



THE GOVERNMENT REPLY TO THE ELEVENTH
REPORT FROM THE HOME AFFAIRS COMMITTEE
SESSION 2009-10 HC 366

The work of the Independent Police Complaints Commission

**Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty**

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INTRODUCTION

The House of Commons Home Affairs Select Committee (HASC) published the report of its inquiry into the work of the Independent Police Complaints Commission (IPCC) on 7 April 2010.

The inquiry considered aspects of the IPCC's performance, management structure, independence, complainant focus and suggestions for further reform of the police complaints system.

This Command Paper sets out the Government response to the conclusions and recommendations in the Committee's report.

The Government welcomes the contribution of the HASC to this important area of work.

The Government is aware of the need for an effective system to deal with complaints against persons serving with the police, the investigation of matters involving the death or serious injury of persons who come into contact with the police, and robust accountability mechanisms for the police.

GOVERNMENT'S RESPONSE TO THE COMMITTEE'S RECOMMENDATIONS

The Committee reached a number of conclusions and highlighted recommendations for action. In this response the conclusions and recommendations are identified according to the paragraphs in which they appear in the conclusion of the report.

1. In 2008–09, less than 1% of all complaints made against the Police were directly investigated by IPCC staff and just 10% of “serious” cases referred to the IPCC were subsequently managed by the IPCC’s own staff. It is true to say that, 99 times out of a 100 and despite the existence of the IPCC, the complaints procedure remains the “police investigating the police”. (Paragraph 7)

The Government believes that most complaints are best dealt with locally, which should lead to more speedy outcomes and with an emphasis on ‘putting right what has gone wrong’, with the complainant’s concerns at the heart of the response. The vast majority of the 31,259 recorded complaints in 2008/09 were dealt with at a local level by the police force concerned. The Government agrees with the IPCC that local handling of complaints ensures a more timely response, reduces bureaucracy and maximises opportunities for individual learning within the force. Police and Crime Commissioners will have a role in holding chief constables to account for the way that a force responds to complaints about persons serving with the police or the policing service provided.

The Government has introduced measures in the Police Reform and Social Responsibility Bill which will provide police forces with greater flexibility in the handling of complaints, although more serious complaints will still need to be referred to the IPCC. These measures will also include the widening of the definition of a complaint to include complaints against service failure as well as individual conduct. This will ensure that there will be more of a ‘customer focus’ rather than on processes which leave complainants dissatisfied when individual misconduct is not substantiated but the service provided by the police has been lacking.

The IPCC’s remit is not restricted to the handling of complaints and appeals. It also includes:

- allegations of misconduct/criminality by a person serving with the police (conduct matters); and
- deaths and serious injury matters following contact with the police (‘DSI’ matters).

There has been a particular need for the IPCC to focus resources on cases where Article 2 or 3 of the European Convention on Human Rights may be engaged. Developing case law in this area has required greater independent inquiry into such matters.

The Police Reform Act 2002 also sets out various ways in which any of the matters within the IPCC's remit can be dealt with, namely:-

- independent investigations by the IPCC;
- investigations managed by the IPCC using police resources;
- a police investigation supervised by the IPCC;
- a local police investigation;
- resolution of a complaint at local level (Local Resolution).

The Police Reform Act sets out mandatory criteria for the more serious allegations to be referred to the IPCC and a requirement for the IPCC to make a determination on how those matters should be handled. In 2009/10, 2,764 cases were referred to the IPCC, of which 106 were the subject of independent investigation and 151, managed investigation. It was never Parliament's intention that the IPCC would be directly involved in more than a small minority of the total number of complaints made each year and the Government agrees with this approach.

