

POLICE & CRIME COMMISSIONER FOR LEICESTERSHIRE JOINT AUDIT, RISK & ASSURANCE PANEL

PAPER MARKED

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Report of	CHIEF EXECUTIVE
Subject	DRAFT WORKING PROTOCOL WITH THE ETHICS COMMITTEE
Date	MONDAY 19th SEPTEMBER 2016 – 1:00PM
Author	MRS ANGELA PERRY

Purpose of Report

1. Included in the Ethics Committee Terms of Reference and Annual Plan was provision for a Whistleblowing protocol to ensure that areas of potential duplication between these forums are identified and a process is in place.
2. The Terms of Reference for both Committees were set by the PCC and the Chief Constable in line with best and standard practice and have been reviewed on a number of occasions by Committee and Panel members since being implemented.
3. Some months ago, the Chair of the Ethics Committee and the Vice-Chair (and Ethics lead) of the JARAP met with the relevant officers of the OPCC to develop the protocol further.
4. Following discussions the attached protocol has been drafted and is currently with the Ethics Chair and JARAP Vice-Chair for comments. Members will be updated on any comments at the September JARAP meeting.
5. As led by the Ethics Committee, the covering report is drafted for the Ethics Committee but is also relevant for the JARAP meeting.
6. Looking at both terms of reference this is the only overlap identified at this time and it is proposed to review this annually, together with the workplans at a meeting of the Ethics Chair and JARAP lead.

Implications

Financial :	None
Legal :	There is a statutory duty to ensure compliance with legislation and regulations for both corporation soles.
Equality Impact Assessment :	None
Risks and Impact :	The work of both forums addresses risk and impact across all business areas of both corporation soles.
Link to Police and Crime Plan :	Public trust and confidence will be undermined if compliance, ethics and integrity are not evidenced for both organisations.
Communications :	Media releases before and after the discussion will be drafted.

Background Papers

DRAFT Ethics Committee Report September 2016

Terms of reference for JARAP and Ethics, Integrity and Complaints Committee

Person to Contact

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ETHICS, INTEGRITY AND COMPLAINTS COMMITTEE

Report of:	POLICE AND CRIME COMMISSIONER
Subject:	DRAFT WORKING PROTOCOL WITH THE JOINT AUDIT, RISK AND ASSURANCE PANEL
Date:	2.00 P.M. FRIDAY 23 SEPTEMBER 2016
Author:	ANGELA PERRY, HEAD OF GOVERNANCE AND ASSURANCE, OPCC

Purpose of Report

1. The purpose of this report is for members' consideration and approval of a working protocol with the Joint Audit, Risk and Assurance Panel.

Recommendation

2. It is recommended that members consider and approve a working protocol with the Joint Audit, Risk and Assurance Panel.

Background

3. There is a requirement for the Police and Crime Commissioner and the Chief Constable to have in place a forum to consider the internal controls, risk and audit functions undertaken by both corporations. As such the Joint Audit, Risk and Assurance Panel (JARAP) was convened to carry out this function and commenced in 2012 under the first Commissioner.
4. In 2015 the then Commissioner decided to convene an independent committee to consider ethics, integrity and complaints in response to a rising awareness of such issues within the police service. This committee held its inaugural meeting in September 2015.
5. The terms of reference for both forums outline their specific responsibilities. In drafting the terms of reference it was recognised that there was a potential overlap in one area of business, this being in relation to whistleblowing and anti-fraud and corruption. Following discussions with the Chair of the Ethics, Integrity and Complaints Committee and the lead member for Ethics from the JARAP it was agreed that a working protocol should be drafted to ensure that the demarcation of responsibilities of both parties was clearly captured to avoid any overlap or conflict between the two forums.
6. A working protocol has been drafted as it attached at APPENDIX 'A' to this report.

Implications

Financial :	None
Legal :	There is a statutory duty to ensure compliance with legislation and regulations for both corporation soles.
Equality Impact Assessment :	None
Risks and Impact :	The work of both forums addresses risk and impact across all business areas of both corporation soles.
Link to Police and Crime Plan :	Public trust and confidence will be undermined if compliance, ethics and integrity are not evidenced for both organisations.
Communications :	Media releases before and after the discussion will be drafted.

List of Appendices

APPENDIX 'A' – Working Protocol

Background Papers

Terms of reference for JARAP and Ethics, Integrity and Complaints Committee

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OFFICE OF POLICE AND CRIME COMMISSIONER

**Working Protocol
Between
Joint Audit, Risk and Assurance Panel (JARAP)
And
Ethics, Integrity and Complaints Committee (EICC)**

1. BACKGROUND

The Police and Crime Commissioner (PCC) has two forums which provide assurances that the appropriate internal controls are in place and that integrity and ethical approaches are taken across all areas of business.

