



Home Office

Improving police integrity: reforming the police complaints and disciplinary systems

December 2014



Improving police integrity: reforming the police complaints and disciplinary systems

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

December 2014



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Contents

	Foreword	4
Chapter One	The Challenge	5
Chapter Two	Reforming the Police Complaints System	10
Chapter Three	Reforming the Police Disciplinary System	25
Chapter Four	Strengthening Protections for Police Whistleblowers	36
Chapter Five	The Role and Powers of the IPCC	43
Annex A	Recommendations from the Chapman Review on which the Government is consulting	50
	How to Respond to this Consultation	53

Foreword

I have always been clear that the vast majority of police officers and staff do their jobs with integrity and honesty. They put themselves in harm's way to keep the public safe. They deal with dangerous criminals and protect the vulnerable. And according to the independent Crime Survey for England and Wales, they have cut crime by a fifth since 2010 even as police spending has fallen.

But the good work of those thousands of officers is undermined when a minority act inappropriately. Public confidence, the basis of our model of policing by consent, threatens to be damaged by a continuing series of events and revelations relating to police misconduct.

As I announced in July this year, ensuring the highest standards of integrity requires a police complaints and disciplinary system that is responsive, transparent and fair. It must also take account of the wider changes to the police landscape, including the innovative work of Police and Crime Commissioners in managing complaints.

Complaints must be responded to in a way that restores trust, builds confidence, and allows lessons to be learned. The handling of police complaints must be customer focused, simple to understand and transparent throughout. In addition, police forces must be able to deal, fairly and robustly, with police officers and staff who fall short of the standards the public expect and deserve. Both systems must be fair and transparent, both in the eyes of the police and the public they serve. The public have a right to expect that those who uphold the law on their behalf are properly held to account when their actions fall below the standards expected.

We have already taken steps to ensure the highest levels of integrity among police officers and staff. The College of Policing has published a new Code of Ethics and a national register of officers struck off from the police has been produced and made available to vetting and anti-corruption officers in police forces. We have strengthened the Independent Police Complaints Commission to ensure it can take on all serious and sensitive cases involving the police. And for the first time, Her Majesty's Inspectorate of Constabulary will inspect all forces on the basis of not just efficiency and effectiveness, but also their legitimacy in the eyes of the public.

This consultation marks the next stage in this programme of work, and is the result of an end to end examination of the complaints and disciplinary systems, as well as how we can best strengthen protections for police whistleblowers.

The issues covered by this report are important not just to the police but also the public. I therefore want to hear your views on the proposals and how the police complaints and disciplinary systems can best secure public confidence in the police.



The Rt Hon Theresa May MP

Chapter One:

The Challenge

1.1 Sir Robert Peel's second principle that "the ability of the police to perform their duties is dependent upon public approval of police actions" remains as valid today as when first written. This principle is fundamental to the British model of policing by consent.

1.2 But the public will only allow the police to perform their duties if they trust them to use their power responsibly and, above all, fairly. If the public starts to believe that police officers and staff are dishonest, or fall short of the standards they expect, trust will be eroded and ultimately undermined. Once trust is undermined, the police will lose their ability to perform their duties with the public's approval. The Government, and the police, must act to ensure that the police uphold the highest standards of integrity.

1.3 The Government has always been clear that it believes that the vast majority of police officers and members of police staff do their job honestly and with integrity. They fight crime in our villages, towns and cities. They deal with dangerous criminals. They strive to protect the vulnerable and keep our streets safe. They have shown that they can cut crime even as public spending is cut. The police have proved it is possible to do more with less. However, the good work of the majority threatens to be undermined by a continuing series of events and revelations relating to police conduct.

1.4 Public confidence in the police, as measured by the Crime Survey for England and Wales, has remained broadly consistent at three quarters over the last three years. Public trust, as measured in a variety of polls, has remained at around two thirds for several decades. This is despite many high profile police failures that have called into question police practices and the integrity of some police officers. There can be no doubt that these widely reported failures have the potential to do serious and lasting damage to public trust in the police, either nationally or within specific communities or segments of our society. Events such as the findings from the Hillsborough independent panel, the review by Mark Ellison QC into the deeply flawed police investigation into the murder of Stephen Lawrence, as well as reports into the misuse of stop and search, reinforce the need for reform.

Action to improve standards of integrity

1.5 The police are taking steps to meet the challenges they face to ensure they continue to maintain and improve public trust and confidence. The College of Policing, the professional body for police officers and staff in England and Wales, is at the forefront of this work. The College has:

- Developed and published a statutory Code of Ethics, the first of its kind in policing. The Code clearly sets out the high standards of professional behaviour the public expect of police officers and staff. Chief constables are responsible for embedding the Code within their force, with support from the College. As part of its new annual all force police efficiency, effectiveness and legitimacy inspection programme,¹ Her Majesty's Inspectorate of Constabulary (HMIC) will inspect against the extent to which forces have embedded the Code.

¹ The results of the police efficiency, effectiveness and legitimacy inspection programme (PEEL) was published on 27 November: <https://www.justiceinspectors.gov.uk/hmic/wp-content/uploads/state-of-policing-13-14.pdf>

- Produced a national register of police officers dismissed from the police, or who might have been dismissed if the misconduct matter have been proven, but who resigned or retired before disciplinary proceedings concluded. The register has been made available to vetting and anti-corruption officers in police forces.
- Produced and published information about the pay and rewards, gifts and hospitality and business interests of all 43 chief officers. The College will continue to develop the way it presents this information to make it more consistent and accessible to the public.

1.6 The College is also establishing a stronger and more consistent system for vetting police officers, which chief constables and Police and Crime Commissioners (PCCs) will consider when making decisions about recruitment and promotion. The College will develop a Code of Practice on vetting, which will be laid in early 2015. This means that chief constables must have due regard to the system developed by the College.

1.7 Strengthening integrity and tackling corruption is not only an issue for the police. The Government too is taking action to ensure that the public continue to have confidence that the police are exercising their powers appropriately. The Government will soon publish its first anti-corruption action plan setting out a range of measures being taken to tackle corruption and safeguard integrity across sectors in the UK and abroad, including the wider criminal justice system, public and private sectors.

1.8 The Government has also acted and put in place measures to preserve the long-term health of policing. It has taken steps to ensure the best and brightest graduates are able to take up careers in policing. The Government has:

- Introduced a fast track scheme, allowing those who have successfully completed their training and development programme to gain promotion from constable to inspector in three years. Forty-two people began their training in September.
- Introduced a scheme to recruit individuals with proven track records outside policing directly at the rank of superintendent. Successful candidates will undergo a rigorous training programme that will enable them to apply their leadership skills in their new role.
- Changed the law to allow those with relevant experience overseas to become chief constables in England and Wales.
- Provided seed funding for 'Police Now', an initiative developed by the Metropolitan Police. Recruitment for this scheme closed on 12 November.

Together these initiatives will give police forces more freedom to recruit into different parts of the workforce and more freedom to promote quickly the officers most suited to leadership roles.

1.9 In March 2014, the Government published reports by Mark Ellison QC into whether corruption had influenced the police investigation into the murder of Stephen Lawrence, and by Operation Herne, led by Chief Constable Mick Creedon, into allegations that undercover police officers had been deployed against the Lawrence family. Following publication, the Government has taken swift action to address issues of concern identified in both reports. It has:

- Amended the Criminal Justice and Courts Bill to introduce a new offence of police corruption.
- Asked HMIC to inspect the anti-corruption capability of police forces to ensure they have the capability they need to pursue corruption.

Police reform

1.10 Four and a half years ago, the government embarked on the most comprehensive programme of police reform in memory. Many in the policing landscape doubted the need for police reform.

1.11 As a result of the reforms the Government has introduced, chief constables have genuine operational independence as a result of the Government's decision to scrap national targets for the police. Police productivity has increased as a result of the Government's decision to dispose of reams of paperwork. Police officers are now rewarded for the skills they have rather than the length of time they have served with the police as a result of the Government's reforms to police pay and conditions.

1.12 The Government has empowered local communities. The introduction of PCCs has reinforced the link between the police and the local community they serve. From the beginning of the Government's programme of reform, the vision and purpose of PCCs has been clear. PCCs are directly-elected figures, holding chief constables to account for how their forces perform. PCCs are working hard to make sure people have a real say in how their communities are policed. They provide an impetus for reform, innovating and delivering policing more effectively. For the first time, a single individual brings real accountability to the way in which police forces perform.

1.13 Strengthening local accountability has enabled the Government to focus its attention on the threat from serious and organised crime. It has established the National Crime Agency and published the Serious and Organised Crime Strategy to drive a coordinated cross-government response at the local, regional and national level.

1.14 The Government's police reforms are working and crime is down by more than a fifth, according to the independent Crime Survey for England and Wales.

1.15 Alongside these changes, the Government has published detailed street-level crime maps on [Police.uk](https://www.police.uk), providing local communities with access to detailed information about local crime and anti-social behaviour so that they can hold their local force to account. The independence of HMIC has been strengthened, enabling it to shine a light on police performance more effectively. The powers and resources of the Independent Police Complaints Commission (IPCC) have been boosted, enabling it to ensure that the most serious and sensitive cases about the conduct of the police will be investigated thoroughly.

The purpose of this consultation

1.16 Together, these reforms amount to a substantial overhaul of the policing landscape. But, there is one area of the landscape that has not kept pace with the changes that the Government has made elsewhere: the police complaints and disciplinary systems.

1.17 The challenge for the Government and the police is to maintain and improve public trust and confidence in the police. The police complaints and disciplinary systems are an essential part of meeting this challenge. Complaints must be responded to in a way that builds confidence, restores trust and allows lessons to be learned. Police forces must deal with police officers and staff fairly and robustly when they fall short of the standards the public expect, either rehabilitating them or, where appropriate, dismissing them. Both systems must be fair and transparent, both in the eyes of the police and the public they serve. The public have a right to expect that those who uphold the law on their behalf are held to account when their actions are called into question.

1.18 In July 2014, the Government announced a package of measures to ensure the highest standards of police integrity. The Government announced:

- A review of the whole disciplinary system from beginning to end, led by Major General (Retd.) Chip Chapman.
- A review of the entire police complaints system, including the role, powers and funding of the IPCC and the local role played by PCCs.
- A consultation on a range of new proposals to strengthen protections for police whistleblowers.