2. There is currently a disconnect between what the public complain about and the strictly limited task given to the IPCC in statute. That gap should be filled by a force's Professional Standards Department (PSD). Ultimately, most complainants, whose concerns arise from poor service, would just like an apology. The IPCC should act to ensure this is forthcoming more often by impressing upon police PSDs the need to investigate all complaints in a clear, open manner and from the position of remedying poor public service. We are surprised that the IPCC has apparently not taken a greater interest in this area and call on them to do so. While we do not believe that legislation should be introduced to remove the so-called "opt-out clause" which does not require individual officers to proffer an apology for their behaviour, the IPCC should also play a stronger role in ensuring this good practice is adopted by forces. (Paragraph 13)

The Government believes that the IPCC has played a leading role in this area and that this has been the major theme of their work over the last two years. The IPCC revised Statutory Guidance, which came into effect on 1 April 2010 following extensive consultation, acts as the 'Highway Code' for the complaints system. This guidance makes a number of fundamental changes, not least by encouraging forces to focus on dealing with complainants' concerns by putting things right quickly and simply at a local level before they become formal complaints and introducing the concept of 'upholding' a complaint even where no allegation of misconduct has been substantiated against a person serving with the police. The guidance also includes a specific section on 'apologies' which deals with the concern underlying the Committee's comments.

The measures introduced in the Police Reform and Social Responsibility Bill will give Police and Crime Commissioners the power to ensure that chief officers have responded appropriately to the handling of complaints. These measures will also remove some of the bureaucratic processes from the

system to allow the focus to be on providing an appropriate response to complainants and remedying poor public service.

3. The specifics of exactly why investigations take so long is largely beyond our remit. We will therefore restrict our comments to stating that a process lasting up to 269 working days is unsatisfactory to all concerned and does nothing to increase anybody's confidence in it. All of the evidence we have received suggests that an investigation taking this long reduces trust in the process. While we are unable to comment on exactly how to reduce the length of investigations and so prevent this problem occurring, we can recommend that the IPCC should do more to mitigate its effects. While the investigation itself may be a complex process, this does not prevent the disclosure of information to interested parties. We strongly feel that a more open process involving, for example, the sharing of proposed timetables of work and completion dates, a greater explanation of how the investigation is developing and where possible, the sharing of initial evidence such as CCTV recordings, would increase the confidence of those using the system and remove the doubt and uncertainty which has been reported to us far too often. (Paragraph 20)

The Government welcomes the Committee's recognition that some investigations can be complex and shares the Committee's concerns that inappropriately lengthy investigations can damage public confidence in the process. The Government accepts that some IPCC investigations take longer than would otherwise be desirable to complete. There are a number of reasons for this.

In some cases, the IPCC's own management or consideration of a case may be disproportionate. The IPCC have recognised this and continue to introduce new casework processes, a consistent and accountable national management structure, and refined investigation assessments to better manage and speed up the process.

Some delays are outside the IPCC's control as they rely on the co-operation of others such as medical experts. Once the IPCC investigation is complete, there may be sequential inquest and/or prosecution proceedings and these take time to complete, entirely outside the control of the IPCC. The IPCC is usually unable to publish their investigation reports until after any criminal/coronial proceedings are complete.

The IPCC has a detailed policy on making information available during the course of an investigation which is published on the IPCC website. The sharing of information during the course of an investigation, however, involves risk. Premature public disclosure might prejudice any subsequent criminal or disciplinary proceedings. The weight that can be given to any evidence and the conclusions that can be drawn from it changes as an investigation progresses and new evidence produces a fuller picture. The Government is satisfied that the IPCC is committed to providing as much information as possible to bereaved families, complainants and interested persons as soon

as it can. Indeed there is a statutory duty in the Police Reform Act to keep complainants and other persons informed.

4. The IPCC is not an insubstantial organisation—it has a staff of around 400 people and a budget of £35 million per annum. Despite this, it is lacking clear benchmarks for success. We would like to know what the Home Secretary considers an appropriate measure of the IPCC’s performance. Broadly, is the success of the Commission to be measured in inputs or outcomes? We also ask him to introduce clear, statistical targets, based on, for example, complainant satisfaction, to set an easily understandable measure of the IPCC’s performance. (Paragraph 24)

The Government believes that the IPCC continues to carry out effectively and efficiently the statutory duties given to it by Parliament. The public are more confident in the complaints system and the system is more accessible. The IPCC plays an important role in ensuring that complaints are dealt with properly and appropriately and that officers who have committed criminal or disciplinary matters have been held accountable.

