



## **Chief Constable's Scheme of Delegation:**

### **Professional Standards**

1. The purpose of this Scheme of Delegation is to describe the extent of any delegated authority to ensure the Chief Constable's powers as the appropriate authority for complaints, conduct, and DSI matters<sup>2</sup> are carried out in accordance within the statutory and regulatory framework which is primarily set out in The Police Reform Act 2002; The Police (Complaints and Misconduct) Regulations 2012; The Police (Conduct) Regulations 2012; and The Police (Performance) Regulations 2012.
2. This Scheme of Delegation is an official document from the Chief Constable to his officers and staff stating what they can legally do in the name of the Chief Constable. It provides for single points of responsibility and authority for decision-making and forms part of a wider robust accountability of governance, control, scrutiny and challenge that delivers:
  - transparency in decision-making
  - regulatory and legislative compliance
  - the ability to operate in a timely and consistent fashion across all aspects of complaint and misconduct referrals, assessments, investigations, and casework outcomes.
3. The delegations set out herein also take into account the provisions of the College of Policing's Code of Ethics (2014)<sup>4</sup>, which relates specifically to chief officers in the discharge of their functions.

#### **Appropriate authority**

4. The appropriate authority for a person serving with the police is:
  - for a chief officer or an acting chief officer, the local policing body (i.e. the PCC) for the area of the police force of which the officer is a member; or
  - in any other case, the chief officer with direction and control over the person serving with the police
5. In respect of the Police (Performance) Regulations 2012, which do not apply to officers above the rank of chief superintendent, the appropriate authority is the chief officer of police.

## Permitted delegations

6. **Regulation 3(5) of the Police (Conduct Regulations) 2012** allows the chief officer to delegate the any of his functions of the appropriate authority to (a) a member of a police force of at least the rank of chief inspector; or (b) police staff member who, in the opinion of the chief officer is of at least a similar level of seniority to a chief inspector.
7. **Regulation 3(6)** provides that where the appropriate authority delegates its functions under regulation 10 [Suspension] or 41 [Special Case Hearings], the decisions shall be authorised by a senior officer, defined as a member of a police force holding a rank above that of chief superintendent.
8. **Regulation 33 (1) and (2) of the Police (Complaints and Misconduct) Regulations 2012** allows the chief officer to delegate all or any of the powers or duties conferred or imposed on him by or under Part 2 of the 2002 Act to a senior officer (in the case of a complaint or conduct matter concerning the conduct of a senior officer); and in any other case, to a member of a police force of at least the rank of chief inspector. In either case, these delegations extend to a police staff member who, in the opinion of the chief officer, is of at least a similar level of seniority.
9. **Regulation 33(3)** provides that a chief officer shall not, in any particular case, delegate any power or duty under paragraph (1) to a person whose involvement in the role could reasonably give rise to a concern as to whether he could act impartially under these Regulations, whether because he has acted as investigating officer in the case or attempted to resolve it by way of local resolution or otherwise. Regulation 33(4) further provides that a chief officer may delegate all or any of his powers or duties in relation to the local resolution of complaints under Part 2 of the 2002 Act to any person serving with the police.
10. **Regulation 4 of the Police (Performance) Regulations 2012** allows the chief officer to delegate any of its appropriate authority functions under these Regulations to a member of a police force of at least the rank of chief inspector; or a police staff member who, in the opinion of the appropriate authority is of at least a similar level of seniority to a chief inspector, except that where the appropriate authority delegates its functions under regulation 30, the decisions shall be authorised by a senior officer.

## Delegation

11. Where the appropriate authority is the chief officer of police, the Chief Constable of Avon and Somerset Constabulary hereby delegates all of the functions of the appropriate authority to the Deputy Chief Constable (DCC) for all matters relating to officers up to and including the rank of Assistant Chief Constable and for all members of staff up to and including the Assistant Chief Officer.

