

Protocol for managing conflicts between the Leader of Warwickshire County Council and the Warwickshire Police and Crime Commissioner

1. Introduction

- 1) This protocol is the framework for managing any significant conflicts that may arise due to the fact that the Police and Crime Commissioner for Warwickshire (Philip Seccombe) is married to the Leader of Warwickshire County Council (Izzi Seccombe).

2. Legal Framework

- 1) Upon taking up office Philip Seccombe was required to declare certain business and personal interests in the Office of the Police and Crime Commissioner (OPCC) Register of Interests, in accordance with the PCC Code of Conduct. A copy of Philip Seccombe's Register of Interests and the Code of Conduct can be found at <http://www.warwickshire-pcc.gov.uk/your-pcc/>
- 2) Councillor Seccombe maintains a separate Register of Interests in accordance with the Member Code of Conduct adopted by Warwickshire County Council. A copy of Councillor Izzi Seccombe's Register of Interests can be found at <https://democratic.warwickshire.gov.uk/cm5/Councillors.aspx>
- 3) In respect of the interests that Philip Seccombe has disclosed there is nothing in law that would preclude him from also holding the office of PCC*. As such any conflicts arising will need to be managed to ensure that the PCC and the Leader of the Council are able to discharge their respective statutory functions effectively and in accordance with the principles of public law.
- 4) The PCC, under the Policing Protocol Order 2011, is required to abide by the seven principles set out in Standards in Public Life: First Report of the Committee on Standards in Public Life, known as the Nolan Principles. The seven principles (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership) are contained within the PCC Code of Conduct. Of particular relevance to the management of conflicts is the

*Note - sections 64-68 of the Police Reform and Social Responsibility Act 2011 contains the list of disqualifications.

principle of Integrity which requires holders of public office not to place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

- 5) Additionally, incorporated into the PCC Code of Conduct, is an Ethical Checklist produced by the Committee on Standards in Public Life to provide further assurance of high standards of conduct and accountability, which the PCC has signed up to.
- 6) The Leader of the Council is required to abide by the Warwickshire County Council Member Code of Conduct adopted by the Council under section 28 Localism Act 2011. This Code incorporates the seven principles of Public Life referred to above. Similarly she is obliged not to place herself under any financial or other obligation to outside individuals or organisations that might seek to influence her in the performance of her official duties. She was also obliged on becoming a Councillor to disclose any pecuniary interests and to maintain a Register of those Interests in accordance with section 29 Localism Act 2011 and Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.
- 7) The principles incorporated in both Codes of Conduct apply to all relevant interests not just those dealt with by this protocol.

3. Functions of the PCC

- 1) The Police Reform and Social Responsibility Act 2011 which created elected Police and Crime Commissioners sets out the statutory functions of the PCC. In general terms, the PCC has a duty to hold the Chief Constable to account and to ensure the maintenance of an efficient and effective police force for Warwickshire.
- 2) The PCC may appoint a Deputy Police and Crime Commissioner (DPCC) and, if appointed, arrange for the DPCC to exercise any function of the PCC, subject to certain restrictions.
- 3) The PCC must appoint a Chief Executive (who will be the Monitoring Officer) and a Chief Finance Officer and may appoint other staff as they see fit. Whilst retaining ultimate responsibility for the exercise of statutory functions, the PCC can delegate the exercise of functions to any person, subject to certain restrictions.

- 4) The PCC must personally exercise the following functions:
 - Issuing the Police and Crime Plan
 - Calculating the budget requirement
 - Appointing, suspending and requiring the Chief Constable to resign
- 5) The following functions may only be delegated to a Deputy PCC:
 - Determination of police and crime objectives
 - Attendance at a Police and Crime Panel meeting
 - Preparation of an annual report
- 6) All other PCC functions may be delegated and the OPCC has a Corporate Governance Framework which sets out how the PCC's functions will be exercised including how decisions will be made and who is authorised under a scheme of delegation to make decisions on behalf of the PCC. The Corporate Governance Framework will be updated in line with this protocol.
- 7) All key PCC decisions are formally recorded and published on the OPCC website.