The IPCC conducts independent public opinion surveys and these have consistently found high levels of confidence in and awareness of the IPCC. An annual public confidence survey is conducted. The latest survey published in June 2010 found:

- slow but steady improvement in awareness of the IPCC to 67%; and
- a high level of confidence in the IPCC itself – 86% of those questioned believed the IPCC would deal with them fairly.

The Government believes that public confidence in the IPCC is an important indication of how well it is fulfilling its remit. Detailed performance measures for the IPCC are currently set out in its Balanced Scorecard which is publicly available. The IPCC’s Performance Framework assesses performance against the following specific outputs:

- confidence – increase public, complainant, police and police staff confidence in the complaints system;
- learning – use lessons learnt to improve the complaints system and policing;
- engagement – increase public, police and staff awareness of the complaints system;
- proportionality – balance the timeliness, quality and cost of resolution; and
- accountability – organisations within the system are accountable for their performance and bring individuals to account for their conduct.

The Government believes that these measures provide the public and others with sufficient information upon which to judge the performance of the IPCC.

5. If some Commissioners' independence may be compromised by the desire to be re-appointed, that would be troubling and reform of the appointment system would be necessary. A single, longer term of appointment would be more beneficial to independent oversight. We note that the Police Ombudsman of Northern Ireland is appointed for a single 7-year term, and consider this to be better practice. The appointment of Commissioners and Chairman is subject to schedule 2 of the Police Reform Act 2002. We therefore recommend that the Government amend the legislation to allow the adoption of this practice to future Commissioner appointments, and appointments in the wider police complaints sector generally to remove any hint of impropriety or lack of independence. (Paragraph 28)

The Government does not share the Committee's view that legislation should be amended to allow for IPCC Commissioners to be appointed for a single seven year term.

As the Committee rightly notes, the appointment of Commissioners and the Chair is in accordance with Schedule 2 of the Police Reform Act and requires that ordinary members and the Chair can serve for five years before having to seek re-appointment. The re-appointment process is conducted in accordance with the Office of the Commissioner for Public Appointments best practice.

The Government is not persuaded that this process leads to the independence of Commissioners being compromised. Rather, it helps ensure that the opportunity exists to refresh the Commission as necessary.

6. While not willing to cast aspersions against individual officers who undoubtedly bring many valuable skills to the process, the state of affairs described by our witnesses is clearly inappropriate—ex-police officers should not end up investigating possible ex-colleagues in their former force. Public confidence in the impartiality of the IPCC is bound to be damaged by these practices. We are shocked that this situation has been allowed to develop and recommend that steps are taken to prevent this occurring and to remove any hint of impropriety. (Paragraph 31)

The IPCC is an independent body and is responsible for the selection and recruitment of its staff, including investigators. Approximately 30% of IPCC investigators and 11% of IPCC staff overall come from a police background. The remainder of staff come from a diverse range of backgrounds. Former police officers and other staff with investigative experience bring with them a wealth of professional expertise which is required for the IPCC to carry out competent and robust investigations.

The Government has reassurance from the IPCC that there are no circumstances in which an IPCC investigator, with a police background, can investigate a former colleague with whom they worked. The Commissioners are responsible for ensuring there are no conflicts of interest in the deployment of IPCC investigators.

The IPCC believe that the skills and professionalism of former police officers offer benefits to their work and that the quality of the work, which consistently stands up to rigorous public examination in inquests and criminal trials, is testament to the value of recruiting such former officers.

7. Some complainants were convinced that the IPCC sided wholly with the police in their investigations. Individual police officers are equally unsure of the merits of the Commission’s methods. It is disappointing that both complainants and individual police officers feel so alienated by the investigations process. Whether or not the IPCC is failing in its duty of objectivity and impartiality, it is clearly failing to convey such qualities to many of its users. (Paragraphs 33 and 35)

The Government recognises that the IPCC works in an adversarial environment where there may be conflicting accounts and views. The Government believes that the focus should be on a search for the truth based on careful analysis of the facts in each case.

