



THE GOVERNMENT RESPONSE TO THE ELEVENTH  
REPORT FROM THE HOME AFFAIRS COMMITTEE  
SESSION 2012-2013 HC 494

# **Independent Police Complaints Commission**

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

**April 2013**

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**REPORT FROM THE HOME AFFAIRS COMMITTEE**  
**SESSION 2012-2013 THE INDEPENDENT POLICE COMPLAINTS**  
**COMMISSION**

**INTRODUCTION**

The Government is grateful to the Home Affairs Select Committee for its report on the Independent Police Complaints Commission (IPCC) published on 1 February and its report on powers to investigate the Hillsborough disaster, published on 5 December. This document is the Government response to both reports.

The Home Secretary announced a package of proposals to improve police integrity in her statement to Parliament on 12 February. One of the proposals announced in this statement was the intention to expand the IPCC by transferring resources from individual forces' professional standards departments. This will enable the IPCC to deal with all sensitive and serious allegations and put an end to the police investigating the police in serious cases. This proposal addresses several of the recommendations set out by the HASC report.

Since the IPCC was established by the Police Reform Act 2002 its role has been evolving. The Government recognises this and agrees with the Committee that changes are required. The announcement on 12 February to expand the IPCC will help to ensure that it can provide the powerful, objective scrutiny that the public expect.

In addition to expanding the IPCC through a transfer of resources from forces' professional standards departments, the Government is committed to strengthening the IPCC's powers.

In 2011, through the Police Reform and Social Responsibility Act, the Government freed up the IPCC to deal with the most serious complaints and gave the IPCC more flexibility in the way it carries out its administrative functions.

In 2012, the Police (Complaints and Conduct) Act gave the IPCC two new powers to assist in the investigation of allegations of police wrongdoing in connection with the Hillsborough disaster. These powers will also have wider application to other cases.

The Government intends to legislate to further strengthen the IPCC's powers as soon as Parliamentary time allows. In this context the Government welcomes, and is grateful for, the support of the Committee on legislating quickly with the Police (Complaints and Conduct) Act 2012.

The following sections deal with each of the Committee's comments in more detail.

### **THE PURPOSE OF THE IPCC**

**The public do not fully trust the IPCC and without faith in the Commission, the damaged public opinion of the police cannot be restored. Unfortunately, too often the work of the Commission seems to exacerbate public mistrust, rather than mend it. (Paragraph 15)**

The Government agrees that public confidence in the IPCC and the police complaints system more broadly is vital to improving public confidence in the police. The Government therefore welcomes the work that the IPCC are doing to enhance their oversight role of the complaints system and renew their external communications strategy to ensure the positive outcomes of its work are communicated effectively. In this context the Government also welcomes the work IPCC have done to clarify the roles and responsibilities between forces and the IPCC on communications in the aftermath of a death or serious injury incident.

**The independence and oversight offered by Commissioners is at the heart of the role of the IPCC. It is wrong that their day-to-day work is frequently far removed from the cases being investigated. Commissioners should be given a more active role in overseeing major cases and take personal responsibility for ensuring that a clear process and timetable is laid out for anyone involved in a complaint or an appeal. (Paragraph 16)**

All independent and managed IPCC investigations, into the most serious matters, are overseen by an IPCC Commissioner and the Government considers this to be a practical and proportionate way of ensuring that the most serious cases receive scrutiny by Commissioners. By law IPCC Commissioners cannot ever have served with the police.

The Government agrees, however, that where it is practical to do so, the IPCC oversight role played by Commissioners should be increased. Whether this extends to the process and timetable for dealing with complaints and appeals is, in the Government's view, a matter for the IPCC to consider as part of their statutory obligation to increase public confidence in the police complaints system.