1.19 This consultation invites views on reform proposals in each of these areas. At its heart lie two interlinking systems for identifying issues relating to the conduct of a police officer, a member of police staff or a special constable. Those conduct matters may come to light through one of two sources. On the one hand, they may come to light as a result of a complaint by a member of the public, in which case they will be dealt with either through local resolution,² an investigation by the police locally, or an investigation by the IPCC in the most serious and sensitive cases, with appropriate sanctions against the officer or member of staff concerned. On the other hand, police forces may identify issues relating to the conduct of a police officer, a member of police staff or a special constable, independently of any complaint made by a member of the public. These too may require investigation, either by the police locally or by the IPCC in the most serious and sensitive cases, again with appropriate sanctions against the officer or staff concerned.

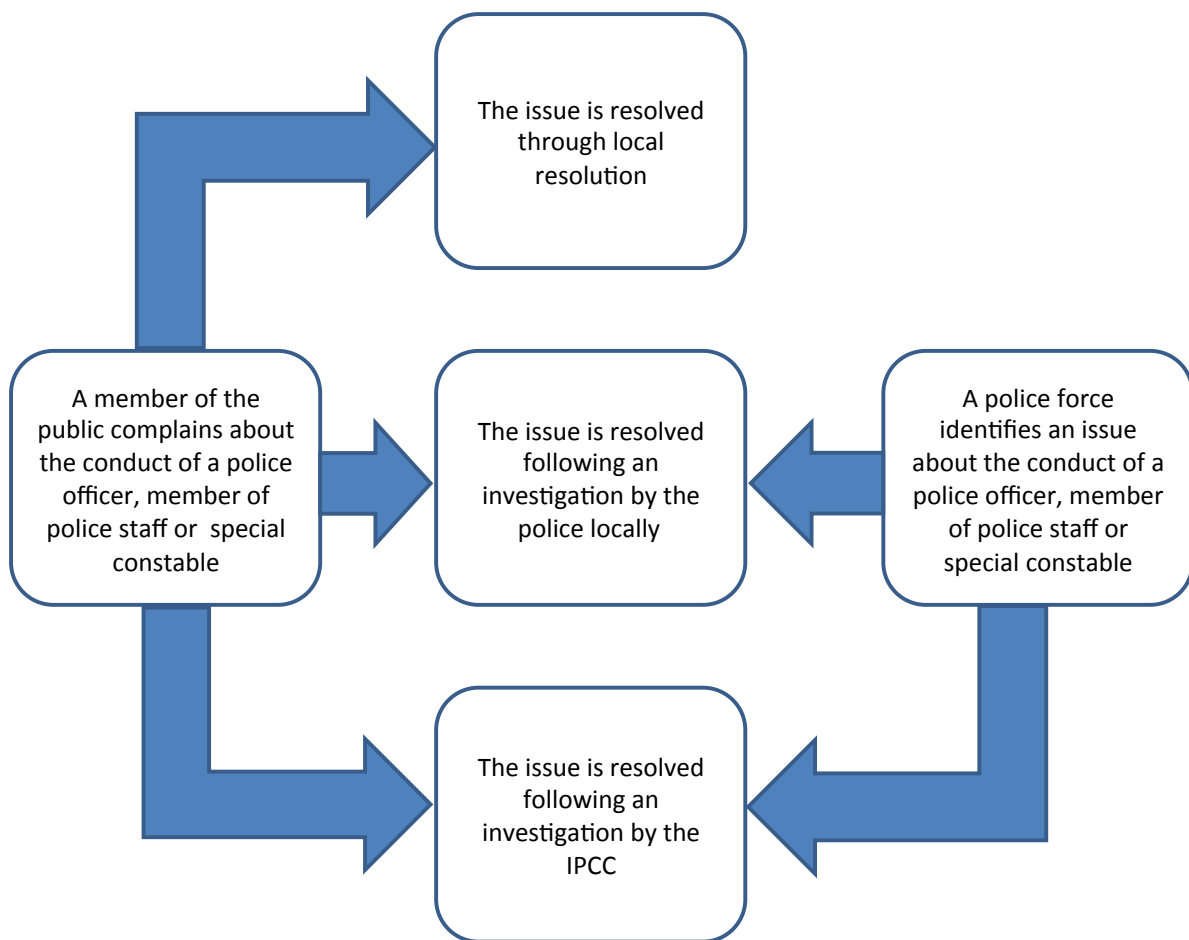


Figure 1. The relationship between the police complaints and disciplinary system.

² Further information about local resolution can be found on p14.

Chapter Two sets out proposals for reforming the police complaints system. It invites views on an expanded role for PCCs, the introduction of super-complaints, an expansion to HMIC's remit, and changes to the way the complaints system operates.

Chapter Three sets out proposals for reforming the police disciplinary system, following the recommendations from the Chapman Review. Chapter three invites views on ways to make the system clearer, introduce more robustness and objectivity to the process, and ensure it is open and fair.

Chapter Four sets out proposals to strengthen protections for police whistleblowers. It invites views on strengthening the IPCC's ability to deal with issues raised by whistleblowers, including through sealed investigations. It also suggests a change to the police disciplinary system to ensure that whistleblowers are treated fairly; and proposes requiring organisations investigating issues raised by police whistleblowers to provide feedback at key parts of the process.

Chapter Five sets out proposals to reform the IPCC. It invites views on those proposals and possible structural changes to support the IPCC deliver an increased number of investigations.

1.20 The consultation is aimed at both the public and the police, particularly those working in the complaints and disciplinary systems. It seeks views on the reforms to the police complaints and disciplinary systems, changes to HMIC and the IPCC and measures to strengthen protections for police whistleblowers. In addition to the questions contained in the document, the Government would welcome views on any issues it should take into consideration when deciding whether to implement the proposals set out in this consultation. This can include practical, policy-related issues as well as any data, financial information to enable the Home Office to carry out a full assessment of their affordability or information relating to the impact assessments published alongside this consultation considered relevant. Further detail about how to respond to this consultation is set out at p53.

Chapter Two:

Reforming the Police Complaints System in England and Wales

2.1 The police complaints system is the mechanism by which the public may raise their concerns about the service they receive from their police force. It is an essential part of the way through which the police are held to account. The operation of the complaints system, and the outcomes it achieves, are vital to ensure that the police continue to exercise their powers fairly and legitimately in the eyes of the public.

2.2 For the complaints system to be effective, it must have the confidence of both the public and the police. The public must believe the system is able to respond to their concerns fairly and achieve outcomes they would consider appropriate. The police must believe that it can help drive improvements, either in behaviours or policing practice and, where necessary, identify those individuals whose behaviour means that they should be subject to robust disciplinary action.

2.3 This chapter proposes a series of reforms to the police complaints system. It covers both structural change, through an expansion of responsibilities of PCCs,³ as well as reform of the fundamentals of the system. Together, the reforms aim to make the system more independent of the police, easier for the public to follow, more focused on resolving complaints locally and with a simpler system of appeals. The proposals also include an expansion of HMIC's remit to ensure it retains the ability to inspect the efficiency and effectiveness of the complaints system in future and the introduction of a system of super-complaints for policing. The Government expects the changes proposed in this chapter to apply throughout England and Wales.

The current system

2.4 The current framework for the police complaints system was introduced by the Police Reform Act 2002. Complaints can be made about police officers, special constables and police staff. Complaints do not need to be made in writing: members of the public can complain in a variety of ways, including by telephone, email or face-to-face. Complaints do not need to be made to the police. Members of the public can complain through a variety of individuals and organisations including PCCs, the IPCC, solicitors, Citizens Advice Bureau or community based organisations. However, only the relevant police force can handle the complaint.

2.5 Although it is complicated, in essence the system works as follows. A member of the public makes an allegation about someone serving with the police. The allegation may be raised with a variety of organisations, but all allegations are referred to police forces, who take a decision about whether the allegation should be recorded as a complaint. Once a complaint is recorded by the police force, efforts are made to resolve the allegation raised by the member of the public, either by local resolution, following local investigation or following an investigation by (or overseen by) the IPCC.

2.6 The IPCC's role in an investigation is triggered if the complaint concerns a death or serious injury, if it meets one of the mandatory referral criteria or if the IPCC requests that it is referred to them.⁴ Although a complaint may satisfy one of those conditions, this will not always be sufficient for the IPCC to become directly involved in an investigation.

³ The term 'PCC' as used in this chapter covers Police and Crime Commissioners, the Mayor's Office for Policing and Crime (for the Metropolitan Police Service) or the Common Council (for the City of London Police).

⁴ See chapter 8 of the IPCC's *Statutory Guidance to the police service on the handling of complaints* (2013), p42.

2.7 If a member of the public is unhappy with the way that their complaint has been handled, the system has a series of appeal points which allows them to challenge a decision. There are five points at which an appeal can be lodged: following a decision about whether an allegation should be recorded as a complaint; following the outcome of a local resolution; following the outcome of a local investigation; plus two further points relating to the investigation of a complaint.⁵ A diagram setting out the stages in the current complaints system is at figure 2.

2.8 While much of the complaints system is administered locally by police forces, the police complaints system as a whole is overseen by the IPCC, through its statutory duty to secure and maintain public confidence in the police complaints system. Further detail on the IPCC and the potential reforms on which the Government is consulting is set out in chapter five.

