, however this does not warrant a discrete section and simply forms part of the Processes (3 and 4 in particular) and the JPS will review framework agreements to assess fitness for purpose and to ensure they are utilised in accordance with the terms of the Framework.

Old Section 6

This referenced Consortium Arrangements in a context that was effectively the same as the old section 5, and therefore has been removed for the same reasons.

Old Section 7

This was a discrete section in respect of PCC oversight of contracts but has been incorporated in Section 3 as it should form part of the standard process and risked being overlooked as a discrete section.

Old Appendix A

This was the old breach process and will be replaced with a new appendix to reflect the new process set out in the new Section 11.