### **POLICE COMPLAINT PROCEDURES**

**More cases should be investigated independently by the Commission, instead of referred back to the original force on a complaints roundabout. "Supervised investigations" do not offer rigorous oversight of a police investigation, nor do they necessarily give the public a convincing assurance that the investigation will be conducted objectively. This kind of "oversight-lite" is no better than a placebo. (Paragraph 23)**

Recognising that public confidence is greatest when it carries out independent investigations, the IPCC has increased the number of independent investigations in recent years. It now conducts three times more independent investigations compared with 2004/05.

The Government agrees with this approach and that is why the Home Secretary announced the intention on 12 February to strengthen the IPCC further so that it has the capacity and capability to deal with all serious and sensitive allegations made against the police. The Government will review the role of supervised investigations as part of this work.

**The IPCC owes it to the families of those who die in cases involving the police to get to the truth of the matter—a botched job is an offence to all concerned. When the IPCC does investigate it often comes too late and takes too long. The trail is left to go cold. IPCC investigators should be able to take immediate control of a potential crime scene during the crucial “golden hours” and early days of an investigation into deaths and serious injury involving police officers. (Paragraph 24)**

The Government agrees that the IPCC should be able to reach and take control of a potential crime scene quickly following a death and serious injury involving police officers. The current IPCC arrangements mean that there is always at least one Commissioner and investigators in every region who are on call.

The IPCC has launched a review in to how it deals with deaths in custody and deaths following police contact, where Article 2 of the European Convention on Human Rights is engaged. As part of this review the IPCC will want to consider whether their current arrangements for quickly reaching the scene of a death or serious injury are sufficient.

**It is deeply worrying that the Commission now feels that its level of resourcing has dropped below a level at which it can properly discharge its statutory functions and meet public expectations, to the extent that a backlog of appeals is now building up. We recognise that it will not be easy to find significant additional resources. We recommend that the Home Office work with the Commission to identify innovative ways in which the backlog might be cleared, for example by using temporary secondments of staff from other**

**public authorities with relevant expertise, such as the Parliamentary Commissioner for Administration or HM Inspectorate of Constabulary. More robust procedures should be put in place at the permission stage of appeals in order to filter out more minor cases in order to allow the IPCC to focus on the most serious. (Paragraph 32)**

The IPCC has put in place arrangements to clear the backlog and reduce delays in relation to reviewing complaints and processing appeals. In conjunction with this the Government has provided the IPCC with additional resources to pay for temporary staff to address the appeals backlog.

Through the Police Reform and Social Responsibility Act 2011 the Home Office introduced changes that have given police forces additional discretion to deal with low level complaints, which will free up the IPCC to deal with the most serious and high profile complaints.

**Important cases are under-investigated because of a lack of access to independent specialists. The Home Office should provide the IPCC with a specific budget for a serious cases response team. The resources within individual forces for investigating complaints dwarf the resources of the Commission. It is notable that the IPCC is smaller than the complaints department of the Metropolitan Police alone. In the most serious cases, therefore, there should be a system for transfer of funds from individual forces to the IPCC to cover an investigation. This model is already in place for the IPCC's investigations into HMRC and UKBA. (Paragraph 33)**

The Government agrees that the IPCC's capacity to deal with the most serious cases needs to be increased. That is why the Home Secretary announced on 12 February the intention to expand the IPCC so that it has the capacity and capability to deal with all serious and sensitive allegations made against the police.

The Government keeps the IPCC's resources under continuous review and a system is already in place to ensure that where the IPCC needs additional resources to

investigate a particularly serious case then the Home Office will consider the IPCC's request.

**Applying non-discriminatory practices is crucial as a disproportionate number of the cases that cause the most serious public concern involve the black and minority ethnic (BME) communities. All Commissioners, investigators and caseworkers should be trained in discrimination awareness and relevant law, including all the protected characteristics under the Equality Act 2010. Again, leadership in this respect should come from Commissioners themselves, of whom three of thirteen will be from BME communities when the new Commissioners take up office. (Paragraph 35)**

The Government agrees that the IPCC should ensure training for IPCC Commissioners and staff adequately addresses equalities issues.