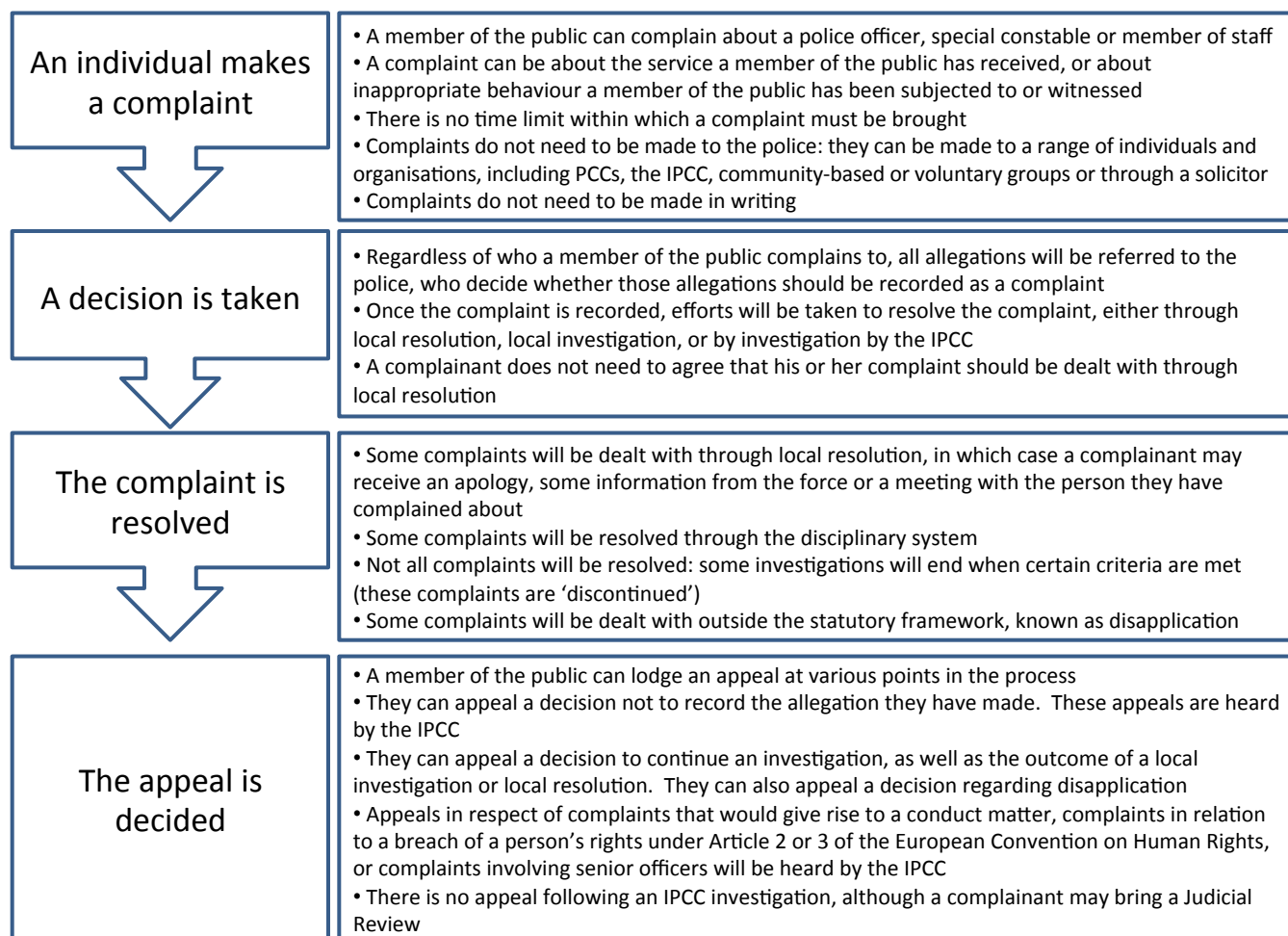


Figure 2. The stages in the current police complaints system in England and Wales.

The case for reform

2.9 In July 2014, the Government announced a review of the entire police complaints system, including the role, powers and funding of the IPCC, and the local role played by PCCs. The review sought views from a wide variety of groups, including the police, PCCs, the IPCC, solicitors and community based organisations, as well as members of the public who had made complaints about the police. The review was an internal review carried out by the Home Office. The findings of the review are set out in this chapter.

⁵ Further detail on appeals can be found in chapter 13 of the IPCC's *Statutory Guidance to the police service on the handling of complaints* (2013), p93. The additional points of appeal are following any decision to discontinue an investigation or any decision to deal with the complaint outside the framework set out in the Police Reform Act 2002 (also known as 'disapplication').

2.10 The review found that elements of the police complaints system do not work efficiently or effectively. Few of those involved with the system have confidence in its ability to operate effectively. Large numbers of members of the public do not believe that the system will respond to their complaints fairly or effectively. Complaints take too long to resolve, either by local resolution or following the outcome of an investigation by either the police or the IPCC. Those working in the system feel they spend too long dealing with persistent and vexatious complaints, limiting the amount of time they can devote to other, more legitimate complaints. Police officers feel unable to admit to a mistake without fear of being subject to disciplinary proceedings.

2.11 The number of recorded complaints against the police has risen since the IPCC's creation in 2004. In 2004/05, there were 22,898 recorded complaints against the police. In 2013/2014, this figure had risen to 34,863, when more complaints were made against the police than at any time since the IPCC was established.⁶

2.12 Although the number of recorded complaints against the police has risen, most people dissatisfied with the police choose not to complain. In 2012/13, 89% of people dissatisfied with the police chose not to complain. The proportion of people who choose not to complain against the police has remained largely static for the past five years.⁷

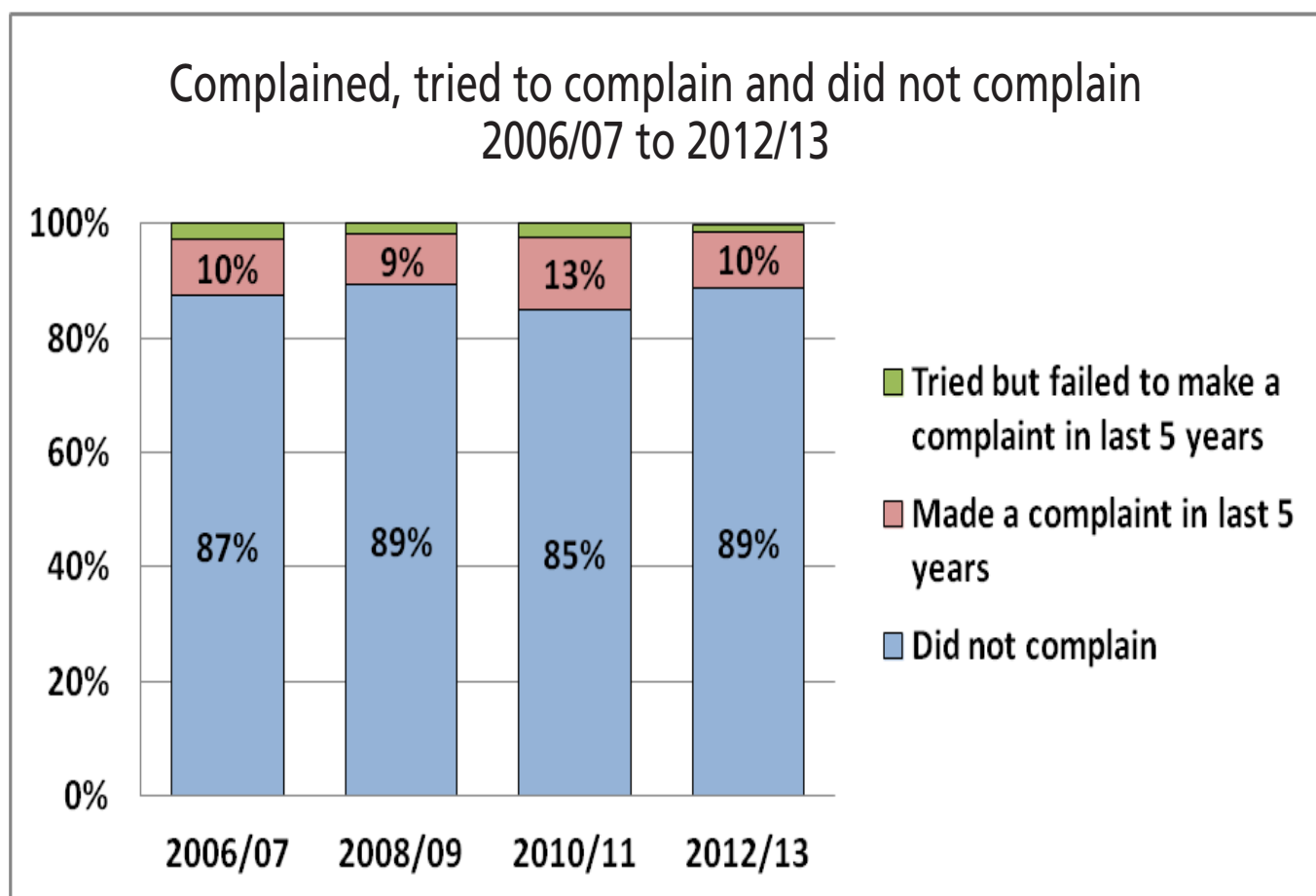


Figure 3. Action taken by individuals dissatisfied with the police.

⁶ The number of recorded complaints against the police is based on IPCC quarterly police complaints statistics, <https://www.ipcc.gov.uk/reports/statistics/police-complaints/police-performance-data>. The figure for total recorded complaints against the police is subject to change as the IPCC conducts further analysis for the purposes of official statistics. Comparisons between 2004/05 and 2013/14 are difficult. The Police Reform and Social Responsibility Act 2011 changed the definition of a complaint and figures from 2012 onwards now include direction and control complaints. Previously, those complaints were recorded separately.

⁷ Crime Survey for England and Wales, 2006/07-2012/13.

2.13 The review identified a variety of reasons why members of the public choose not to complain. Some members of the public are unaware of the police complaints system and do not know how to make a complaint. The IPCC is taking action to improve public knowledge of the complaints system and how to make a complaint, including through increased use of social media, engagement events and making information available about how to complain in more languages.

2.14 However, discussions with groups during the complaints review, as well as data on public perceptions, highlight a more worrying reason as to why people choose not to come forward. As stated in paragraph 2.8, much of the complaints system is administered locally by police forces. They have responsibility for recording complaints, resolving those complaints suitable for local resolution, investigating the vast majority of all complaints as well as implementing the outcomes of those investigations. However, 35% of people lack confidence in the ability of the police to deal with their complaints fairly.⁸

2.15 Many members of the public who have complained are often not satisfied with how their complaint is handled.⁹ In 2012/13, 78% of people were dissatisfied with how their complaint was handled. A significant number of decisions taken by police forces about complaints are overturned on appeal. In 2013/14, 46% of appeals to the IPCC against decisions taken by police forces were upheld. Over the last three years, the proportion of appeals against local investigations upheld by the IPCC has risen from 31% to 44%.¹⁰

2.16 The review also found that those individuals who report their complaints directly to the IPCC can also experience frustration. In 2013/14, more than one-third of all complaints (12,825) against the police were submitted to the IPCC directly.¹¹ However, the number of cases in which the IPCC has direct involvement is small. In 2013/14, the IPCC had direct involvement in only 413 investigations into a complaint against the police.¹² To increase the IPCC's ability to carry out more investigations, in February 2013, the Home Secretary committed to transfer additional resources for the IPCC to enable it to investigate all serious and sensitive cases.