The Government and the IPCC acknowledge that there will be families and complainants who cannot accept the conclusions of some IPCC investigations. By the same token, there will be police officers whose perceptions of events will differ from the conclusions reached by an IPCC investigation. Outcomes of all IPCC investigations are made public and the most serious cases investigated by the IPCC will often conclude with being considered by a jury in a criminal trial or an inquest. This ensures that all parties have access to information and can draw their own conclusions. The IPCC has received consistent endorsement of their investigations when considered impartially in this way.

8. The IPCC’s statutory remit is to “increase public confidence in the police complaints system”. While certain statistics indicate that the IPCC has been successful in respect of the general public, it is also clear that the Commission has not inspired confidence and trust in those it has dealt with. We have received complaints of insensitive communication, inconsistency of approach and a lack of empathy with those involved with the investigation. The Commission must remember that it is handling stressful, controversial cases, and to do so in a distant and non-empathetic manner only harms the reputation of the wider complaints system and does not satisfy anyone involved that justice has been done. If the IPCC is to achieve its aim of increasing confidence in the police complaints system a much more complainant-centred approach is needed. This will require a radical change of mindset within the organisation (Paragraph 37)

The Government is acutely aware of the often dreadful events and personal tragedies that bring people into contact with the complaints system and the IPCC. The Government also recognises that all efforts must be made to ensure that communication with complainants, bereaved families and police/staff affected are sensitive to their needs. The Government recognises

that in relation to IPCC decisions and conclusions there is sometimes no easy answer in a system where IPCC decisions and conclusions are likely to disappoint someone, whether it be a complainant or a person serving with the police.

The Government agrees that the complaints system needs to be more complainant centred and should be more focussed on identifying the complainant's concerns and improving the service given, rather than focussing solely on the conduct of a person serving with the police. The measures which the Government has introduced in the Police Reform and Social Responsibility Bill will ensure that there is less bureaucracy and more focus on resolving complaints in the most effective manner with complainants at the heart of the system. The evidence is that most complainants want complaints dealt with by an explanation, apology and reassurance that the same thing will not happen again. The Government believes that the changes being made to the complaints system together with the IPCC revised Statutory Guidance will be a significant step in ensuring the system does just that.

There is no national body representing complainants in the same way as national bodies represent different sections of the police. Neither complainant advocates nor police organisations necessarily represent the views of the wider public. The IPCC attempts to learn from and work with those with a complainant focus in a number of ways:-

- Commissioners themselves are drawn from a wide range of backgrounds and bring a diverse range of life and work experience to the work of the IPCC;
- Commissioners meet regularly with a very wide range of complainant and community groups in the force areas for which they are responsible;
- all major investigations into a death will have an investigator assigned as a Family Liaison manager to update the bereaved family on the progress of the investigation;
- the IPCC convenes expert groups from relevant third sector and community organisations on particular themes arising from its work such as gender violence or stop and search. These groups help the IPCC identify complainant and victim concerns and provide expertise and advice to the IPCC investigations;
- the IPCC convenes Community Reference Groups where a local community perspective is important to inform a particular investigation;
- regular meetings are held with relevant national bodies; and
- community groups and experts and bereaved family members provide input into briefing and training for staff and Commissioners.

The Government supports the efforts of the IPCC to engage as widely as possible in order to continue to increase confidence in the police complaints system.

9. John Crawley suggested fining forces for poor performance in the area of complaint resolution. While we believe that this would be an inappropriate measure, his overall premise is correct – efforts must be made to incentivise forces to improve their performance. We recommend that HMIC incentivise forces by placing a stronger emphasis on complaints resolution and the performance of the PSD in their inspections of forces. This would provide a direct incentive for forces to improve their performance in this area. The police’s main target is improved public confidence in their performance; it therefore seems misguided that greater emphasis is not put on an area of police activity which plays a major role in shaping public perceptions of the police. (Paragraph 41)

The Government agrees with the Committee that it is important that the public has confidence in their police force and that dealing efficiently and effectively with public complaints is part of the process of improving confidence in the police service.

