

**POLICE AND CRIME COMMISSIONER (PCC) FOR LINCOLNSHIRE  
REQUEST FOR DECISION**

REF: 2012/001

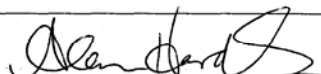
DATE: 22 November 2012

<b>SUBJECT</b>		<b>MAKING AND PUBLICATION OF DECISIONS OF SIGNIFICANT PUBLIC INTEREST – POLICY STATEMENT</b>
<b>REPORT BY</b>	<b>CHIEF EXECUTIVE</b>	
<b>CONTACT OFFICER</b>	<b>John King, Corporate Administration Officer, OPCC Tel 01522 947227</b>	
<b>EXECUTIVE SUMMARY AND PURPOSE OF REPORT</b>		
To consider a draft Policy Statement on the making and publication of decisions of significant public interest.		
<b>RECOMMENDATION</b>	<i>That the Policy Statement appended to the report be approved.</i>	

**POLICE AND CRIME COMMISSIONER FOR LINCOLNSHIRE**

I hereby approve the recommendation above, having considered the content of this report.

Signature:



Date: 22/11/12

**A. NON-CONFIDENTIAL FACTS AND ADVICE TO THE PCC**

**A1. INTRODUCTION AND BACKGROUND**

- 1.1 The introduction of directly elected Police and Crime Commissioners under the Police Reform and Social Responsibility Act 2011 ("the Act") is intended to make good the perceived democratic deficit in the previous arrangements whereby chief constables were held to account by indirectly elected police authorities. Under the Act, Commissioners are charged with holding chief constables to account, and in turn are accountable to their electorates.
- 1.2 Clearly, the ability of the electorate to hold their Commissioner to account is heavily dependent on the extent to which the electorate is informed as to the Commissioner's actions and decisions. Whereas police authorities were (subject to certain exceptions) required to hold meetings in public, and to publish their agendas and minutes, Commissioners will generally act in private, except when holding public consultations. Even here, any decisions resulting from those consultations are likely to be taken in private.

### Decisions of Significant Public Interest

- 1.3 There is a sliding scale of decisions that will be required of the Commissioner. These will range from single, internally focussed, low impact decisions, through to those of significant public interest such as:
- setting out local priorities for the Police and Crime Plan
  - commissioning community safety services
  - setting the budget and precept
  - appointing the Chief Constable
- 1.4 Paragraph 6(b) of the Elected Local Policing Bodies (Specified Information) Order 2011 ("the Order") requires the publication of "a statement of the policy of the [the Commissioner] in relation to the making of decisions of significant public interest arising from the exercise of [the Commissioner's functions]."
- 1.5 Neither the Act nor the Order defines what is meant by *significant public interest*. Therefore any decision as to whether a matter is of significant public interest is a matter solely for determination by the Commissioner, whose decision can only be challenged by judicial review.

### Decision Making as a Principle of Good Governance

- 1.6 One of the six core principles of the Good Governance Standards for Public Service<sup>1</sup> is "taking informed, transparent decisions and managing risk." A 2011 review of decision making in Government and Business concluded that "decision making is a process and not an event". It is therefore important to set the right climate in which good decisions are more likely to emerge than not, which comes from good governance, good processes and good awareness of what matters<sup>2</sup>.
- 1.7 In order to underline both the necessity and importance of good decision making and to assist incoming Commissioners and their officers in this area, the Association of Police Authority Chief Executives (APACE), in consultation with the Home Office, has produced guidance and practice advice. This follows many of the principles already embedded by the Mayor's Office for Policing and Crime (MOPAC). These approaches form the basis of a draft Policy Statement (attached at **Appendix 1**) in relation to the making and publication of decisions of significant public interest by the Police and Crime Commissioner for Lincolnshire. Adoption of the Policy Statement would ensure compliance with the requirements of the Order.

### Publishing Decisions

- 1.8 Paragraph 5(d) of the Order requires that a record be published of "each decision of significant public interest arising from the exercise of the Commissioner's functions whether made by the body at, or as a result of, a meeting or otherwise."
- 1.9 Under the draft Policy Statement a 'Register of Decisions' would be maintained by the Corporate Administration Officer recording all decisions that are considered to be of significant public interest. Each decision along with a copy of

<sup>1</sup> The Good Governance Standards for Public services, 2005

<sup>2</sup> Searching for the X Factors, a review of decision making in Government and Business, Whitehall and Industry Group/Ashbridge Business School, October 2011

the relevant 'Request for Decision' report would be published on the Commissioner's website within one full working day of a decision being approved.