2.17 Independence is a crucial part of any attempt to improve the public's confidence in the complaints system. The complaints review compared the police complaints system in England and Wales with other systems around the world. It found that a range of models of police complaints systems exist across Europe, in Australia and in North America. While some attempts have been made by academics to compare complaints systems across Europe, direct comparisons are problematic. However, the studies suggest that a complaints system can inspire greater confidence by extending independence, strengthening transparency and accountability and increasing the role of institutions other than police forces.¹³

2.18 The complaints system is complex and, as a result, resolution of complaints can be slow. The legislation and guidance explaining how the complaints system operates is long and difficult to follow. Police forces believe they spend a considerable amount of time dealing with persistent and vexatious complaints. The complaints review found that those working in police forces

⁸ Public Confidence in the Police Complaints System, 2014, p22 <https://www.ipcc.gov.uk/page/public-confidence>

⁹ Crime Survey for England and Wales, 2012/13. www.ons.gov.uk/ons/about-ons/business-transparency/freedom-of-information/what-can-i-request/published-ad-hoc-data/crime/october-2013/complaints-made-against-the-police--2011-12-and-2012-13.xls&rct=j&frm=1&q=&esrc=s&sa=U&ei=Lnx8VKm6DtKtaY2_gdAG&ved=0CBkQFjAB&usg=AFQjCNEZxbJ1WpaXqSwBp09I8GPDawvkVg

¹⁰ IPCC Annual Report and Statement of Accounts, 2013/14, p20 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330456/IPCC_annual_report.pdf

¹¹ IPCC Annual Report and Statement of Accounts, 2013/14, p23

¹² IPCC Annual Report and Statement of Accounts, 2013/14, p17-18. The IPCC began 109 independent investigations, 22 managed investigations and 282 supervised investigations during 2013 2014.

¹³ Johansen, A. (2014). 'The rise and rise of independent police complaint bodies', in J Brown (ed), The Future of Policing. London: Routledge.

say that, while the number of vexatious or persistent complaints is small, dealing with them, the appeals that they generate and the additional complaints that they can generate, takes a disproportionate amount of time.

2.19 In the Police Reform and Social Responsibility Act 2011, the Government legislated to enable police forces to deal with cases through local resolution¹⁴ without requiring them to gain the agreement of the complainant first. It was hoped that this would enable police forces to deal with lower-level complaints more quickly, freeing time to deal with the more complex issues that require investigation.

2.20 However, it is still unlikely that outcomes will be achieved swiftly. While complaints involving the IPCC will be more complex and take longer to resolve, the complaints system does not operate efficiently at a local level. In 2013/14, it took approximately 57 days to resolve a complaint through local resolution and approximately 135 days to resolve a complaint through local investigation.¹⁵

2.21 Police officers who are the subject of complaints also lack faith in the system. They feel that the system fails in any efforts to help improve the service they give to the public by focusing too narrowly on whether officers have committed misconduct. Officers and staff agree that where an act of misconduct has been committed, the perpetrator should be subject to the disciplinary system. However, police officers and members of police staff believe that the balance is wrong and that complaints that are appropriate for local resolution will automatically be considered as a case of misconduct. The complaints review found that this leads to officers and staff focusing on defending themselves and leaves them unwilling to admit they had made a mistake to avoid implicating themselves in any misconduct action.

The Government's proposed reforms

2.22 The Government's police reform agenda is working and crime is continuing to fall. Under this Government, overall crime has fallen by more than a fifth according to the independent Crime Survey for England and Wales. A key plank of the Government's police reform agenda has been the introduction of directly-elected PCCs.

2.23 Where previously there were invisible, unelected and ineffective police authorities, there are now visible and democratically accountable PCCs who are working hard to ensure that their local communities have a stronger voice in policing. Where previously there was inefficiency and toothlessness, there is now a powerful mandate to drive change. PCCs are providing an impetus to reform, are innovating and delivering policing more effectively.

2.24 One of the main strengths of the PCC model is the increased transparency and direct accountability it has brought to policing. PCCs are able to take a system wide view in a way that police authorities never could. One element of this is the complaints system. It provides PCCs with early sight of the issues that are of concern to their electorate and areas where there is scope for improvement in force performance. PCCs have an interest not just in the types of complaints that are made – they have a fundamental interest in the long-term health of the system.

¹⁴ Local resolution is a flexible process that can be adapted to the needs of the complainant. The complaint will be handled in the main at a local managerial level, not within professional standards departments. Although local resolution will not result in disciplinary proceedings, the manager of the person complained about may take management action or formal action under the unsatisfactory performance procedures (for police officers) or capability procedures (for police staff members) during, or as a result of, the complaints process.

¹⁵ IPCC quarterly police complaints statistics, <https://www.ipcc.gov.uk/reports/statistics/police-complaints/police-performance-data>

2.25 A number of PCCs have started to take an active interest in the resolution of complaints at a local level. During 2014, a number of PCCs have developed innovative ways to increase the levels of transparency at key points in the system and, in some cases, have involved members of the public directly in looking at how complaints are handled. For example, in Avon and Somerset, an independent residents panel looks at completed police complaints files and provides feedback to the force, identifying good practice as well as areas where performance can be improved. In Thames Valley, the PCC has established a complaints, integrity and ethics committee to provide independent scrutiny. Pilots in Cheshire, Dyfed-Powys and Northumbria are looking at ways to increase complainants' confidence in resolving complaints.

Case Study: Northumbria Complaints Pilot

In Northumbria, three members of police staff have been recruited within the Office of the Police and Crime Commissioner to provide independent complaint handling and, where possible, quick resolution. Every complainant is spoken to within 24 hours, sending a clear signal that the force cares and wants to understand and resolve the complaint.

In 2011/12, Northumbria had the highest percentage of complaint appeals upheld by the IPCC (53%). The complaints pilot sought to address this by dealing with complaints quickly and by simplifying the process as far as possible. Where necessary, complaints are fast-tracked to the force's Professional Standards Department for investigation.

Complainants who have been through the pilot process subsequently see the police as better at dealing with complaints than other public sector bodies, with 92% happy with how their complaint was dealt with.

2.26 Early indications from the pilots suggest a positive effect on the way in which the complaints system is perceived. In particular, the pilots confirm the findings from the complaints review: greater independence from the police system has the potential to radically alter public perceptions of the outcome of their complaint.

Structural reforms to the police complaints system

2.27 The Government is already taking action to address the lack of independence in the complaints system. In February 2013, the Home Secretary committed to transfer additional resources for the IPCC to enable it to investigate all serious and sensitive cases, reducing the role played by police forces into the investigation of the most serious complaints.

2.28 The Government intends to go further. PCCs should play a central role in deciding how the complaints system is run at a local level, making sure that complainants are dealt with promptly, are supported through the system and that their complaints achieve a satisfactory outcome. To support these aims, the Government intends to give PCCs the following responsibilities:

- a) Receiving and recording a complaint.
- b) Assessing and allocating a complaint either for local resolution, local investigation or national investigation by the IPCC, taking account of the mandatory referral criteria.
- c) Acting as a single point of contact and communication for the complainant, explaining the process to the complainant and acting as the main link between the

complainant and the complaints system, including where a complaint requires an investigation by the police.

- d) Resolving complaints that are appropriate for local resolution, driving proportionate remedies such as an apology or independent mediation.

Together, the functions described in 2.28(a)-(c) are described as 'triage' functions. Introducing a single point of contact would lead to an improved experience for complainants by providing greater consistency in communication and a single point of accountability in how complaints are handled. By shifting these functions to PCCs, individuals directly accountable through the ballot-box, the Government would expect a stronger focus on the needs of complainants.

2.29 Preserving the freedom of PCCs is essential to the long term aims of the policy underpinning their introduction. In light of this, PCCs should be free to choose whether they wish to take on the function listed at 2.28(a)-(d). Some may choose to leave those functions where they currently lie – in police forces – and be held to account for that decision by their electorates. Others may choose a different route entirely.

2.30 Since their election in November 2012, some PCCs have kept their support staff deliberately small in order to ensure that as much money as possible is spent on policing. Others have taken a different approach, strengthening their support staff to help hold chief constables to account. The freedom PCCs have to take decisions about how they carry out their role should be extended to the complaints system, establishing different models according to their local circumstances and what they believe their electorate wishes to see. Such a system could help drive innovation, creating a complaints system at a local level that is more responsive to the needs of complainants – and which, through handing responsibility to PCCs – is better able to hold the police to account and drive improvements in the way they police their communities. In any event, PCCs would have clear ultimate responsibility for the functions outlined in Paragraph 2.28. This is a radical reform but one which is critical to delivering the objectives of greater independence, greater focus on the needs of the public and a greater focus on local resolution.

CONSULTATION QUESTION:

1. DO THESE PROPOSALS STRIKE THE RIGHT BALANCE BETWEEN LOCAL FLEXIBILITY AND ENSURING CONSISTENCY IN HOW COMPLAINTS ARE DEALT WITH THROUGHOUT ENGLAND AND WALES?

Appeals

2.31 The Government wants to introduce more independence into the appeals process. The Government intends to shift responsibility for appeals which are currently handled by chief officers to PCCs. This would include, for example, appeals about the handling of local resolution complaints and those relating to the performance of an officer. Under the Government's proposals, PCCs would taken on responsibility for complaints. In taking on responsibility for appeals, PCCs would need to ensure a degree of separation between decision and appeal to avoid a conflict of interest.

