

[REDACTED] response to the Home Office Consultation – The draft oath for Police and Crime Commissioners

1. Introduction – [REDACTED]

1.1 Police and Crime Commissioners will replace police authorities from November 22nd 2012. Until then, police authorities are represented at the national level by the Association of Police Authorities (APA). The APA's function is to ensure that through police authorities, local people have a means of influencing the Government and other partners on national policing matters.

1.2 Home Office Ministers have agreed that the APA is best placed to create a national representative body dedicated to supporting and representing police and crime commissioners (PCCs) when they are elected in November.

1.3 The APCC will represent PCC's views to the Home Office between November and March 2013. The Home Office has recognised the APCC as the organisation responsible for helping to involve PCCs in the policing and crime agenda at national level, so that the experience of local policing influences national policy.

2. Background and Methodology

2.1 In carrying out this consultation [REDACTED] sought the views of both prospective Police and Crime Commissioner candidates and Police Authority members and staff. Submissions were also received from other parties. The majority of the responses were written, but [REDACTED] also consulted delegates (mostly PCC candidates) at the briefing day [REDACTED] held on 11 September.

2.2 There were a number of general comments made about the oath and most responders also provided their comments and ideas with respect to each paragraph of the draft document. This paper is therefore set out with an ordered focus on the specific sections of the draft oath.

2.3 This document is accompanied by an appendix which shows the specific comments made by responders. A more comprehensive submission was received from [REDACTED] and this is being forwarded as a separate document.

2.4 The sections below provide:

- A quantitative summary of responders with respect to their comments about particular sections of the oath (Section 3),
- a qualitative summary of the key points derived from the consultation (Section 4) and
- a full summary of comments cross referenced to specific sections of the oath and the origin of the comment (Sections 5 – 10).

2.5 Note that in sections 5-10 of this document the source of the information is abbreviated:

- PCCC denotes a response from a Police and Crime Commissioner candidate
- PA denotes a response from a Police Authority

2.6 In sections 6 – 10 the relevant paragraph from the draft oath is referenced.**3. Quantitative Summary**

3.1 Note that the majority of responses were from PCC candidates and Police Authorities who responded in roughly equal numbers. 35 of the 43 submissions received, (81%) originated from these sources.

3.2 A total of 43 submissions were received from prospective candidates (18), Police Authorities (17), Police (3), Others (2) and Victim Support (1).

- 17 responders made general comments about the draft oath (40%).
- 12 responders made comments about paragraph 1 of the draft oath (28%).
- 25 responders made comments about paragraph 2 of the draft oath (58%).
- 17 responders made comments about paragraph 3 of the draft oath (40%).
- 7 responders made comments about paragraph 4 of the draft oath (16%).
- 9 responders made comments about paragraph 5 of the draft oath (21%).

(Note that the comprehensive response received from [REDACTED] is treated as a separate submission and shown as an appendix to this report)

4. Qualitative Summary - Key points from submissions received

4.1 General - Having an oath where the role of the PCC is set out in statute may cause practical difficulties. Any potential issues need proper consideration.

4.1.1 General - Several respondents also stated they would like to have seen an inclusion of the Nolan Principals within the oath (explicitly and implicitly).

4.1.2 General – Several respondents at the PCC Briefing day on 11 September referred to the [REDACTED] response (which many had seen in its blog form online) and considered the issues it raised required resolution.

4.2 Paragraph 1 - The term “fear or favour” was viewed as too political. Respondee suggested the terms - fairly, equally, impartially, independent and/or free from political or other bias.

4.2.1 Paragraph 1 – There was also some criticism of the terms “all the people of” and the use of “Solemnly and sincerely”.

4.3 Paragraph 2 - “...ensure that police are able to cut crime and protect the public” (attracted 21 comments). Three themes emerged:

4.3.1 That the PCC cannot guarantee that the police will cut crime.

4.3.2 A number of other terms were suggested instead of “cut crime” such as: reduce crime, reduce offending, prevent crime, minimise crime or simply omitting the term “cut crime”.

4.3.3 To “cut crime” is a political term and does not consider the wider role of the police.

4.4 Paragraph 3 – Again, whether the PCC can “ensure” safety and an effective criminal justice system was questioned.

4.4.1 Paragraph 3 – Notably there were also concerns about why victims should be favoured above others. Conversely Victim Support suggested that witnesses should also be included.

4.5 Paragraph 5 – There was concern about the use, subjectivity and lack of definition of the terms “reasonable” and “justified”. Others suggested that the inclusion of these terms, in the context they are provided, may impact the operational independence of the chief officer.