12. All powers or duties conferred or imposed on me by or under Part 2 Police Reform Act 2002, except those relating to local resolution under paragraph 8 of Schedule 3 of the Act In respect of the conduct of Assistant Chief Constable Nikki Watson are delegated to Deputy Chief Constable Gareth Morgan (DCC).
13. Provided that no power or duty as mentioned above shall be exercised by Deputy Chief Constable Gareth Morgan unless it has received independent scrutiny. Such scrutiny shall be provided by the Police and Crime Commissioner for Avon and Somerset (PCC) and a Chief Constable of a force other than Dorset, Devon and Cornwall, Gloucestershire and Wiltshire agreed between the DCC and the PCC when the requirement for scrutiny arises.
14. This particular delegation shall remain in force whilst ACC Watson, DCC Morgan and Chief Constable Andy Marsh remain members of Avon and Somerset Constabulary and shall have effect forthwith.

The Police and Crime Commissioner has been consulted on these arrangements.

15. As set out in the below Scheme of Delegation, specific functions of the appropriate authority are further delegated to the Head of the Professional Standards Department (PSD) and his or her deputies, and to officers and police staff of Chief Inspector rank and police staff equivalent, save that the following shall be authorised by the Deputy Chief Constable, or in his or her absence to an Assistant Chief Constable with previous experience of, or responsibility for, Professional Standards:
  - a) Decisions under Regulation 10 of the Police (Conduct) Regulations 2012 – Suspension
  - b) Decisions under Regulation 41 of the Police (Conduct) Regulations 2012 – Referral of a case to a special case hearing
  - c) Decisions under Regulation 30 of the Police (Performance) Regulations 2012 – Circumstances in which a third stage meeting may be required without a prior first or second stage meeting
16. The Scheme of Delegation indicates the lowest point in the PSD structure at which a decision may be taken. Where the Scheme gives authority to a designated post, that authority is also given to posts senior to the delegated decision-maker. Any reference to named posts is to be taken as including successor posts with similar duties but different titles. The Scheme should be periodically reviewed and updated to reflect current Department structures.
17. All decisions in furtherance of this Scheme of Delegation must be properly documented and the decision-maker must ensure that an audit trail explaining the decision making process is kept, together with a record of the rationale for

the decision. Any delegated authority given to an officer or member of staff may be exercised by his or her line manager.

18. Where a line manager decides to take such a decision, he or she should ensure that the relevant documentation reflects who actually took the decision and the rationale for any deviation from the normal delegated authority.
19. If a decision which would ordinarily fall to a delegated officer appears to him or her to be controversial or particularly sensitive in nature, or it is otherwise appropriate for the decision to involve the DCC or member of the PSD senior leadership team, the DCC or PSD senior leader should first be consulted on whether the matter should be referred formally to him or her to take responsibility for the decision. In any such case, it should be clear who has taken the decision and who was consulted in the course of making that decision.
20. Acting in accordance with a delegation in this Scheme will confer due authority on the officer or member of staff for the action or decision. Accountability for all powers and duties remains with the Chief Constable.
21. The powers delegated by this Register are not exhaustive. Omission of a delegated power from the register does not invalidate it. Officers and staff may lawfully exercise any legitimate powers they have available to them under legislation, regulation or common law.

### **Governance Framework**

22. It is the responsibility of the DCC to set and maintain an appropriate accountability framework and reporting structure for the governance and scrutiny of complaint and conduct matters that allows regular internal and external engagement with relevant stakeholders, staff associations and networks.

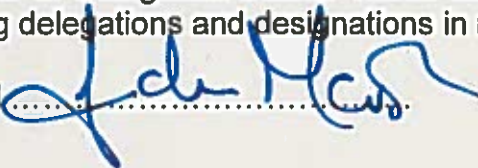
It is the responsibility of the Head of PSD to:

- ensure officers and staff for whom he or she is responsible are aware of and comply with the Scheme of Delegation and that documentation is updated in the light of legislative, regulatory or organisational change
- carry out compliance checks and record the outcomes
- review the allocation of roles and responsibilities in light of changes to responsibilities, the nature of the work, and experience
- ensure officers and staff to whom a power is delegated do not themselves delegate it further
- ensure any delegated individual is trained and competent to carry out the function

23. All operational queries in relation to the exercise of delegated powers should be directed to line manager of the delegated authority in the first instance. All queries regarding the register, including requests to vary delegations and add new delegations, should be directed in the first instance.