2.32 Where the PCC is considering a case that has been dealt with by the police force as part of the performance system, he or she should be able to challenge the chief officer about the decision that has been made. PCCs would not have the power to direct the police force to take a particular course of action, as this could impinge on the proper requirement for operational independence of chief constables. However, PCCs could have the power to scrutinise some key

police force decisions that matter to complainants and where, currently, there is no independent challenge or scrutiny over the process. This should give the public greater confidence that their concerns are being taken seriously.

2.33 New powers could include:

- a) The power to access any information or data held by the police regarding particular cases.
- b) The power to order a review of an investigation or a decision the police force has made with regard to the specific case (including in police officer performance cases). This would not include criminal or misconduct cases for which the right of appeal is to the IPCC.
- c) The power to refer cases to the IPCC for investigation (at the PCC's expense) where the PCC strongly believes the decision made by the police force is flawed.

As all complaints will be recorded, there will no longer be a need for appeal rights in relation to non-recording. The right of appeal against disapplication and discontinuance would be replaced with a right of appeal against a decision to end an investigation. Further details on each of these points are set out later in this chapter. Appeals that are currently heard by the IPCC will continue, such as cases involving criminal or misconduct proceedings and those involving senior officers.

CONSULTATION QUESTIONS:

2. DO YOU AGREE PCCs SHOULD BE GIVEN RESPONSIBILITY TO CONSIDER APPEALS ON THE OUTCOMES OF COMPLAINTS DEALT WITH THROUGH LOCAL RESOLUTION?

3. SHOULD THE GOVERNMENT CONSIDER GOING FURTHER TO STREAMLINE APPEALS? FOR EXAMPLE (i) BY REMOVING THE NEED FOR THE IPCC TO HEAR APPEALS ON CASES THAT THEY HAVE REFERRED BACK TO POLICE FORCES TO CONSIDER AND/OR (ii) HANDING THESE APPEALS FROM THE IPCC TO THE PCC FOR MISCONDUCT CASES THAT FALL BELOW DISMISSAL?

What these changes will mean for complainants

2.34 The intended reforms outlined in this chapter will represent a change to a complainant's experience of the system. As set out in paragraph 2.28, the Government is proposing to give PCCs a choice regarding how key local functions within the complaints system should be delivered locally. Depending on the choices taken by individual PCCs, a complaint could be resolved in one of three ways. If a complaint is suitable for local resolution, it will be dealt with by the PCC; if it concerns the conduct of a police officer, member of police staff or member of the special constabulary, it will be handed to the police force for investigation; if the complaint meets one of the mandatory referral criteria, it will be referred to the IPCC for investigation. If the complainant is dissatisfied with the action taken regarding their complaint, they can appeal to either their PCC or the IPCC, or bring a judicial review against the outcome of an investigation by the IPCC. For most complainants, most of their engagement about their complaint will be with the PCC, who will keep them updated regarding any investigation into their complaint, although complainants will need to speak to both the police and the IPCC to provide further details to help inform their investigations. A diagram setting out the effects of the reforms proposed in this chapter is set out in figure 4.

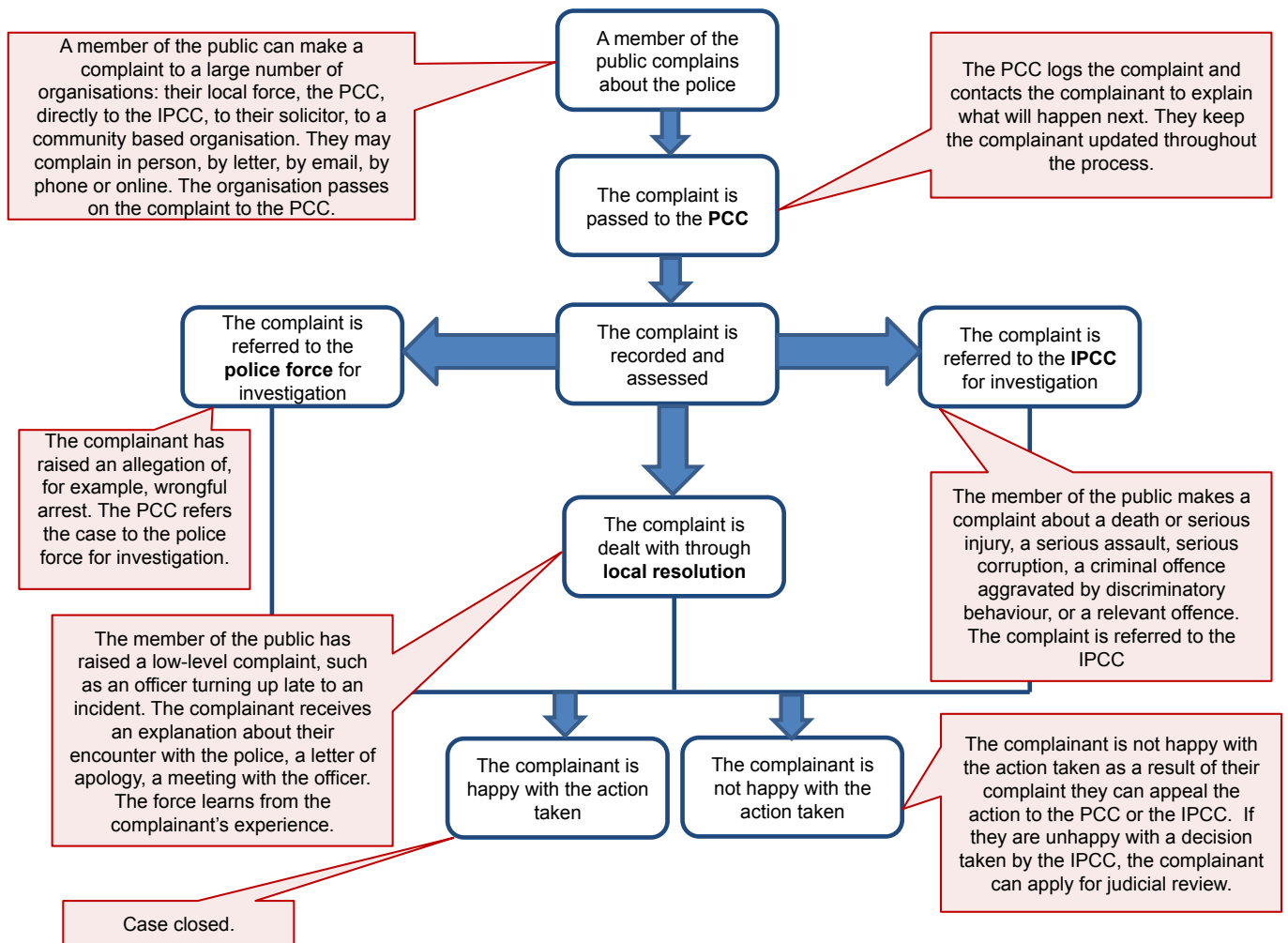


Figure 4. The effect of the changes outlined in chapter two, as seen from the perspective of the complainant.

The role of HMIC

2.35 HMIC independently assesses police forces and policing. Its inspections play a crucial role in providing information to the public to enable them to compare the performance of their force against others, enabling them, through their PCC, to drive improvements in policing.

2.36 The Government has always been clear that HMIC should have no role inspecting PCCs. As democratically elected individuals, PCCs' accountability lies with their electorate. That accountability should not be mediated by the judgement of a third party. The Government does not intend to change this arrangement.

2.37 However, the Government believes that HMIC should continue to play a role inspecting the efficiency and effectiveness of the police complaints system. To ensure that the complaints system inspires the confidence of the police and public, it must operate efficiently and effectively. Scrutiny of the system is provided by the IPCC, through its role ensuring that complaints are handled well and identified failings lead to improvements in policing, and HMIC, through its role inspecting police forces and making a judgement about their efficiency and effectiveness.

2.38 Currently, HMIC has no remit to inspect PCCs or their staff, even in cases in which a PCC's staff are supporting the police force and delivering policing functions. Reflecting the

changes outlined above, the Government is interested in views about whether HMIC's remit should be extended to cover staff working for PCCs dealing with complaints.

CONSULTATION QUESTION:

4. SHOULD HMIC'S REMIT BE EXTENDED TO INCLUDE INSPECTION AND JUDGEMENT OF THE EFFECTIVENESS OF STAFF WORKING FOR PCCs RESPONSIBLE FOR THE COMPONENTS OF THE COMPLAINTS SYSTEM SET OUT ABOVE IN 2.28?

Further reform of the complaints system

2.39 The Government wishes to supplement structural reform with procedural reform. While some complainants felt that they did not receive sufficient support to help them navigate their way through the system, more felt that the problem was caused by the system itself. The system's bureaucracy, decision points, language and lack of definition of key terms all added up to exacerbate complainants' dissatisfaction, which in turn generated appeals and, in some cases, further complaints about the way in which original complaints were considered.

2.40 To improve the system further by making it simpler and easier to understand, the Government proposes to change the definition of a complaint. Section 12 of the Police Reform Act 2002 defines a complaint as 'any complaint about the conduct of a person serving with the police'.¹⁶ Some complainants felt restricted in the types of issues they could raise as a complaint. Some believed that they could complain only when they knew the identity of a particular officer. Others who had reported complaints felt that the definition of a complaint prevented a swift resolution of the issue they had raised. Some complainants wanted an apology from the force or, on occasion, a meeting with the officer concerned. However, some complainants felt unable to achieve these limited aims because officers and staff were too concerned about admitting misconduct. To make it easier for complainants to have their voice heard, the Government proposes to extend the definition of a complaint to include policing practice more generally or service failure from the force.

CONSULTATION QUESTION:

5. DO YOU AGREE WITH THE PROPOSAL TO EXTEND THE DEFINITION OF A COMPLAINT TO COVER THE FOLLOWING?

- (a) POLICING PRACTICE**
- (b) SERVICE FAILURE**
- (c) BOTH**

2.41 In addition, the Government proposes to end the current practice on non-recording of complaints. Some complainants did not understand the rationale for requiring forces to take a decision about whether or not a complaint should be recorded. Some considered that this was a way in which their complaints could be ignored. Some stakeholders considered that the large number of appeals that were upheld against non-recording decisions was an indication that the police did not fully grasp how decisions about recording should be taken. More fundamentally, however, a decision not to record a complaint means that the police lose vital information about the integrity or performance issues affecting them. In line with the Public Administration

¹⁶ <http://www.legislation.gov.uk/ukpga/2002/30/contents>

Select Committee's report *More Complaints Please*,¹⁷ the Government proposes that the step of non-recording, and the associated appeal point, should be removed so that in the future all complaints against the police are recorded.