4. Functions of the Leader of the Council

- 1) The Leader of the Council is the holder of all the executive powers of the County Council. These powers may be delegated to the Cabinet, individual Portfolio Holders or to officers of the County Council. Part 2 of the County Council's Constitution sets out how these powers have been delegated by the Leader.
- 2) The only matters which the Leader has expressly reserved to herself are
 - Overall responsibility for corporate policies and planning, performance and strategic issues, communications, budget, economic development, skills and external relations, including the Health & Wellbeing Board and Local Enterprise Partnership.
 - Oversight of the overall performance of the portfolio holders and the chief executive.
 - To act as the leader representative of the council on sub-regional partnerships and to make associated commitments on behalf of the council provided those commitments fall within the budget and policy framework of the council.

- 3) The Council's Constitution is published on its website and sets out the existing delegations to Cabinet, Portfolio Holders and Officers. A copy of the Constitution can be accessed here
<http://www.warwickshire.gov.uk/constitution>
- 4) All key decisions of the Council are formally recorded and published on the Council's website. Agendas for Cabinet meetings and their associated reports are normally published 5 working days in advance. Most decisions are made in public session unless the statutory criteria are met for considering a matter in private session.

5. Guiding principles

- 1) To ensure effective decision-making and to safeguard the integrity of the Leader and the PCC it is essential that adequate measures and safeguards are put in place.
- 2) The decision making of the Leader and the PCC is subject to scrutiny by the electorate. In deciding whether there is a significant conflict of interest under the respective Codes of Conduct, regard will need to be given as to whether there is a real danger of bias or the appearance of bias in exercising his/her judgement. He/she must not only avoid actual prejudice or predetermination but also the appearance of such forms of bias. The test to be applied is as follows:
 - *a member of the public with knowledge of all the relevant facts, would reasonably consider the interest so significant that it would be likely to prejudice my judgement on the decision*
- 3) In the interests of transparency and to maintain public confidence in public bodies this protocol will be published.
- 4) The protocol will be kept under regular review.

6. Areas of Potential Conflict

- 1) The PCC and the Council are key agencies in Warwickshire and there are areas where the PCC and County Council collaborate and may collaborate in the future. Some examples of circumstances where it is possible for a significant conflict of interest, or perception of conflict, to arise when making decisions are set out below.

- The letting of contracts by the PCC to the County Council and vice versa
- Consideration of legal proceedings in which the Council and the PCC are involved
- The awarding of grants to the County Council by the PCC and vice versa
- Collaborative arrangements between the PCC and the County Council

7. **Protocol**

- a) The PCC and Leader of the Council both have access to legal advice and should consult with their respective Monitoring Officer if they believe that there is or might be a significant conflict of interest in relation to a particular matter such that s/he should not exercise a function personally. The test to be applied is as follows:
 - *a member of the public with knowledge of all the relevant facts, would reasonably consider the interest so significant that it would be likely to prejudice my judgement on the decision*
- b) In the event of a significant conflict of interest arising the PCC and/or the Leader will withdraw from any discussion or decision regarding the matter and delegate the matter (if permitted by legislation) to other persons or bodies as appropriate.
- c) If there is a question as to whether the matter may be delegated, the Leader or PCC will seek the advice of their respective Monitoring Officer.
- d) Normally the PCC will delegate the matter to the DPCC (if appointed) or the Chief Executive of the OPCC.
- e) Normally the Leader will delegate the matter to the Cabinet, a Portfolio Holder or an Officer. Under the Council's existing Scheme of delegation the Leader has delegated most executive powers to the Cabinet, the full range of delegations can be found in Part 2 of the Constitution.
- f) The PCC has delegated the decision making in relation to the awarding of contracts, and/or grants to the County Council to the Deputy PCC (if appointed) or the Chief Executive of the OPCC. Meetings on this subject will not be attended by the PCC.

- g) Under the County Council's existing scheme of delegation most contracts and/or grant awards are made by an Officer, the Finance and Property Portfolio Holder or the Cabinet as a collective body rather than personally by the Leader of the Council.

- h) The PCC and the Leader of the Council are each separately under a duty to ensure the protection of confidential information for their respective organisations.