**Declaration**

I, Andy Marsh, Chief Constable of Avon and Somerset Constable Police hereby delegate and designate my appropriate authority functions and powers to the Deputy Chief Constable (DCC) for all matters relating to complaint, conduct and death or serious injury following police contact in respect of officers up to and including the rank of Assistant Chief Constable and for all members of staff up to and including the Assistant Chief Officer; and hereby further delegate specific functions to the primary and secondary delegated and designated officer(s) as set out in the attached Scheme of Delegation below. These delegations and designations supercede any existing delegations and designations in respect of those powers and functions.

Signed 

Dated 27-2-17

<b>Scheme of Delegation: Police (Conduct) Regulations 2012</b>	
<b>The Deputy Chief Constable has delegated authority to carry out all powers as Appropriate Authority for all ranks up to and including Assistant Chief Constable</b>	
<b>Detail of Further Delegation</b>	<b>Head or Deputy Head of PSD, Investigative Support Manager (Chief Inspector police staff equivalent)</b>
Regulation 4: The performance of the harm test	✓
Regulation 7(5): Appointment of legal advisor to the persons conducting misconduct proceedings, or special case hearing or appeal meeting	✓
Regulation 9(2), (3) & (4): Consideration of prejudice to criminal proceedings	✓
Regulation 12: Assessment of conduct (in consultation with the Head of Deputy Head of PSB for all matters relating to Inspectors and above, or any case involving a matter of significant public interest or internal concern, including all cases including but not limited to allegations of discrimination)	✓
Regulation 13(2): Appointment of investigator	✓
Regulation 19: Determination of case to answer on	✓

receipt of investigator's written report where the investigator recommends a case to answer for misconduct or gross misconduct (in consultation with the Deputy Chief Constable for all matters relating to Inspectors and above, or any case involving a matter of significant public interest or internal concern, including (but not limited to) allegations of discrimination)	
Regulation 19: Determination of case to answer in all other cases (in consultation with the Head of Deputy Head of PSB for all matters relating to Inspectors and above, or any case involving matter of significant public interest or internal concern, including (but not limited to) allegations of discrimination)	✓
Regulation 20: Withdrawal of case	✓
Regulation 21: The preparation and service of documents on the officer concerned	✓
Regulation 22 (2) & (3): To receive written notice and any submissions and the documents prescribed from the officer concerned	✓
Regulation 22 (4) & (5): To supply a list of witnesses to the officer concerned and attempt to agree the same	✓
Regulation 25 (2) & (4): In relation to the selection of the person to conduct the misconduct meeting and, in the case of a hearing, to select a panel of 3 persons	✓
Regulation 23 (1): To supply a list of witnesses to the person conducting or chairing the misconduct proceedings	✓
Regulation 27 (1): To supply copy documents to the persons conducting proceedings	✓
Regulation 30 (2): To notify complainant or interest person of opportunity to attend misconduct proceedings	✓
Regulation 38 (5), (8), (9), and (10): To appoint an appeal officer	✓
Regulation 42 (remission of case to a Part 4 Hearing); 43 (Notification to officer of referral to a special case hearing); 44 (Notice of special case hearing); 48 (Supply of documents to officer); 51 (Notification of complainant or interested person of opportunity to attend special case hearing)	✓
Regulation 58 (Record of disciplinary proceedings)	✓

**Scheme of Delegation: Schedule 3 to the Police Reform Act 2002**

**The Deputy Chief Constable has delegated authority to carry out all powers as Appropriate Authority for all ranks up to and including Assistant Chief Constable**