CONSULTATION QUESTION:

6. DO YOU AGREE WITH THE GOVERNMENT'S PROPOSAL THAT ALL COMPLAINTS SHOULD BE RECORDED?

2.42 To make the complaints system easier for the public to understand, the Government also proposes to end the practice of disapplication¹⁸ and discontinuance.¹⁹ Some complainants felt that the language used to describe certain key parts of the system made it more difficult to understand. The complaints review found that a lack of understanding could, in some circumstances, generate appeals within the system unnecessarily or, in some cases, generate further complaints about how an original complaint had been handled. To make the system simpler for the complainant to follow, the Government proposes to end the practice of disapplication and discontinuance, replacing them instead with one practice of ending an investigation. The associated rights of appeal against both decisions will be replaced by one right of appeal against a decision to end an investigation.

CONSULTATION QUESTIONS:

7. SHOULD THE TERMS "DISCONTINUANCE" AND "DISAPPLICATION" BE REPLACED WITH THE DECISION TO END AN INVESTIGATION INTO A COMPLAINT?

8. WHAT MORE CAN BE DONE TO MAKE THE SYSTEM EASIER FOR THE PUBLIC TO UNDERSTAND?

2.43 Finally, the Government intends to make it easier to remove vexatious and persistent complaints from the system. During the complaints review, some of those working within the system felt that they were spending a disproportionate amount of time dealing with a small number of complaints. Some forces reported receiving multiple complaints from the same individual each week; others felt that extra complaints were being generated as a result of an attempt to gain a result that was not possible to achieve. Complainants were concerned that this small number of complainants may impact on the ability of police forces to resolve other complaints swiftly. All agreed that action was required to deal with vexatious and persistent complaints more swiftly, removing them from the system more quickly.

¹⁷ Public Administration Select Committee (2014), paragraph 69. <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpublicadm/229/229.pdf>

¹⁸ There are certain limited circumstances in which a recorded complaint does not have to be dealt with under the Police Reform Act 2002. This is called disapplication and means in relation to a complaint that an appropriate authority may disapply the requirements of Schedule 3 to the Police Reform Act 2002 in relation to a complaint.

¹⁹ If a complaint is discontinued, the investigation ends. Complaints can be discontinued in certain limited circumstances. Further information is set out a p70-71 of the IPCC's statutory guidance to police forces.

CONSULTATION QUESTION:

9. WHAT SHOULD THE GOVERNMENT DO TO MAKE IT EASIER TO DETERMINE WHETHER A COMPLAINT IS PERSISTENT AND VEXATIOUS?

Victims of Crime

2.44 The implementation of the Code of Practice for Victims of Crime²⁰ in December 2013 built on a series of reforms to make the Criminal Justice System more focused on the needs of victims of crime. The Code makes it clear what support victims of crime will receive and at what stage, who to talk to about their case and what to do if things go wrong. The Code specifies the level of service victims of crime can expect. If the level of service is not met, victims of crime can raise a complaint under the Code. Complaints raised under the Code are distinct from those raised under section 12 of the Police Reform Act 2002.

2.45 Under the Code, the police must recognise and treat victims in a respectful, sensitive and professional manner, without discrimination of any kind. The police must also:

- a) Have a clearly identified complaints process through which victims can complain if their entitlements under the Code have not been met.
- b) Provide either an acknowledgement or response to the victim within 10 working days of receipt of the victim's complaint about the service they have received.
- c) Provide clear contact details at both a local and, where appropriate, national level for victims, in case of enquiries or complaints and communicate these to the victim on request.
- d) Ensure that a complaint brought under the Code which should have been sent to a different organisation required to provide services under the Code is directed to that organisation for them to respond.
- e) Provide a full and timely response which informs victims of the outcome of their complaint, including information about how victims can escalate their complaints brought under the Code to the Parliamentary and Health Services Ombudsman (PHSO) if they wish to.

2.46 The Government recognises that more can be done to ensure that organisations required to provide services under the Code are held to account. The Government has committed to review whether PHSO services or other independent organisations need new powers to ensure that victims of crime get appropriate redress by April 2015.²¹ The Victims' Commissioner will recommend minimum standards victims can expect whenever they complain to a criminal justice agency by December 2014²² and the Government will respond to those recommendations by February 2015.

²⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254459/code-of-practice-victims-of-crime.pdf.

²¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/354723/commitment-to-victims.pdf.

²² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/354723/commitment-to-victims.pdf.

CONSULTATION QUESTION:

10. ARE ANY IMPROVEMENTS NEEDED TO THE WAY IN WHICH THE POLICE DEAL WITH COMPLAINTS FROM VICTIMS OF CRIME?

Super-complaints

2.47 The proposals set out above are intended to create a system that is more independent of the police and easier for the public to follow. In addition, the Government intends to introduce a system of “super-complaints” to ensure that issues affecting groups of people are identified and corrective action is taken.

2.48 As the body responsible for overseeing the complaints system, the IPCC can take action against patterns or trends in particular types of complaint. Additionally, there are powers in place for PCCs and police forces to refer matters to the IPCC for investigation and for PCCs to request that HMIC carry out an inspection of the police force they oversee, or of particular activities of that force. The Home Secretary may also commission reports from the IPCC on matters that arise from the IPCC’s exercise of its functions,²³ or require HMIC to carry out an inspection.

2.49 However, there remains a question about the extent to which the current system enables proactive identification of systemic failures in policing and gives sufficient voice to those who are not confident in their ability to make a complaint. The Government believes there is a greater role for civil society to play in bringing systemic issues in policing to light, and to make complaints on behalf of particular groups of people, particularly those who may be disproportionately impacted by certain policing practice, for example, stop and search.

2.50 There are a number of organisations, such as the Citizens Advice Bureau, that provide advice and support to people who have come into contact with the police, and/ or who have been a victim of crime. Research suggests that 15% of people would go to the Citizens Advice Bureau to make a complaint about the police; 7% would go to their solicitor; and 5% would go to their local council.²⁴ These organisations often have access to data and information that will enable them to spot trends and aspects of policing that may not be functioning as they should and raise it with the appropriate body. Such a concern could, under certain circumstances, be labelled as a super-complaint.

2.51 The concept of super-complaints is not new. The ability for certain ‘designated’ organisations to make a complaint about a particular feature or market in the UK for goods and services that appears to be significantly harming the interests of consumers was first introduced in the Enterprise Act 2002.²⁵ These organisations strengthen the voice of the consumer, who is unlikely to have access to the kind of information necessary to make a complaint about a systemic failure.

²³ For example, reporting on information gleaned from day-to-day IPCC work, including investigations, referrals and learning lessons.

²⁴ Public Confidence in the Police Complaints System, 2014, p23. 1% of people say that they would go to a community-based organisation or the Race Equality Council.

²⁵ Super complaints systems are now in place for the consumer and financial services markets. The Competition and Markets Authority receives super complaints about the consumer services markets and the Financial Conduct Authority receives super complaints about the financial services markets.

Case Study: Card Surcharges

Which? brought a super-complaint about card surcharges in 2011. A surcharge is an additional fee added on to the cost of the transaction. The super-complaint identified three features it thought resulted in consumer detriment in the passenger transport sector. These were:

- lack of transparency: surcharges are often only revealed towards the end of a lengthy transaction process and so it can be difficult to compare prices across competing retailers
- lack of a reasonable, practical alternative to avoid the fee
- surcharges often appear to exceed reasonable estimates of retailers' costs of processing payments

The Office of Fair Trading (OFT) considered that payment surcharges were most likely to result in consumer detriment where they lacked transparency and where consumers lacked a practical way to avoid the surcharge, as the surcharges reduced the extent to which consumers shop around and compare full-price offers. This weakened the competitive pressure between retailers and resulted in consumers not getting the best deal.

The OFT launched an investigation which resulted in 12 airlines agreeing to scrap surcharges. The OFT also recommended that the Government introduce measures to prohibit retailers from surcharging for debit cards and ensure a meaningful and consistent solution across the economy.

The Government acted on these recommendations by legislating to ban excessive credit and debit surcharges and implementing in this aspect of the Consumer Rights Directive well ahead of the June 2014 deadline. This ban came into effect on 6 April 2013.

2.52 The Government is interested in views on whether the concept of a super-complaint can be applied to the police complaints system so that designated organisations could:

- a) Identify trends and patterns of aspects of policing that might be harming the interests of the public.
- b) Raise complaints on behalf of certain groups of people. This would be similar to class-action legal proceedings.

Under such a system the Home Office could be responsible for designating groups who had applied for super-complainant status based on a number of clear, published criteria.

2.53 The IPCC, as the independent organisation overseeing the complaints system, could be given responsibility for receiving and triaging super-complaints. These complaints might relate to a particular force, or forces, or a national issue and concern the efficiency, effectiveness or standards of policing.

CONSULTATION QUESTIONS:

11. SHOULD THE GOVERNMENT INTRODUCE A SUPER-COMPLAINTS SYSTEM FOR POLICING?

12. IS THE IPCC THE CORRECT BODY TO RECEIVE A SUPER-COMPLAINT?

13. WHAT ADDITIONAL POWERS WOULD THE IPCC, HMIC AND THE COLLEGE OF POLICING NEED?

Chapter Three:

Reforming the Police Disciplinary System

3.1 Like the police complaints system, the police disciplinary system is crucial to ensuring that the police are held to account. It provides the mechanism for addressing actions by police officers which fall short of the standards the public expects. This involves providing support to drive improvements where required and, where necessary, taking robust action against those officers and staff who fail to meet the standards expected of them.

3.2 As with any organisation, police forces must have a stake in managing the discipline of their employees. This is essential to ensure action is taken swiftly and robustly where necessary and that leaders can be held to account for the behaviour of their workforce. Chief constables should, therefore, retain responsibility for investigating the conduct of police officers and staff, with the exception of the most serious and sensitive cases, which will be investigated by the IPCC.