### **REFOCUSING THE COMMISSION'S WORK**

**Public confidence in the police has been shaken: Operation Yewtree, Operation Alice, the Hillsborough Inquiry, Operation Elveden and Operation Pallial all cast doubt on police integrity and competence. It is in these circumstances that the public ought to be able to turn to the IPCC to investigate and we believe that the Commission ought to have a more prominent role in each of these operations. (Paragraph 42)**

The IPCC is independent of Government, complainants and the police, and it is for the IPCC to determine the most appropriate form of investigation in individual cases in accordance with the legislation. It would not be appropriate for the Government to interfere or comment on IPCC's operational decision making in individual cases.

**Some kinds of complaint are simply not appropriate for Police Complaints Departments to investigate themselves. Cases involving serious corruption, such as tampering with evidence, should be automatically referred to the IPCC**



**for independent investigation. The Government has committed itself to provide more resources for the IPCC to investigate the Hillsborough disaster. Once that investigation is complete, that funding should be maintained and dedicated to anti-corruption cases. (Paragraph 43)**

The IPCC has recently published new statutory guidance containing a new definition of serious corruption and has written to police forces making clear its expectations for referrals. Any officer alleged to have committed serious corruption must by law be referred to the IPCC for investigation straight away. The proposal announced on 12 February to expand the IPCC will ensure it has the capacity and capability to deal with all serious and sensitive cases.

The Government takes any allegation of unlawful or inappropriate behaviour by police officers very seriously. Such allegations can undermine public confidence in the police, which is vital to the effectiveness of the British model of policing, with its reliance on policing by consent. This is why for the forthcoming financial year (2013-2014) the Home Secretary has agreed to provide an additional £2 million to the IPCC to allow it to increase its capacity to investigate police corruption.

**Allegations following the altercation between Rt Hon Andrew Mitchell MP and police officers raise fundamental questions about police honesty and integrity. The alleged unauthorised disclosure of information to the press on the night of 19 September 2012 and the alleged fabrication of an eye-witness account on Thursday 20 September 2012 are extremely serious; if officers could do this in a case involving the protection of the Prime Minister's own home, it raises the question how often might this be happening outside the gaze of the national media. As Mr Mitchell said, "if this can happen to a senior government minister, then what chance would a youth in Brixton or Handsworth have?". (Paragraph 44)**

**We support the Commissioner's "relentless pursuit of the truth" in this matter and believe that the West Midlands Police Federation were wrong in calling for the resignation of a cabinet minister. However, it was clearly hasty of the**

**Commissioner to tell the media that he was 100% behind his officers and to say to Rt Hon David Davis MP that the investigation had been closed when it had not been investigated with any rigour. (Paragraph 45)**

**We note the Commissioner's intention to ask another force to independently review the investigations underway in Operation Alice—while this is a welcome safeguard, it is no substitute for independent investigation by the IPCC. The IPCC should investigate this case independently and the Government should provide additional funds, if necessary, as it has for Hillsborough. (Paragraph 46)**

The IPCC is independent of Government, complainants and the police, and it is for the IPCC to determine the most appropriate form of investigation in individual cases in accordance with the legislation. It would not be appropriate for the Government to interfere with or comment on IPCC's operational decision making in individual cases.

**Mediation and restorative justice present rich avenues for improving the handling of police complaints. The Commission should set out best practice protocols for their use in appropriate cases and the use of informal or local resolution systems should be independently monitored to ensure that it is not used inappropriately in relation to conduct that would justify criminal or disciplinary proceedings. (Paragraph 49)**

The Government agrees with this recommendation and will be holding further discussions with the IPCC about what more might be done to encourage such approaches.