1.1 The Joint, Audit, Risk and Assurance Panel (JARAP)

In line with the principles of good governance as laid down by the Chartered Institute of Public Finance & Accountancy (CIPFA) and the Financial Management Code of Practice for the Police Service of England and Wales, the independent Joint Audit, Risk & Assurance Panel (JARAP) was established covering the separate roles and offices of the Police & Crime Commissioner (PCC) and the Chief Constable.

The Terms of Reference for the Panel meet the requirements of the Police and Reform and Social Responsibility Act 2011 (the Act), Home Office Financial Management Code of Practice (FMCoP) and the Chartered Institute of Public Finance and Accountancy (CIPFA) Audit Committee guidance.

The JARAP play a key part in assuring all stakeholders that probity, regularity and value for money are obtained in the use of public money by both the PCC and Chief Constable in the pursuance of the priorities set out in the Police and Crime Plan. Having the JARAP in place demonstrates to all stakeholders that the PCC and Chief Constable take their governance and risk management responsibilities seriously.

The purpose of the JARAP as an independent body is to seek assurance over the adequacy of the following:

- The risk management and the internal control framework operated by the PCC and Chief Constable.
- The effectiveness of their respective governance arrangements.
- The appointment, support and quality of the work of internal and external auditors as they provide assurance on risk management, internal controls and the annual accounts through their work.
- Financial and non-financial performance to the extent that it affects the PCC and Chief Constable's exposure to risk, weakens the control environment and undermines their ability to provide good value for money.
- The financial reporting process.

The JARAP is a non-executive Panel and has no executive powers, other than those specifically delegated within its Terms of Reference an extracted copy of which are attached at Appendix 'A' to this report.

1.2 The Ethics, Integrity and Complaints Committee (EICC)

In recent years there has been a heightened focus on the integrity of police officers and police forces. Her Majesty's Inspector of Constabulary (HMIC) has produced two reports on this issue commencing in 2011 with their report entitled '*Without Fear or Favour*' which was followed up in 2012 with their second report entitled '*Revisiting Police Relationships: A progress report*'. The follow up report concluded that there was more work to be done in this area. These reports, together with the annual HMIC inspection on Police Effectiveness, Efficiency and Legitimacy (PEEL) which reports on integrity within forces as part of the 'legitimacy' pillar of the inspection process; the need for transparency and accountability of decision making within the police service and the growing vulnerability for senior officers regarding some of the new challenges that policing in austerity brings, led the Police and Crime Commissioner in 2015 to convene an Ethics, Integrity and Complaints Committee with the aim of providing assurance and adding value to the current audit and scrutiny processes.

The Committee undertakes an advisory role and is not a decision making body. It is a forum for debate on complex operational or personnel issues with a view to defensible decision making. In delivering their remit, the Committee considers both broad thematic issues as well as practical day-to-day matters and examines current as well as historic matters. In certain circumstances, the Committee advises on live operations or events or examines the application of the national decision making model. The Committee will discuss and provide advice about ethical issues and not just scrutinise the application of policy and procedure.

The Committee provides a transparent independent forum that monitors and encourages constructive challenge over the way complaints and integrity and ethical issues are handled by the Force and overseen by the Police and Crime Commissioner. It assists Leicestershire Police in maintaining clear ethical standards and achieving the highest levels of integrity and professional standards of service delivery.

The Ethics, Integrity and Complaints Committee aim to:

- bridge the gap between academic debate on ethics and operational decision making.
- influence changes in force policy.
- enhance the debate and development of police policies and practices.
- anticipate and understand future ethical challenges that the service will face and to influence any response by the police.
- articulate and promote the influence of professional ethics in all aspects of policing.

The Ethics, Integrity and Complaints Committee is a non-executive Committee and has no executive powers, other than those specifically delegated within its Terms of Reference, a copy of which are attached at Appendix 'B' to this report.

Members for both forums are recruited from the local community through a robust recruitment process. All members sign the Code of Conduct and complete a personal interests form which is published on the PCC's website.

2. WORKING ARRANGEMENTS

Where the terms of reference for both forums identifies an overlap a protocol is required to identify which aspects of the subject matter will be addressed by which forum. One area identified is in relation to whistleblowing and compliance with fraud and corruption regulations. In such cases a clear demarcation of responsibilities is required to avoid duplication and/or conflict between the work of both groups. As such the approach to be taken is outlined below.