3.3 While the police disciplinary system works well in a number of areas, the Government recognises the need to introduce greater independence and transparency into the system. This is essential if we are to maintain public confidence in the system and ensure that police forces can be held to account more effectively for the decisions they take about disciplinary issues involving their officers.

3.4 Following the independent review commissioned by the Home Secretary in July, this chapter proposes a series of reforms to the police disciplinary system. It invites views on ways to make the system clearer, introduce more robustness and objectivity into the process and ensure it is open and fair. It also invites views on whether the police officer and police staff disciplinary systems could be merged, as well as the most effective way to ensure that police officers answer questions during an IPCC investigation.

The current police disciplinary system

3.5 The police disciplinary system can be complicated, but in essence works as follows. A matter concerning the conduct of a police officer or member of police staff will come to the attention of the police force. This can either follow a report made by a police officer or member of staff, or a complaint from a member of the public. The force will investigate the case, or, if the case is serious or sensitive, refer it to the IPCC. Following the investigation, the police force will decide what action should be taken against a police officer. The officer can lodge an appeal if he or she does not agree with the finding or outcome imposed. A diagram setting out further detail is at figure 5.

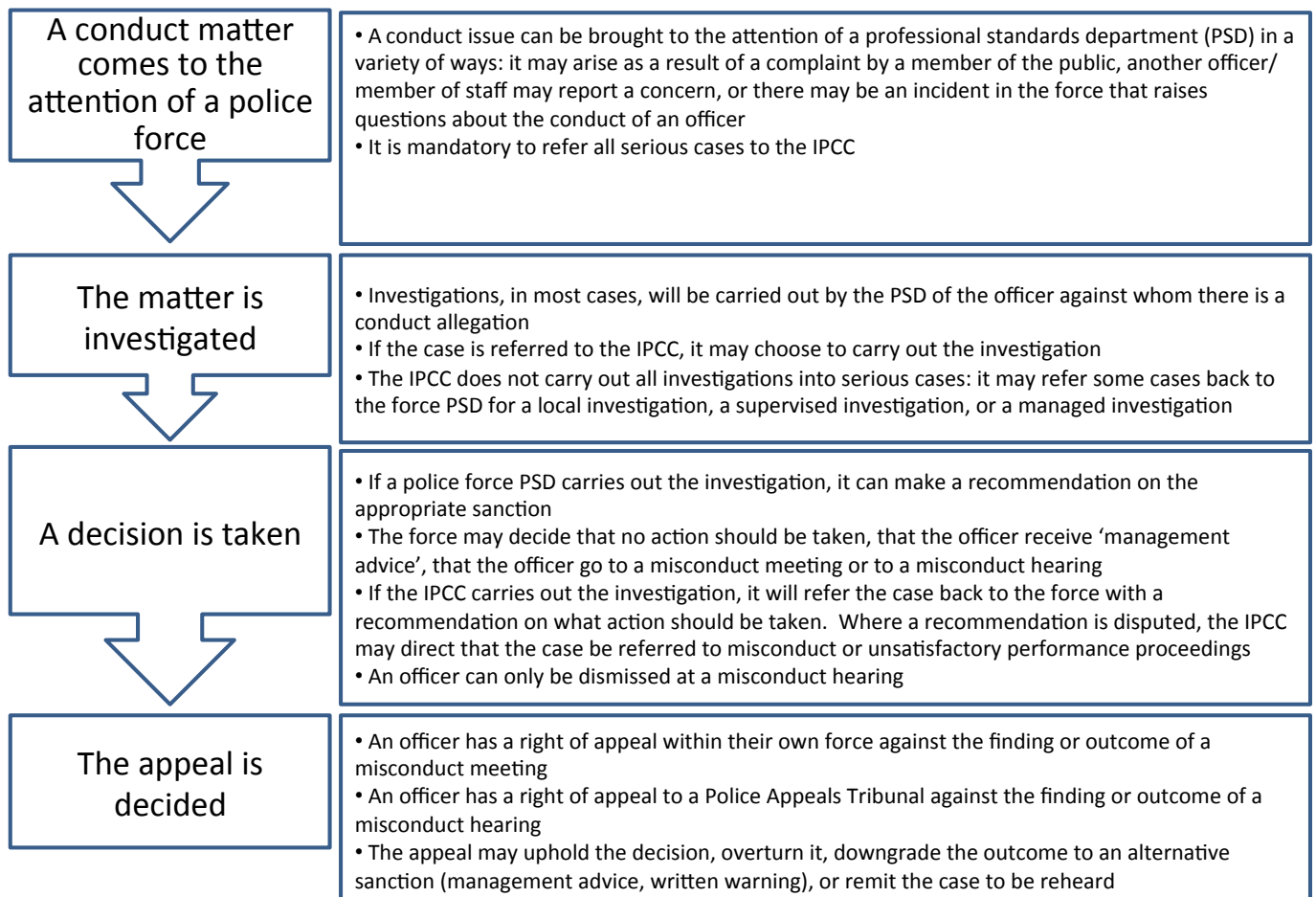


Figure 5. The stages in the police disciplinary system.

3.6 The Government has already implemented a series of changes to improve standards of police integrity:

- The College of Policing has published a new Code of Ethics, which makes clear the high standards of behaviour expected from all police officers.
- A national register of officers dismissed from the police or who have retired or resigned before gross misconduct disciplinary proceedings have concluded has been produced and made available to vetting and anti-corruption officers in police forces.
- The Criminal Justice and Courts Bill has been amended to introduce a new offence of police corruption.

The Government also intends to change the Police (Conduct) Regulations 2012 to ensure that officers cannot resign or retire to avoid dismissal in misconduct hearings.

3.7 However, further work is needed to improve the police disciplinary system and ensure that the police and the public can have confidence in its effectiveness.

The Chapman Review

3.8 In July, the Home Secretary announced a review of the police disciplinary system from beginning to end to be chaired by Major General (Retd.) Chip Chapman. The Home Secretary asked him to look for ways to make the disciplinary system clearer, more independent and public-focused.

3.9 The Chapman Review was conducted over the summer of 2014 and the full report accompanies this consultation document. The report sets out a wide-ranging analysis of the current state of police discipline and puts forward a number of recommendations to reform the system. A summary of the findings from the report is set out below, along with the proposals for change the Government would like to take forward. A list of those recommendations on which the Government is consulting is at annex A.²⁶

Where the current police disciplinary system works well

3.10 The Chapman Review has highlighted a number of areas where the police disciplinary system can be said to work well.

3.11 The police already tackle discipline themselves. They have shown they are capable and willing to identify and dismiss officers who fall short of the standards expected.

3.12 Individual police officers also take the conduct of their colleagues extremely seriously. Some 88% of all dismissals involve cases that have been brought to light as a result of an internal report. The record of many police force Professional Standards Departments (PSDs), who are responsible for investigating police officers and staff, shows that they are capable of taking robust action in serious cases of gross misconduct from investigation through to outcome. For example, the Metropolitan Police dismissed 58 police officers in 2013, only 8 of which followed investigations in which the IPCC was involved. There are also many cases where pensions have been forfeited as a consequence of criminal offences committed by police officers.

3.13 Police officers are already prevented from returning to the force. Since 1 December 2013, the College of Policing has kept a record of officers who have been dismissed from the police or who have either resigned or retired while subject to a gross misconduct investigation. This is available to vetting officers to ensure officers who have been dismissed cannot rejoin the police.

3.14 Investigations are largely effective and sanctions are usually tough. Approximately 50% of officers faced with a misconduct hearing choose to resign before a hearing, demonstrating the strength of the evidence gathered by police force PSDs investigating misconduct. However, the practice of resigning or retiring to avoid proceedings denies possible justice to complainants and the public. Therefore, the Government wants to ensure that all cases are taken to a conclusion. The Government is currently taking forward legislation to ensure officers cannot resign or retire to avoid dismissal.

Issues with the current system

3.15 The Chapman Review has highlighted a number of issues that need to be addressed to improve the police disciplinary system.

3.16 The public and police lack confidence in the system. The system is opaque and decision making across forces is inconsistent, with different outcomes for officers committing the same types of misconduct. Research commissioned by Greater Manchester Police also indicates that Black and Minority Ethnic officers are disproportionately represented in the disciplinary system.

²⁶ The Government accepts but is not consulting on recommendations 12 and 15. The former is covered by proposals in chapter 2 regarding vexatious complaints. The latter will be considered alongside the future, longer-term planning and development of IT for police forces. The Government has not accepted recommendation 10 (to develop a list of licensed police officers). The College of Policing already holds a struck-off list of officers dismissed for gross misconduct. This list already prevents officers dismissed for gross misconduct from rejoining the police.

3.17 The system is not always effective. There are separate disciplinary systems for police officers and staff, meaning inconsistency of treatment between them. The system for performance is difficult to use and many performance issues end up in the conduct system as a result. There are also no national training standards for PSD officers and PSDs do not always have trained investigators filling roles. Management interventions for cases below dismissal are not clearly defined and lack a clear focus on improvement and not all officers have adequate management training.

3.18 The system can also be difficult to follow. The regulations setting out the routes the disciplinary system should follow are unduly complex, overly bureaucratic and burdensome, particularly for performance. Communication during a case is often poor.

3.19 The system can be made more efficient. The gap between the sanction of a final written warning and dismissal is too great, with a lack of activity to improve the performance or conduct of the officer concerned. Furthermore, the length of time an officer spends on a final written warning is too short, potentially enabling officers to avoid dismissal by making short-term improvements and reverting to past behaviour once the warning period ends. There is little join-up between PSDs and HR in some forces and delay is institutionalised, which is a direct consequence of the adversarial nature of the system, the regulations governing the system and delays caused by setting up a disciplinary panel. Other factors include the complexity of the case and parallel criminal investigations, which necessarily delay the proceedings. Delays can leave some officers spending large amounts of time suspended from duty on full-pay when they are accused of serious misconduct.

3.20 Like the police complaints system, the police disciplinary system can be made more independent. The entire system is managed at a local level. For a minority of officers, anecdotal evidence to the Chapman Review suggests that their loyalty can sometimes be skewed towards colleagues, rather than upholding the right values.