5. General comments

5.1 Few took issue with the idea of an oath, but only four (4) PCC candidates stated that they were happy with the wording of the oath.

5.2 Other general comments candidates suggested:

- There should be no requirement for PCCs to take an oath because the Home Secretary and the Policing Minister do not need to take an oath (PCCC).
- Where is the requirement for a PCC to respect the Chief Constable's operational independence? (PCCC)
- Would it be prudent to include the Nolan principles as part of the oath? (PCCC)

5.3 Police Authorities were more critical in their general assessment of the document than PCC candidates. The following issues were raised:

- Lack of reference to national policing responsibilities – the SPR (PA)
- Ensuring an efficient and effective police service should be included (PA)
- Other issues which responders felt should be included were: Partnership working, VfM, the role of the PCP, the (lack of) political power to enforce the taking of the oath, the 'poor wording and political rhetoric' contained within the document and the dangers of any political positioning of the PCC.

5.4 Other comments stated that the oath was not an oath but actually a promise and that this may cause some practical difficulties.

6 Paragraph 1 – *I <Full Name> of <Place> do solemnly and sincerely promise that I will serve all the people of <Police Force Area> in the office of Police and Crime Commissioner without fear or favour.*

6.1 Responders raised the following points. (Note that in addition to the information provided alternative scripts may be found in appendix 1).

6.2 “all the people of”

- Does this include commuters, visitors etc? (PCCC)
- Implies everyone has a right to their needs being met, which is impossible. This sends a signal and may create additional problems **[REDACTED]**
- The word “all” is obsolete (PA)
- Not sure you need “all” (Police)

6.3 “without fear of favour” –

- need to make it clear that this is not merely a party political reference. **[REDACTED]**

- why not say "fairly" or "equally" ? Or just say nothing – I have already promised to serve "all" the people? (PCCC)
- affection or ill-will should be added after "without fear of favour" (PCCC)
- Add "impartially and" before "without fear of favour" (PA)
- Add "putting their safety and security first" after "without fear or favour" (PA).
- Include - I will always be independent and free from political or other bias. (PA)

6.4 "Solemnly and sincerely" –

- what is the point of the word "sincerely"? It is an oath – you don't need to include "sincere". (PCCC)
- Its old fashioned – replace with "pledge" (PA)
- Should be "Solemn" or "sincere" not both

6.5 We are a monarchy so "Her Majesty the Queen" should be inserted into paragraph 1. (PCCC)

6.6 "Promise" feels weak compared with "swear" – can you promise an oath? (PCCC)

7. Paragraph 2 - *I will act with integrity and diligence in my role and, to the best of my ability, will execute the duties of my office to ensure that the police are able to cut crime and protect the public.*

7.1 Responders raised the following points. (Note that in addition to the information provided alternative scripts may be found in appendix 1).

7.2 "ensure that police are able to cut crime and protect the public"

- Promising to cut crime is not realistic with respect to police funding, legislation changes, changes to crime definitions and socio political and economic factors (PCCC).
- Replace "cut crime" with "prevent crime". Prevent is positive and reflects Sir Robert Peel's original goal (PCCC).
- Replace "cut crime" with "reduce offending" (PCCC).
- Add the following after "protect the public" and that the police's priorities properly reflect the peoples' priorities. (PCCC)
- "Cut crime" transgresses into political speak. (PCCC)

- “Should be broader - ensure the police are able to fulfill all their responsibilities” (PCCC)
- "ensure" is too strong even when conditionalised. How can anyone swear to ensure that the police will cut crime or the community be made safe?- words such as "strive to" are more realistic and will better avoid public skepticism (PCCC)
- the phrase “cut crime and protect the public” be amended to “protect the public and reduce crime” (PA)
- “protect the public” be expanded to “improve the protection of the public” (PA)
- Should be “ensure that the police are provided with the resources to reduce crime and protect all members of the communities they serve”. (PA)
- Rather than “ensure” say “I will do all I can to meet the expectations of our communities in discharging the duties of my office to cut crime and protect the public.” (PA)
- Consider using “ensure the Constabulary protects the public and minimises crime”. (PA)
- Remove - “that the police are” and replace with “an efficient and effective police service that is able to cut crime and protect the public”.
- An oath should be realistic – “to cut crime” – what if it goes up?
- This draft reveals a very narrow perspective on policing and very little understanding of the wider aspects of a police officer’s role, let alone the role of the PCC – consider the community strand of PCCs responsibility (PCCC)
- The role of the police is very narrowly defined. Consider: “to cut crime and protect the public by dealing with local and major crime, public disorder, road safety etc..” (Police)
- absence of any reference to the detection of crime in the oath....nothing about the PCC looking to improve the service in the area of solving crime. (PCCC)
- Should state – “Ensure that the police are able to cut crime, and protect the public and serve the community”. (Victim Support)
- After “ensure the police”, end the sentence with “play their part in cutting crime and protecting the public, and work with other partners in achieving that goal” (Police)