Confidential Information

- 1.10 Whilst the principle of openness and transparency is uppermost in maintaining confidence of local people, there will always remain some information that the Commissioner will be obliged to keep confidential.

Examples include information the disclosure of which may:

- be against the interests of national security
- jeopardise the safety of someone
- prejudice the prevention or detection of crime, the apprehension of offenders or administration of justice
- be prohibited by any enactment.

- 1.11 The Commissioner will also be mindful of security restrictions placed on decision-related information held by the OPCC. The key method of restriction is the Government Protective Marking Scheme (GPMS) where anything classified as 'Restricted' or above cannot be made publicly available. Therefore any information relating to a decision which is classified as 'Restricted' cannot be published.

- 1.12 The classification of information under the GPMS is undertaken in accordance with the OPCC's Governance Classification Scheme and Management Rules published on the Commissioner's website.

**A2. LINKS TO POLICE AND CRIME PLAN AND PCC'S STRATEGIES/PRIORITIES**

None.

**B. FINANCIAL CONSIDERATIONS**

None.

**C. LEGAL AND HUMAN RIGHTS CONSIDERATIONS**

*[this should include the legal powers the PCC has for making the decision]*

As set out in the report.

**D. PERSONNEL AND EQUALITIES ISSUES**

None.

**E. REVIEW ARRANGEMENTS**

None planned.

**F. RISK MANAGEMENT**

Whilst Decision Making is not highlighted as a specific risk within the PCCs Risk Register, adoption of the Policy Statement would ensure compliance with statutory obligations.

**H. PUBLIC ACCESS TO INFORMATION**

Information in this form along with any supporting material is subject to the Freedom of Information Act 2000 and other legislation. Part 1 of this form will be made available on the PCC's website within one working day of approval. However, if release by that date would compromise the implementation of the decision being approved, publication may be deferred. An explanation for any deferment must be provided below, together with a date for publication.

**Is the publication of this form to be deferred? No**

**If Yes, for what reason:**

**Until what date:**

Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead on the separate part 2 form.

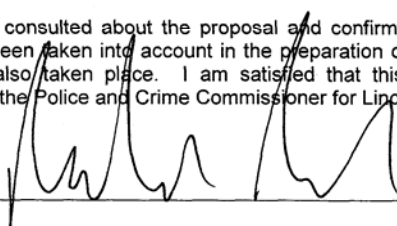
**Is there a part 2 form? No**

**If Yes, for what reason:**

**ORIGINATING OFFICER DECLARATION**

	Tick to confirm
<b>Originating Officer:</b> The Chief Executive recommends this proposal for the reasons outlined above.	√
<b>Financial advice:</b> The PCC's Chief Finance Officer has been consulted on this proposal. The CC's Chief Finance Officer has been consulted on this proposal.	-
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<b>Monitoring Officer:</b> The PCC's Monitoring Officer has been consulted on this proposal	√
<b>Chief Constable:</b> The Chief Constable has been consulted on this proposal	-

**OFFICER APPROVAL**

<p><b>Chief Executive</b></p> <p>I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. Consultation outlined above has also taken place. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner for Lincolnshire.</p> <p><b>Signature:</b>  <b>Date:</b> 22/11/12</p>	
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## Office of the Police and Crime Commissioner for Lincolnshire

### Making and Publication of Decisions of Significant Public Interest

#### Policy Statement

1. This policy applies to any decision taken by me in relation to the discharge of any of my functions as Police and Crime Commissioner (PCC) for Lincolnshire.
2. Every decision shall be taken on its individual merits, having regard to this policy and the duty on me in exercising public functions to act lawfully, fairly and reasonably. The Commissioner's Chief Executive is designated as Monitoring Officer under Sch 16, para 202 of the Police Reform and Social Responsibility Act 2011 ("the Act"). The role of the Monitoring Officer (Local Government and Housing Act 1989) is to ensure lawful and fair decision making and to report if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. The Monitoring Officer/Chief Executive is therefore consulted in respect of all decisions.
3. In making any substantive decision consideration is given as to whether that decision is or is not of significant public interest. This will require me first to determine whether the matter is of any public interest. If so, consideration will then be given as to whether the public interest in that decision is significant.
4. In determining whether a decision is of public interest regard will be had to the public interest test under the Freedom of Information Act 2000 and the guidance relating to that test issued by the Information Commissioner's Office. As the guidance states, there is a distinction to be drawn between what is in the public interest and what interests the public.
5. A Register is kept of all decisions which are considered to be of significant public interest. Each decision is published on the Police and Crime Commissioner for Lincolnshire's website within one full working day of its approval.
6. A Forward Plan is published on a monthly basis giving advance notice of key decisions that are scheduled to be taken over a four month period. An electronic version of the current Forward Plan is published on the Commissioner's website.