**The root of the problem is that the front line of the police complaints system is not working. It is unacceptable that Police Standards Departments had made the wrong decision in 38% of appeals. The number of appeal upheld varies wildly from force to force, as does the proportion of appeals upheld by the IPCC, and Police and Crime Commissioners must take decisive action where a force is shown to be failing. The Commission's robust handling of appeals is**

**welcome but it is costly. Far more effort should be made to ensure that correct decisions are made in the first instance at the level of individual forces. We have written to each chief constable to ask for the staff complement and budget of their Professional Standards Departments. (Paragraph 60)**

The Government agrees with this recommendation. As part of their role in holding Chief Officers to account it is important that Police and Crime Commissioners ensure that arrangements for dealing with complaints within their force are effective including in relation to appeals. Under the Police Reform and Social Responsibility Act 2011 Police and Crime Commissioners have the ability to direct a Chief Officer to deal with a complaint in accordance with the legislation if they have not complied with their obligations.

**Where a threshold of 25% of appeals are upheld, the Commission must demand a written explanation from Chief Constables and Police and Crime Commissioners, which should be followed by a six month probation period. After that time, if the proportion of appeals upheld is not reduced below the threshold, a “complaints competency investigation” must be held into the reasons for the inaccuracy of decisions made at the local level. This should involve a joint report by the IPCC, HMIC and the local Police and Crime Commissioner, which would lead to proposals that would be binding on Chief Constables. If applied now, these measures would affect all but four forces. (Paragraph 61)**

The Government agrees that the IPCC should consider how its oversight role can be strengthened. The Home Office has provided the IPCC with £0.4million for 2013-14 to conduct a review of how to improve its oversight role. The IPCC should consider the Committee’s recommended approach to improving police force performance on appeals as part of this review.

**It is a basic failing in the system that there is no requirement for forces to respond to recommendations from the IPCC, still less to implement them. We recommend that the Commission be given a statutory power to require a force**

**to respond to its findings. In the most serious cases, the Commission should instigate a “year on review” to ensure that its recommendations have been properly carried out. Any failure to do so would result in an investigation by HMIC and the local Police and Crime Commissioner, as a professional conduct matter relating to the Chief Constable. (Paragraph 69)**

In the IPCC’s report on corruption in the police service published in May 2012 the IPCC asked for a framework to be put in place to ensure a response to its recommendations. Since then the Government has undertaken a consultation with partners on how such a framework might be implemented. The Government is currently considering the responses to this consultation.

### **A SECOND HOME FOR POLICE OFFICERS**

**If the Commission’s primary statutory purpose is to increase public confidence, then it must act to rectify the impression that the police are investigating the police. The Commission must improve its in-house investigative resources and move to a target of 20% of investigators who have moved directly from a career as a police officer, or fewer, so that the number of former officers investigating the police is significantly reduced. (Paragraph 78)**

Approximately 90% of IPCC staff come from non-policing backgrounds. Those that do have a policing background provide experience and expertise that allow the IPCC to conduct competent and robust investigations. All IPCC investigators, irrespective of background, undertake a tailored and externally accredited training programme.

All independent and managed IPCC investigations – into the most serious matters – are overseen by an IPCC Commissioner. The Commissioner is responsible and accountable for the investigation findings. By law, IPCC Commissioners cannot have served with the police, been a member of SOCA and/or an officer of HM Revenue

and Customs at any time. Two non-executive part-time Commissioners provide objective challenge and scrutiny to IPCC governance and accountability.

The Government does not agree that there should be an arbitrary maximum limit on the number of ex-police investigators working for the IPCC because it is the skill set of the people performing these roles that is most important. The Government does, however, welcome the work the IPCC is doing to develop its own investigations workforce so that it continues to have investigators who do not have a police background.

**Her Majesty's Inspectorate of Constabulary must play a more prominent role in investigations of the most serious cases. In cases involving serious police corruption, for example, one of Her Majesty's Inspectors should review the IPCC's findings and be tasked with ensuring the implementation of any IPCC recommendations. HMIC's responsibility for forces' effectiveness make it a natural candidate for involvement in the "complaints competency investigation" described above and the inspectorate should ensure that any findings for a particular force are taken up by other forces where necessary. (Paragraph 79)**

HMIC is responsible for inspecting the efficiency and effectiveness of the police service in England and Wales. The purpose of HMIC is to ensure standards are achieved, good practice is spread, performance is improved and the public are engaged and assured. The IPCC, meanwhile, is responsible for investigating allegations involving individual officers. It is important that these two roles remain distinct in order to avoid overlap and duplication, and therefore the Government does not agree that HMIC should play a more prominent role in investigations.