2.1 Whistleblowing

2.1 JARAP Responsibilities

The adequacy of arrangements for ensuring compliance with relevant regulatory, legal and code of conduct requirements and fraud and corruption as set out in Secretary of State Directives and other relevant bodies or professional standards.

2.2 EICC Responsibilities

Review the arrangements in place for “Whistleblowing”.

2.3 Approach

The JARAP will receive reports into the national regulatory requirements for fraud and corruption and the arrangements in place within the Force to meet these requirements. This will include the arrangements put into place for whistleblowing by force officers and staff and how such arrangements are publicised throughout the Force. The JARAP will recommend any changes to the arrangements if they feel they do not meet with regulatory, legal or Code of Conduct requirements.

The EICC will undertake to review the arrangements put into place and will advise on their practical application. This will include receiving reports on the process for whistleblowing, data on the usage of the system, the type of reports received and outcomes. The Committee will advise on any areas where they feel the practical application of the process is inadequate or where they feel assurances cannot be achieved.

3. Future Areas Identified

3.1 The Chair of the Ethics, Integrity and Complaints Committee will meet on an annual basis with the lead member for Ethics on the JARAP to discuss the work of both forums. These discussions will focus on forward work plans and areas for consideration and will identify any areas where the work of either forum will overlap with each other. Where this is identified a working arrangement for how the topic matter will be addressed by each forum will be included in this working protocol.

3.2 As for all other strategic meetings held by the PCC or the Chief Constable, on occasion the JARAP will have the opportunity to refer any matter to the Ethics, Integrity and Complaints Committee where it feels that the advice of the Committee on ethical matters or where examination of any area of business is required to gain the necessary assurances that the highest levels of integrity are applied. Reciprocal arrangements will also be in place for the Ethics, Integrity and Complaints Committee.

- 3.3 Where made, the EICC and JARAP will consider referrals and include such items in their annual plan where appropriate.

**TERMS OF REFERENCE FOR JOINT AUDIT,
RISK & ASSURANCE PANEL
(Extract)**

The purpose of the JARAP as an independent body is to seek assurance over the adequacy of the following:

- The risk management and the internal control framework operated by the PCC and Chief Constable.
- The effectiveness of their respective governance arrangements.
- The appointment, support and quality of the work of internal and external auditors as they provide assurance on risk management, internal controls and the annual accounts through their work.
- Financial and non-financial performance to the extent that it affects the PCC and Chief Constable's exposure to risk, weakens the control environment and undermines their ability to provide good value for money.
- The financial reporting process.

RESPONSIBILITIES

Risk Management, Governance and internal control responsibilities

The JARAP will seek assurance in connection with the following:

- The establishment and maintenance of an effective system of risk management, integrated governance and internal control, across the whole of the PCC and Chief Constable activities that supports the achievement of the objectives of the Police and Crime Plan, ensuring probity, value for money and good governance.
- The timely implementation of any actions necessary to ensure compliance with all internal standards and best practice, both financial and non- financial operated by the PCC and Chief Constable.
- The adequacy of relevant disclosure statements, in particular the Annual Governance Statement, together with any accompanying Head of Internal Audit report, external audit opinion, risk register or other appropriate independent assurances, prior to endorsement by the PCC and / or the Chief Constable. Subject to this the JARAP will recommend for adoption the Annual Governance Statements for the PCC and Chief Constable.
- The adequacy of arrangements for ensuring compliance with relevant regulatory, legal and code of conduct requirements and fraud and corruption as set out in Secretary of State Directives and other relevant bodies or professional standards.
- Notwithstanding the specific responsibilities of the JARAP in connection with both internal and external audit, consider the adequacy of response by the PCC and/or the Chief Constable to recommendations contained within any external inspection report that has been received for the purposes of assurance.

Internal audit responsibilities

It is anticipated that the PCC and Chief Constable will engage the same internal auditors. The role of the JARAP in relation to internal audit will include advising the PCC and Chief Constable on the following:

- Consider and make recommendations on the provision of internal auditors, including appointment, assessment of performance and dismissal.
- Approving but not directing on the internal audit strategy and annual internal audit plan, ensuring that this :
 - is consistent with professional standards;
 - meets the audit needs of PCC and Chief Constable; and
 - provides the JARAP with adequate coverage for the purpose of obtaining appropriate levels of assurance over the
 - adequacy of the risk management, governance and internal control environment of both the PCC and Chief Constable.
- Consider the Head of Internal Audit's annual report and opinion, and a summary of audit activity (actual and proposed) and the level of assurance it gives over the risk management, internal controls and governance arrangements of the PCC and Chief Constable.
- Consider the findings of internal audit reports (or their summaries), the assurance provided and the adequacy of the response by the PCC and / or Chief Constable.
- Commissioning additional work from the internal auditor, having regard to any actual or potential conflicts of interest.
- Ensuring co-ordination between the internal and external auditors to optimise audit resources.
- Annually review the effectiveness of internal audit.
- Where the JARAP considers there is evidence of ultra vires transactions, evidence of improper acts, or if there are other important matters that the JARAP wishes to raise, the Chair of the JARAP must initially take advice from the Monitoring Officer before raising the matter with the PCC and Chief Constable. Where appropriate the JARAP may then seek independent legal advice. Exceptionally, the matter may need to be referred directly to the external auditor, HMIC and / or the Home Office e.g. fraud suspicion directly involving the PCC or Chief Constable.

External audit responsibilities

It is anticipated that the PCC and Chief Constable will engage the same external auditors. The role of the JARAP in relation to external audit will include advising the PCC and Chief Constable on the following:

- Consider and make recommendations on the provision of external auditors, including appointment and dismissal in conjunction with the Audit Commission who are currently responsible for the appointment of external auditors in England to bodies subject to audit under the Audit Commission Act 1998.

- Review, advise on and endorse the external audit strategy and annual audit plan, ensuring that this is consistent with professional standards and the External Audit Code of Audit Practice.
- Consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- Consider specific reports as agreed with the external auditor.
- Commissioning work from the external auditor, having regard to any actual or potential conflicts of interest.
- Consider major findings of external audit work and the adequacy of response of the PCC and / or Chief Constable
- Ensuring co-ordination between the internal and external auditors to optimise audit resources.
- Annually review the effectiveness of external audit.

Annual Accounts of the PCC and Chief Constable

The JARAP will:

- Review, scrutinise and recommend for signature the annual statement of accounts prior to their external audit. Specifically, it will seek assurances whether appropriate accounting policies have been followed and whether there are any concerns arising from the financial statements.
- Consider the external auditor's report to those charged with governance on issues arising from the audit of accounts.

ETHICS, INTEGRITY AND COMPLAINTS COMMITTEE

Terms of Reference

Purpose

The Ethics, Integrity and Complaints Committee will be responsible for enhancing trust and confidence in the ethical governance and actions of Leicestershire Police. The Committee will provide reassurance to the Police and Crime Commissioner that ethics and integrity are embedded within Leicestershire Police and that complaints against the police are dealt with expeditiously and follow due process. Through its work the Committee will provide assurance to both the Police and Crime Commissioner, and the Chief Constable, that the Force aspires to, and achieves, the highest levels of integrity and standards of service delivery.

It will discharge its responsibilities by:

- Promoting the highest standards of ethical conduct in all its dealings
- Providing a focus for education into ethical issues
- Ensuring compliance with organisational values
- Identifying good practices and opportunities for improvement.

Committee Responsibilities

The Committee will articulate and promote the influence of professional ethics in all aspects of policing. It will support the PCC and the Senior Command Team in their business portfolios from the perspective of the ethical dimensions of their work by considering any ethical matters referred by the Commissioner or the Chief Constable.

The Committee will anticipate ethical challenges facing the police service and the correct response. It will advise and influence changes in Leicestershire Police policy.

The Committee will advise the Commissioner, and Chief Constable, on the effectiveness of the embedding of the Code of Ethics within the Force and its on-going influence on service delivery.

The Committee will report biannually on its work and setting out its findings.

The Committee will regularly scrutinise:-

- Expenses paid to officers both within the Force and the OPCC, including the Commissioner and Chief Constable.
- Information published as required by government under the transparency agenda.
- Stop and search data and outcomes including any disproportionality identified.
- 'Any Questions' on the Force intranet site to identify any ethical or integrity issues arising and the responses given.
- Promotion processes to ensure they are fair and equitable.
- Resource deployment in a time of austerity.
- The implementation of force policy and procedure to ensure it is adhered to.

In addition the Ethics, Integrity and Complaints Committee will consider and may make recommendations regarding the following:-

Policy and Procedure

- Providing advice to those engaged in the development or review of force policy and procedure;
- Ensuring policy and procedure reflects the stated values of the force and police service

Decision Making/Transparency

- Review the decision making of others
- Review compliance with the agreed Decision Making Model
- Transparency around performance against strategic plans
- Review compliance with declarations of interest, gifts and hospitality
- Review chief officers' diaries and cross check gifts and hospitality against the procurement register to ensure transparency.
- Review the communications to staff on the requirement to complete the hospitality and gifts register, particularly in respect of declined gifts.
- Review compliance with the Publication Scheme
- Review compliance with the Equality Scheme

Leadership

- Review the ethical standards expected of all leaders
- Supporting and if necessary challenging the ethical conduct of leaders

Culture

- Review organisational values
- Promoting the purpose and adoption of value based action and decision making throughout the force
- Ensuring the Code of Ethics and force values are applied consistently across all activities of the force.