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7. The following decisions will normally be regarded as decisions of significant public interest:
- 7.1 Decisions leading to a requirement to publish any item of specified information by the Elected Local Policing Bodies (Specified Information) Order 2011 ("the Order").
  - 7.2 Any decision to issue or vary a Police and Crime Plan under section 5 of the Act, or to consult the Chief Constable regarding a draft of such a Plan, to submit a draft to the Police and Crime Panel ("the Panel") for Lincolnshire or to respond to any report or recommendation of the Panel.
  - 7.3 Any decision to submit an Annual Report to the Police and Crime Panel as required by Section 12 of the Act, or to respond to any report or recommendation of the Panel regarding an annual report.
  - 7.4 Any decision to supply or withhold any information requested by the Panel under Section 13 of the Act, but if the decision is to withhold information, neither the information nor the reasons for withholding it will be disclosed.
  - 7.5 Any decision regarding arrangements for obtaining the views of the community under section 96 of the Police Act 1996 as amended.
  - 7.6 Any decision to appoint any person (whether or not employed by me) to any other body, or to designate any person as having specified duties or responsibilities under Section 16 of the Act.
  - 7.7 Any decision to appoint any person as Deputy Police and Crime Commissioner under Section 18 of the Act.
  - 7.8 Any decision to approve a Scheme of Delegations/Consent, Finance or Contract Regulations.
  - 7.9 Any decision to appoint remove or suspend a Chief Constable under Section 38 of the Act, save that in the case of suspension, reasons for the decision may not be published in full or at all.
  - 7.10 Any response to a consultation initiated by the Chief Constable under Section 39 or 40 of the Act regarding the number of Deputy Chief Constables and Assistant Chief Constables to be appointed by him/her or the appointment of any person to such office.
  - 7.11 Any decision to enter into, withdraw from, or vary any collaboration agreement entered into under Section 22A of the Police Act 1996.
  - 7.12 Any decision relating to complaints and conduct matters concerning the Chief Constable and any decision to direct the Chief Constable to



comply with his/her obligations in regard to complaints (schedule 14, para 7 of the Act).

- 7.13 Any decision to enter into, withdraw from, or vary any combination agreement under the Crime and Disorder Act 1998 (schedule 11 of the Act).
- 7.14 Decisions will be published on the Commissioner's website using a standard template report within one full working day of the decision.
8. The following will not normally be regarded as matters of significant public interest:
  - 8.1 Any decision taken in the course of developing any budget strategy policy report or plan prior to consultation with the Chief Constable or submission to the Panel and/or publication following its approval or adoption.
  - 8.2 Day to day internal management decisions.
  - 8.3 Decisions relating to the appointment suspension or dismissal of staff or any disciplinary proceedings against them or any determination relating to their terms and conditions of appointment except in so far as may be required under Part 1 of the Schedule to the Order.
9. A decision that a matter is not of **significant** public interest should not be taken to mean that it is of **no** public interest. The intention in restricting the register to decisions of significant public interest is merely to avoid the need to record every decision made in the normal course of business, however minor. Any freedom of information request for information that would require disclosure of a decision not recorded on the register will be dealt with on its merits. However, all decisions of a nature which could be deemed to be novel or contentious will be recorded
10. The 'Scheme of Arrangements for the Discharge of Functions' outlines those decisions that I have chosen to delegate to my own officers or to the Chief Constable and officers under his/her direction and control. I will publish only those decisions which I have reserved for myself and those which I cannot legally delegate to another individual or body.
11. Section 11 of the Act requires a local policing body to publish the information which the body considers to be necessary to enable the persons who live in the body's area to assess:
  - (a) the performance of the body in exercising the body's functions; and
  - (b) the performance of the relevant chief officer of police in exercising the chief officer's functions.

Such information will be published on the Commissioner's website at the end of each quarter.

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12. As a matter of law, no decision may be published if the Chief Constable is of the view that publication would be against the interests of national security, or would jeopardise the safety of any person, or would prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice.
  13. This policy may be revised at any time and will be subject to formal review annually.

<b>Last updated:</b> Oct 2012	<b>Review date:</b> Oct 2013	<b>Version:</b> 1.0
<b>Owner:</b> CAO	<b>Source:</b> Z:\Management and Administration\Policies and Procedures\Office of the Police and Crime Commissioner\Policies and procedures\CAO Policies and Procedures\Decision Making\PCC Decision making Doc - App 1 v1.0.doc	