In the IPCC's report on police corruption the IPCC asked for a framework to be put in place to ensure a response to its recommendations. Since then the Government has undertaken a consultation with partners on how such a framework might be implemented. The Government is currently considering the responses to this

consultation. As part of this work the Government will consider what role, if any, HMIC would perform in connection with such a framework were it to be put in place.

### **TREATING OFFICERS DIFFERENTLY FROM THE PUBLIC**

**The issue of interviewing officers in cases involving death and serious injury is indicative of a culture of treating officers differently from members of the public. Where officers are not interviewed promptly under caution, this can lead to weaker evidence and loss of confidence in the process of investigating serious matters such as deaths in custody. The application of the threshold test for special requirements should be reviewed, so that officers are routinely interviewed under caution in the most serious cases, exactly as a member of the public would be. (Paragraph 85)**

**The Government should revise the legislative definition of the threshold. One option would be that death and serious injury cases should be treated as “conduct” matters with special requirements and officers interviewed under caution except where it is “beyond reasonable doubt” that a misconduct or criminal offence has not been committed. (Paragraph 86)**

The Government does not agree that, at this stage, the threshold test for special requirements needs to be revised. The current test has a low threshold – requiring only an indication that a person may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings. This process may happen at any time during an investigation. Where such an indication arises during a Death and Serious Injury investigation, the matter must be reclassified as a conduct matter and the investigation continued accordingly. The Government will, however, discuss with the IPCC whether more needs to be done to ensure the test is being applied as it should be and will keep this area under review.

**The adequacy of communications between the IPCC and the public can have serious implications. Some of the violence that raged across London in the**

**summer riots of 2011 may have been avoided if anger had not been intensified by inaccurate statements made by the IPCC. (Paragraph 93)**

The IPCC have acknowledged publicly that they made one significant communication error at the start of the investigation into the shooting of Mark Duggan, for which they apologised. Since then the IPCC has published revised guidance clarifying roles and responsibilities between forces and the IPCC on communications in the aftermath of a death or serious injury. Work has taken place to update the agreed media protocol for such cases and to ensure that the guidance is widely understood throughout the service amongst officers of all ranks and not just police communications professionals.

More generally the Government welcomes the work that the IPCC are doing to renew their external communications strategy. This is designed to improve communication with a range of key audiences (including complainants).

**Accurate and timely information is also vital in retaining confidence in the complaints process. The Commission should be required to set out a timetable for an investigation for complainants and to write to them to explain any deviation. If the Commission orders a police complaints department to reinvestigate, it should also set a timetable for that investigation and any deviation should be explained to both the complainant and the Commission. There should be sanctions if the process and timelines are not followed. (Paragraph 94)**

The IPCC already provides information to families and complainants, including indicative timelines for its investigations wherever possible. The Government would expect Police and Crime Commissioners to ensure that all police complaints, including police reinvestigations, are completed within a reasonable period of time as part of their wider role for holding Chief Constables to account for the performance of their police force.

**The Commission should communicate positive outcomes through different channels, including social media. Prosecutions, misconduct findings and recommendations to forces must be more widely publicised in a way that openly demonstrates the scrutiny of the police. (Paragraph 95)**

The Government agrees with this recommendation and welcomes the work that the IPCC are already doing to renew their external communications strategy. This is designed to improve communication with a range of key audiences (including complainants).

### **SCRUTINY IN THE NEW LANDSCAPE OF POLICING**

**We note that although the IPCC is allowed to hear complaints about the Serious Organised Crime Agency (SOCA), the position regarding the new National Crime Agency (NCA) is less clear. We recommend that the NCA be subject to IPCC procedures in the same way as police forces generally. (Paragraph 102)**

The Government can confirm that subject to the passage of the Crime and Courts Bill, the NCA will be subject to IPCC oversight and procedures in broadly the same way as police forces. Clause 10 of the Crime and Courts Bill requires the Home Secretary to make regulations which set out the IPCC's oversight of the NCA, applying the provisions of Part 2 of the Police Reform Act 2002 subject to any appropriate modifications.