Detail of Further Delegation	Head or Deputy Head of PSD, Investigative Support Manager (Chief Inspector police staff equivalent)	Complaint and Misconduct Assessment Officer
All paragraphs under Part 1 (Handling of complaints; Part 2 (Handling of conduct matters, except where the complaint or conduct matter concerning the conduct of a senior officer);	✓	
Paragraphs 7 under Part 1 (Handling of complaints) determination whether or not complaint is suitable for local resolution		✓
Part 2A (Handling of DSI matters)	✓	
Part 3 (Investigations and subsequent proceedings) Paragraph 16 Appointment of investigator and Paragraph 17 Appointment of investigator in a supervised investigation	✓	
Paragraph 18 Appointment of investigator in a managed investigation	✓	
Paragraph 19B (5) To receive consultation from a person investigating a complaint concerning the severity assessment	✓	
Paragraph 20 Action in respect of special case referral	✓	
Paragraph 21 Procedure where conduct matter is revealed during investigation of DSI matter	✓	
Paragraph 22 Final reports on investigations: complaints, conduct matters and certain DSI matters	✓	
Paragraph 23 and 24 Action in response to an investigation report (in consultation with the DCC for all matters relating to Inspectors and above, or any case involving a matter of significant public interest or internal concern, including (but not limited to) allegations of discrimination) where: (i) the report was received from the IPCC in accordance with paragraph 22 (3) or 23 (6), or (ii) the investigation was subject to special requirements and misconduct proceedings are contemplated	✓	
Paragraph 23 and 24 Action In response to an investigation report (in all other cases)	✓	
Paragraph 27 Duties in response to disciplinary proceedings in consultation with the DCC for all matters relating to Inspectors and above, or any case involving a matter of significant public interest or internal concern, including all cases including but not limited to allegations of discrimination)	✓	

**Scheme of Delegation: Police (Complaint and Misconduct) Regulations 2012****The Deputy Chief Constable has delegated authority to carry out all powers as Appropriate Authority for all ranks up to and including Assistant Chief Constable**

<b>Detail of Further Delegation</b>	<b>Head or Deputy Head of PSD, Investigative Support Manager (Chief Inspector police staff equivalent)</b>	<b>Complaint and Misconduct Assessment Officer</b>
Regulation 3 Recording of complaints	✓	✓
Regulation 4 Referral of complaints to the IPCC Regulation 5 Disapplication of requirements of Schedule 3 Regulation 7 Recording and referral of conduct matters Regulation 8 Referral of death and serious injury matters Regulation 10 Discontinuance of investigations Regulation 11 Appeals Regulation 12 & 13 Duty to provide information Regulation 15 Copies of complaint Regulation 21 Withdrawn complaints Regulation 22 & 23 Suspension and resumption of investigation Regulation 24 Appointment of investigator Regulation 25 Combining and splitting investigations Regulation 27 & 28 Complaints about persons not serving with police or whose identity cannot be ascertained Regulation 31 Keeping of records	✓	



**Scheme of Delegation: Police (Performance) Regulations 2012**

The Deputy Chief Constable has delegated authority to carry out all powers as Appropriate Authority for all ranks up to and including Assistant Chief Constable

Detail of Further Delegation	Head or Deputy Head of PSD, Investigative Support Manager (Chief Inspector police staff equivalent)
Regulation 10 Extension of time periods	✓
Regulation 12 Meetings following investigations under Schedule 3 of Police Reform Act 2002	✓
Regulation 13 Provision of information to the IPCC	✓
Regulations 31 to 47 Referral to third stage meetings (in consultation with the Deputy Chief Constable for all matters relating to Inspectors and above)	✓

**Restriction on a police officer's duties**

Whilst not strictly a regulatory matter, The Deputy Chief Constable delegates authority to the Head of Deputy Head of PSD to determine any necessary restrictions on the duties of any police officer (other than senior officers) subject of a misconduct investigation either under Police (Conduct) Regulations 2012 or under the provisions of Schedule 3 to the Police Reform Act 2002. In contemplating any such restrictions either as an alternative to suspension from duty or to otherwise safeguard the interests of the officer or force, the Head of Deputy Head of PSD will confer with a member of the officer's Senior Leadership Team, and in the case of officers rank of Inspector, will also consult with a senior officer.

Signed



Andy Marsh  
Chief Constable

Dated

27/2/17