The Government believes that the introduction of Police and Crime Commissioners will ensure that chief constables are held to account for the way the force responds to the concerns of their communities. Police and Crime Commissioners will have specific powers to ensure that chief officers have dealt appropriately with public complaints.

Information will be made available to the public about the operation of the police complaints system. This will make complaints data more meaningful to the public in assessing how their police force responds to the handling of complaints.

The provision of local information will be fully implemented across all forces in England and Wales by April 2011.

10. Both of these suggestions—the transfer of the IPCC to the remit of the Ministry of Justice, and the separation of the IPCC’s current functions into two distinct bodies— may have their merits. However, we believe that the problems which exist in the IPCC are not so endemic as to require such radical structural changes. We draw the House’s attention to these proposals as a point of debate and for future reference if the IPCC’s performance continues to disappoint its users. (Paragraph 44)

The Government is grateful to the Committee for drawing its attention to the radical structural changes suggested by the ex IPCC Commissioner John Crawley in his evidence to the Committee.

The Government has no immediate plans to examine further the current structure or reporting arrangements of the IPCC.

11. While the IPCC has had some tangible and high-profile successes overall, it remains over-worked, particularly in its appeal function. We

are inclined to believe that this is the source of the poor service that the IPCC is providing to those who rely on the Commission. To solve this problem, the police should be placing greater onus on resolving complaints in an open, transparent and satisfactory matter. This in turn would reduce the workload of the IPCC. We see the IPCC playing a key role in driving this cultural change, rather than acting as a somewhat passive “backstop”, which seems currently to be the case. We would like to see a detailed plan of how the IPCC, working with bodies such as HMIC and NPIA, will improve police forces’ complaints services and hence reduce the number of appeals against police decisions, in order to bring the IPCC’s workload down to more manageable levels, improve the service provided to those using the Commission and increase confidence in the complaints system.

The Government welcomes the Committee’s view that overall the IPCC has had tangible and high profile successes in its important work.

The IPCC’s high profile investigations are rightly seen as priorities within the organisation. By definition, they involve the most serious incidents of greatest public concern – which is why the IPCC investigate them independently.

The Government recognises that it remains a challenge for the IPCC to manage the number of appeals it receives. This is largely a question of making best use of resources but the IPCC has undertaken a series of major initiatives to reduce and manage the flow of appeals. These include:

- completely re-organising their casework functions from a regional to national basis so that a consistent service is delivered nationally and resources can be used to best effect;
- working with forces to improve complaint handling standards and revising the Statutory Guidance; and
- making major proposals in the Stock Take for legislative change to streamline and simplify the appeals process.

The Government has introduced measures in the Police Reform and Social Responsibility Bill to streamline the local handling of complaints whilst preserving the IPCC’s role in dealing with the more serious matters. Police and Crime Commissioners will have a role in holding the chief constable to account for the handling of complaints at a local level. This will ensure that there is greater incentive for the police to deal effectively with local complaints and will relieve some of the IPCC’s workload.

12. It is clear to us that the IPCC requires reform of some kind. If the IPCC continues to fail to put complainants at the heart of the process we do not consider it can achieve its statutory duty of increasing public confidence in the police complaints system in England and Wales. The witnesses who gave evidence to us provided examples of potentially beneficial reforms, both large and small, and to both the culture and structure of the Commission. We have addressed some of these

suggestions above. We regret that a lack of Parliamentary time prevents us examining these proposals in greater depth. We hope that by producing this Report, and presenting the accompanying evidence, to the House, our successors will be able to examine these issues in the detail they deserve.

Many of these points have been addressed elsewhere in this response but the Government continues to have confidence in the IPCC's commitment to continual improvement, to ensuring that the public can have confidence in the complaints system, and to the use of the system as a means to improve the service the public receive from the police. The IPCC recognise that there is scope to improve their performance in some areas.

The Government believes that the introduction of Police and Crime Commissioners will ensure that forces are held to account for the delivery of a policing service and that the effective handling of complaints from the community that the police force serves is an important aspect of delivering that policing service.



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