**The landscape of policing is changing and the IPCC must change with it. Increasingly, companies like G4S, Capita, Mitie and Serco are involved in delivering services that would once have fallen solely to the police (we described the involvement of G4S in the Jimmy Mubenga case in our report on Rules governing enforced removals from the UK), yet the public cannot call on the IPCC to investigate their delivery of those services. (Paragraph 109)**



**The Commission’s jurisdiction should be extended to cover private sector contractors in their delivery of policing services and appropriate funding should be available for it to undertake all the functions which we consider it should have responsibility for. (Paragraph 110)**

The Government agrees in principle with extending the IPCC’s role to cover private sector contractors working with the police. The Government has undertaken a consultation with police partners on the best way to implement this and intends to legislate as soon as Parliamentary time allows.

**The Commission should be renamed to reflect its broader remit and functions, covering appeals and complaints for police, UKBA, HMRC and the NCA. “The Independent Policing Standards Authority” is one possibility. (Paragraph 111)**

The Government does not agree that changing the IPCC’s name is necessary or desirable. This would be a time consuming and costly exercise. The College of Policing and police forces are responsible for setting standards in policing and renaming the IPCC along the lines suggested could therefore cause confusion.

**POWERS TO INVESTIGATE THE HILLSBOROUGH  
DISASTER: INTERIM REPORT ON THE INDEPEDENT  
POLICE COMPLAINTS COMMISSION  
(10<sup>th</sup> REPORT)**

**THE FAST-TRACK LEGISLATION**

It is right that the Independent Police Complaints Commission should have a major role in the investigation of the Hillsborough disaster, to ensure that the forces involved are not responsible for investigating themselves. Our evidence on the Hillsborough disaster and the Commission highlighted gaps in the Commission's powers to investigate old cases and to call officers to interview. We therefore welcome the Bill. (Paragraph 4)

The Government welcomes, and is grateful for, the support of the Committee on this issue.

**CLAUSE 2: OLD CASES**

Considerable investigation of this matter has already taken place and the Commission must build on that work, rather than starting again at the beginning. Furthermore, other agencies such as the Crown Prosecution Service and coroners courts will also be undertaking an investigative role and it is vital that an appropriate division of labour is decided quickly to avoid needless duplication of effort and unnecessary delay. We recommend that a single, lead investigator should be identified, with a remit to ensure effective working relationships between the IPCC, CPS and other agencies involved in the investigation. (Paragraph 9)

As stated in the Home Secretary's Written Ministerial Statement to Parliament of 19 December 2012, it is not possible to appoint a single lead investigator unless that person is a police officer. Given that a previous police investigation into the Hillsborough disaster has failed already, the Government also does not consider that it is appropriate for the police to be solely responsible for investigating the actions of the police again in this case. It is right that the investigation of the police in this case should be undertaken by the IPCC. Though there are two independent investigations, both will be based in the same office and working together on various parts of the investigation.

**The Commission should work with the Crown Prosecution Service to identify new lines of inquiry that need to be pursued in order to bring any criminal charges or disciplinary proceedings that may be necessary. The Home Secretary should take a coordinating role and publish a plan for action, including a realistic timetable for the completion of these investigations, in consultation with the families and the investigating agencies, particularly the Director of Public Prosecutions. (Paragraph 10)**

As stated in the Home Secretary's Written Ministerial Statement to Parliament of 19 December 2012, she will lead in Government on the co-ordination of this work. This process will be supported by the Home Office, who will bring together the individuals and organisations responsible for this work on a regular basis. The Government understands the urgency for completing the investigations, and will provide appropriate challenge to the IPCC on this, but it is also important that these investigations are not rushed. There is a significant amount of material that requires analysis to ensure that, if there are prosecutions, they are based on the most thorough examination of all the evidence available to the prosecution and the defence.