People

- Reviewing staff performance in upholding the values of the force and police service
- Scrutinising inter-personal relations, such as behaviour that may fall short of the conduct threshold or indicate a failure to afford an individual dignity or equality in treatment.
- Review the monitoring undertaken of staff members personal social media
- Review the vetting undertaken to ensure it complies with the national standards.
- Make recommendations in respect of resources allocated to PSD, CCU where it is felt this is not adequate to deliver the assurances required.
- Review of the Business Interests Policy and the business interests held by officers, including those declined.

Performance

- Ensuring operational and organisational performance is measured and delivered ethically, upholding the values of the force and Code of Ethics
- Review expected standards and conduct of staff/officers
- Review the arrangements in place for “Whistleblowing”. *(A working protocol will be developed to avoid duplication with JARAP responsibilities in relation to anti-fraud and corruption).*
- Review statistical data in relation to complaints against the police and ensure any issues are identified and acted upon if appropriate.

Conduct

- Ensuring investigations are conducted ethically and in compliance with relevant process and force values.
- Consider potential ethical conflict in relation to matters such as procurement, hospitality, allowances/expenses and personal association.
- Regular reviewing of the IPCC Non-Referral Register held by the Force to ensure decisions are ethical.
- Monitoring of Force and PCC systems for recording and monitoring complaints
- Reviewing complaint cases or misconduct investigations, including appeals, that cause or are likely to cause particular community concern or raise reputational issues
- Monitoring of performance data regarding complaints to ensure that the Force has an effective complaints reporting system in place and is identifying and learning from any recurring patterns or themes
- Monitoring the proportionality of decision making around complaints and misconduct allegations, including the potential discriminatory impact on the community and the officers and staff of the Force
- To provide a forum to debate issues concerning professional standards, integrity and ethics, in accordance with principles and standards set out in the ‘Code of Ethics’ published by the College of Policing , and to challenge and make recommendations about ethical dilemmas facing the Force (whether brought to the Committee or raised by the Committee) and relevant integrity policies
- To report, on a biannual basis, the summary findings, conclusions and recommendations of the Committee to the Police and Crime Commissioner and Chief Constable
- Reviewing Hospitality Registers maintained by the Force and the Office of the PCC
- Consider the effectiveness of change or improvement programmes
- To receive feedback on formal inspection of the Force from HMIC, IPCC and any other national body where that inspection relates to integrity, transparency or the handling of complaints.
- Ensure reviews of completed complaint files managed by both the Force and the IPCC are undertaken and best practice and exceptions identified and acted upon if appropriate)
- Review compliance with FOI requests for both the Force and the OPCC.
- Review the adequacy of sharing information and agreed Protocols

Complaints/Misconduct

- To review the handling of public complaints, misconduct and grievances to commend best practice, to identify necessary organisational learning and to report any irregularities to the Commissioner and the Chief Constable so they may take appropriate action.

- To dip sample a minimum of 25 files each quarter, on a theme to be determined in advance by the Chair, to provide assurance that the Force's procedures, investigations and outcomes have addressed statutory requirements. To take a risk based approach and completion of a review proforma for each file examined. PSD to provide a mixture of substantiated, unsubstantiated, locally resolved, withdrawn and discontinued cases.
- To review performance management data to show timeliness of completion of complaints, trends and analysis of types of complaints and or geographical police areas of concern.
- To review the progress of live complaint cases or misconduct investigations, including appeals that cause or are likely to cause particular community concern.
- To monitor the proportionality of decision making around complaints and misconduct allegations, including the potential discriminatory impact on the community and the officers and staff of the Force.
- To provide a forum to debate issues concerning professional standards, integrity and ethics, in accordance with the principles and standards set out in the Code of Ethics and to challenge and make recommendations about ethical dilemmas facing the Force ensuring organisational learning is maximised.
- To ensure the Force is identifying and learning from any recurring patterns or themes arising from complaints or misconduct matters.
- To identify overlapping themes between complaints and civil claims.
- To view a selection of misconduct allegations to reassure of the actions being taken against staff through internal procedures as well as those arising from complaints.