- this defines the job as being only about policing and the 'and crime' wider bit of the CJS seems to have been missed off...the job of the police is not limited to cutting crime and protecting the public. (PCCC)
- "ensure is used in the absolute when clearly this is not possible. This only serves to devalue the oath (Other)

7.3 "To the best of my ability"

- 'to the best of my ability' is neither here nor there – they either do it or they don't! Remove this wording (PCCC).
- "to the best of my ability" - why add the last bit? This just feels like padding (PCCC).

7.4 The Nolan principals should be embedded in this paragraph (PCCC/PA)

8. Paragraph 3 - *I will give a voice to the public, especially victims of crime and work with other services to ensure the safety of the community and effective criminal justice.*

8.1 "I will give a voice to the public"

- Replace "I will give a voice to the public" with something more along the lines of listening to and representing all the communities etc. (PCCC)
- "I will give a voice to the public" – all of them? Including the criminals then! (PCCC)
- Shouldn't this include listening to all sectors of the community, including those whose voices are seldom heard, and representing all their views and opinions? (PCCC)
- I will be the voice of the public, (rather than - give a voice to the public), especially championing victims of crime (PCCC)
- Replace with "represent" (PA)

8.2 "especially victims of crime"

- what happened to without fear or favour? (PCCC)
- change especially to "including". There is nothing in the PCCs statutory duty to favour victims (PA)
- it seems, grammatically, contradictory in that it initially suggests that everyone must be treated equally but then implies that victims of crime must be treated especially well! (PA)

8.3 "work with other services to ensure the safety of the community and effective criminal justice"

- effective criminal justice... what does that mean exactly? (PCCC)
- ensure is used in the absolute when clearly this is not possible. This only serves to devalue the oath (Other).
- what is "effective criminal justice"? Surely that will depend on the values of the individual PCC? Is "effective" a value judgement? (PCCC)
- I will work in co-operation with appropriate partners to assist in the provision of an efficient and effective criminal justice system for the police area. (PA)

8.4 "services" should become "service providers" (PA)

8.5 Consider using "work in co-operation with appropriate partners" (PCCC)

8.6 This paragraph is operational (PA).

8.7 Consider replacing paragraph with "I will give a voice to the public, especially victims and witnesses of crime and will obtain their views, listen to and act on their concerns. I will work with other services to ensure the safety of the community and effective criminal justice". (Victim Support)

9. Paragraph 4 - *I will take all steps within my power to ensure transparency of my decisions, so that I may be properly held to account by the public.*

9.1 After "so that", add "I may demonstrate value for money and" (PCCC)

9.2 What about everything leading up to the decisions, what about all words and actions by the PCC (since not all actions are decisions?) (PCCC)

9.3 It is suggested that:- "primarily through the oversight provided by the Police and Crime Panel" be appended to the sentence. (PA)

10. Paragraph 5 - *I will not seek to influence or prevent any lawful and reasonable investigation or arrest, nor encourage any police action save that which is lawful and justified within the bounds of this office.*

10.1 Add "I will recognise the operational independence of the Chief Constable" (PCCC)

10.2 Why not “lawful **or** reasonable investigation or arrest” –Who determines what is reasonable? If the PCC judges an investigation to be lawful but not reasonable, will the PCC be then able to intervene? (PCCC)

10.3 "lawful and justified" - now we have justified... what happened to reasonable? Note the 'and' again. So if a PCC decides a police investigation is unjustified, can they discourage it? Unjustified on what grounds – expense, public opinion, the PCCs opinion? (PCCC)

10.4 There needs to be a full definition of the words “reasonable” and “justified” (PCCC)

10.5 Should guarantee police operational independence, not assert that a PCC will not commit the offence of perverting the course of justice, as it does at the moment. (PCCC)

10.6 It's not the PCC's job to interfere in any investigation or arrest, whereas this reads as if he/she will decide for himself/herself whether the investigation etc is "lawful and reasonable" and only then decide whether or not to intervene. Consider that the PCC would no more seek to influence decisions made by the courts or the CPS (PA)

[REDACTED]

12 September 2012