## **CLAUSE 1: INTERVIEWS OF PERSONS SERVING WITH POLICE ETC**

**The use of fast-track legislation is entirely proportionate in this case. We do note, however, that Clause 1(2) creates a new power for the Secretary of State to make provisions for officers to be required to attend an interview by secondary legislation, subject to negative procedure. It is right to deal with these detailed provisions by Regulations. (Paragraph 5)**

**At the moment, a police officer could be required to attend an IPCC interview if misconduct is alleged—even for relatively minor matters such as speeding offences— but not if he or she is involved in or witnesses a death or serious injury. It is crucial for public confidence, and for quick and effective investigations, that officers can be compelled to give evidence as witnesses where necessary. We support the principle of Clause 1 and emphasise that it reflects a much wider source of dissatisfaction with the IPCC than the Hillsborough case alone. (Paragraph 14)**

The Police (Complaints and Conduct) Regulations 2013, setting out the practical arrangements for requiring attendance by a serving officer to an IPCC interview as a witness, were laid in Parliament on 14 February 2013.

**We welcome the consultations made with chief officers by the Government for this fast-track legislation even though the concerns our witnesses raised have not all been accepted. (Paragraph 18)**

The Government takes note of this point. These concerns were considered as part of the process of developing the legislation and the associated regulations.

**As only an interview under caution provides officers with the appropriate safeguards in circumstances where there may be criminal or misconduct proceedings, as well as ensuring that any evidence obtained in that interview is admissible in court, police and prosecutors seeking to bring prosecutions**

**will therefore need to make separate arrangements for interviews to be conducted under caution. (Paragraph 19)**

The Police (Complaints and Conduct) Act 2012 and associated Police (Complaints and Conduct) Regulations 2013 relate to IPCC interviews with officers acting in the capacity of witness. As such, the interviews provided for under this legislation do not require a caution.

**The IPCC is the appropriate body to take the lead in the investigation into the Hillsborough disaster and should be empowered to do so with all haste. The use of fast-track legislation is fully justified in this case: the Hillsborough families have already waited 23 years for a proper investigation. (Paragraph 25)**

The Government welcomes, and is grateful for, the support of the Committee on this issue.

**The prospect that any professional might refuse to answer basic questions about their conduct or actions and how they have lived up to recognised professional standards—especially in cases that may involve criminality—is totally unacceptable. We note that refusal to attend an interview may result in misconduct or gross misconduct proceedings, but that there is no sanction for refusal to answer questions. We expect that chief constables will indicate to their forces that such uncooperative behaviour would be considered to be at odds with the spirit of professional duty. (Paragraph 26)**

The Government agrees with this recommendation.

**The IPCC should commit to a more rigorous interpretation of the threshold set out in the Police Reform Act so that it becomes the norm that officers are interviewed under caution in the most serious cases—in exactly the same way that members of the public would be. If, after six months, the Commission could not demonstrate a change in practice to the Government then it should**

**consider a legislative remedy, by reforming the threshold established in the Police Reform Act 2002. (Paragraph 27)**

The Government does not agree that the threshold test for special requirements needs to be revised at this stage. The current test has a low threshold – requiring only an indication that a person may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings. The Government will, however, discuss with the IPCC whether more needs to be done to ensure the test is being applied as it should be.

**Given the passage of time since the Hillsborough Disaster, it is likely than many of the officers who were directly involved will by now have retired from the force. The Bill does not provide for former officers to be required to attend an interview and there is the risk that the lack of power to require former officers to attend may hamper the investigation. The Government should monitor this situation closely. (Paragraph 28)**

The IPCC were clear that in order to investigate Hillsborough, they only required the witness attendance power in relation to serving officers. Given that retired officers are members of the public the Government also considered that it would not be appropriate to grant such a wide-ranging power. The Government will continue to keep the situation under review.



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