The Government's proposed reforms

3.21 The Chapman Review has made a number of recommendations to reform the police disciplinary system and address the issues set out above.

3.22 Taking each stage of the disciplinary process in turn, this chapter sets out each proposal (highlighting in brackets and in bold text the corresponding recommendation from the Chapman Review).

3.23 At its heart, the Chapman review proposes refocusing the police disciplinary system so that how it responds to different types of misconduct is clear. Where misconduct is so serious as to warrant dismissal if an allegation is proven, the system should be clear that an officer should be dismissed. Where misconduct falls below that threshold, the response should be focused on rehabilitating the officer so that he or she is able to improve their behaviour in future.

3.24 Any system must be clear what it is there to do, and how it should do it. In line with the recommendations from the Chapman Review, the Government therefore proposes that the College of Policing should oversee the disciplinary system for the 43 police force areas **(1)**.

3.25 The College's role could include managing a benchmarking exercise with key stakeholders such as the IPCC to develop clear standards for all forces which can be used to guide decisions in disciplinary cases. The benchmarks would cover: what sanctions should correspond to what types of disciplinary cases, including which actions should usually lead to dismissal **(2)**; what

transformative action should be taken in cases below dismissal (6); and, what the common attendance triggers should be for sickness absence (17).

3.26 In addition, the College could have responsibility for establishing a new kitemark programme to set the standards for police forces in dealing with discipline, linked to the Code of Ethics and based on assessments of: the training they provide for PSDs, managers and police representatives on panels (5, 9, 14); the transparency and availability of data (13); how well the Code of Ethics has been embedded in the values of their officers (3) and how well recruitment processes test those values (4).

3.27 The College could also produce clear guidance to forces on the disciplinary system in partnership with the Home Office, to improve consistency (1), as well as review and develop training packages for police forces and hearings panels (5, 14).

3.28 The College could also be responsible for considering whether and how voluntary exit points could be introduced for police officers (7) to provide an opportunity to leave the police in circumstances where it may be in the interests of the individual and the force, but where the performance, attendance or misconduct procedures do not apply.

CONSULTATION QUESTION:

14. WHAT FACTORS SHOULD BE CONSIDERED WHEN SANCTIONS ARE BENCHMARKED?

- (i) SERIOUSNESS OF MISCONDUCT**
- (ii) PUBLIC INTEREST**
- (iii) INTENT ON BEHALF OF THE OFFICER INVOLVED**
- (iv) PREVIOUS CONDUCT OF OFFICER**
- (v) OTHER (PLEASE SPECIFY)**

3.29 Finally, the Chapman Review recommends that a chief officer act as an 'agent of change' (39), to provide clear leadership to all police forces on disciplinary issues and champion improvements, including the implementation of these proposals for reform.

Streamlining performance management

3.30 Cases of underperformance of police officers should be managed in the same way as misconduct cases. This would involve stripping away the current three-stage process and moving to an internal meeting for performance issues that would not lead to dismissal, and a disciplinary hearing for those that could lead to dismissal (33, 34). These changes will enable forces to tackle poor performance more quickly.

CONSULTATION QUESTION:

15. TO WHAT EXTENT DO YOU AGREE OR DISAGREE THAT THE PERFORMANCE MANAGEMENT PROCESS SHOULD BE STREAMLINED, BRINGING IT INTO LINE WITH THE PROCESS FOR MISCONDUCT?

- (i) STRONGLY AGREE**
- (ii) AGREE**
- (iii) NEITHER AGREE NOR DISAGREE**
- (iv) DISAGREE**
- (v) STRONGLY DISAGREE**

3.31 Investigations must be quick, objective and robust. Following the recommendations from the Chapman Review, the Government therefore proposes that the IPCC should investigate all disciplinary cases involving chief officers (11), to remove the current practice of chief officers investigating each other. The IPCC already investigates many of those cases, usually due to their seriousness and sensitivity. In future, the investigative route for all these cases should be completely independent of the police.

3.32 The language used in disciplinary investigations should be simplified (36), so that it describes what the system actually does. The Chapman Review recommends that what is currently described as a 'severity assessment', where a decision is taken about whether a case is misconduct or gross misconduct, should be changed to a simple 'dismissal test' (8, 18), and the terms "misconduct" and "gross misconduct" should be abandoned. Using the benchmarked standards developed by the College of Policing, it should be clear to all parties, including the IPCC, which cases will usually lead to dismissal and which will instead lead to a robust focus on rehabilitation.

3.33 The 'appropriate authority' should be able to delegate its authority to the rank of inspector or above for matters that do not lead to dismissal (35) to ensure that responsibility sits at the right level and to speed up the process of rehabilitating officers.

CONSULTATION QUESTION:

16. TO WHAT EXTENT DO YOU AGREE THAT INSPECTOR IS THE APPROPRIATE RANK AT WHICH TO TAKE DECISIONS ABOUT MATTERS BELOW DISMISSAL?

- (i) STRONGLY AGREE**
- (ii) AGREE**
- (iii) NEITHER AGREE NOR DISAGREE**
- (iv) DISAGREE**
- (v) STRONGLY DISAGREE**

3.34 Alongside the proposed reforms aimed at streamlining the disciplinary process, the Government is interested in whether more can be done to further reduce unnecessary delay. For example, there are already specific timescales in place for police forces to serve notices

on officers to inform them of decisions about misconduct and performance investigations. The Government would like to seek views on whether imposing time limits for resolving proceedings (excluding very complex cases and where there is a parallel criminal investigation) would further help to streamline the system and achieve better outcomes for victims of police misconduct.

CONSULTATION QUESTION:

17. TO WHAT EXTENT DO YOU AGREE THAT TIME LIMITS SHOULD BE CONSIDERED FOR DISCIPLINARY PROCEEDINGS?

- (i) **STRONGLY AGREE**
- (ii) **AGREE**
- (iii) **NEITHER AGREE NOR DISAGREE**
- (iv) **DISAGREE**
- (v) **STRONGLY DISAGREE**

17(A) IF YOU AGREE, HOW LONG SHOULD THE TIME LIMIT BE?

3.35 Hearings and appeals must be open and fair. In line with the recommendations from the Chapman Review, the Government is interested in views on whether disciplinary hearings should be held regionally rather than at a local level (as is currently the case) to improve the consistency of outcomes (21). Each region could be responsible for coordinating hearings and providing the necessary administration and support. The College of Policing could also play a coordinating role to support the administration of the hearings, with a funding mechanism developed to transfer money from local police forces to the College as appropriate to enable it to carry out those functions. A rota system could be introduced for Superintendents to coordinate and manage their participation in hearing panels.

CONSULTATION QUESTION:

18. DO YOU AGREE THAT POLICE DISCIPLINARY HEARINGS SHOULD BE HELD REGIONALLY RATHER THAN LOCALLY?

3.36 The Chapman Review also recommended that disciplinary hearings and appeals should be conducted in public (20). A separate consultation is being carried out on this proposal.²⁷ Subject to the outcome of that consultation, consultation with the Police Advisory Board for England and Wales and the views of Parliament, this proposal will be implemented in 2015.

3.37 The panel who preside over a disciplinary hearing (including performance cases) should be chaired by a legally qualified person (19), with a serving senior officer of Superintendant rank or above (22) and a lay member. A separate consultation is being carried out on changes to the composition of the panel for disciplinary hearings.²⁷ Subject to the outcome of that consultation, consultation with the Police Advisory Board for England and Wales and the views of Parliament, the Government intends to implement this proposal in 2015. An additional change to ensure further objectivity in the disciplinary system is that the police officer member of the disciplinary panel should be from a different force to the person subject to the proceedings (23). The police officer's role would be to provide an operational view of policing to inform the panel's decision.

²⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/375965/PoliceDisciplinaryWhistleblowingCon.pdf. This consultation also includes changes to the composition of disciplinary panels.

Both the legally qualified chair and the lay-member should be recruited either regionally by the force that administers the hearings or potentially by the College of Policing. Their names could be added to a pool which the hearings can draw on as required and they would be paid a fee for each hearing they attend.

3.38 The panel should have the discretion to disregard or place less weight on a mitigation raised by a police officer that could have been raised earlier, but that was only declared for the purposes of a hearing or appeal (31, 32). The Government proposes to make this clear. The officer would need to provide evidence that they had formally declared the mitigating circumstances to at least one of the following: the police force; a medical professional; or a recognised staff association (such as the Police Federation). This would ensure fairness in the way mitigations are handled in hearings and ensure they are not used by a small minority simply to frustrate the process.

CONSULTATION QUESTIONS:

19. GIVEN THE PROPOSED CHANGES TO HANDLING MITIGATIONS, ARE THERE ANY ADDITIONAL SAFEGUARDS THAT WOULD NEED TO BE PUT IN PLACE?

20. ARE THERE ANY CONSEQUENCES FOR FORCE WELFARE SYSTEMS?

3.39 The IPCC should present those cases where it has carried out an independent investigation and directs that a case should be taken to a hearing (and any subsequent appeals hearings) (24). This will apply where a police force disagrees with the IPCC's recommendation. This will ensure an independent, open and transparent process, while recognising that in most cases it will be appropriate for the police force to present the IPCC's findings at a disciplinary hearing.

3.40 The Government is also interested in views on whether disciplinary appeal hearings should be held nationally, rather than held at police force level to ensure greater consistency of outcomes (38). As with regional hearings, it will be for police forces to coordinate the hearings, and the College of Policing could have a role in managing and supporting the process, with a funding mechanism developed to transfer money from local police forces to the College as appropriate to enable it to carry out those functions. There are options around where the hearings are held that have implications for public access. The Government would welcome views on the following options:

Option One: Appeals could be heard regionally in the same venues as the regional hearings with the panel scheduled to attend.

Option Two: Appeals could take place in one location for the whole of England and Wales. There is a choice then about the best location.

CONSULTATION QUESTION:

21. WHICH OF THESE OPTIONS DO YOU PREFER?

(i) **OPTION ONE**

(ii) **OPTION TWO**

3.41 The panel presiding over an appeal would consist of a legally qualified chair and a serving senior officer, as now, but the retired officer who currently sits on the panel would be replaced

by a lay member (37). Lay members could be appointed nationally and added to a centrally-held list that regional administration teams could draw on for arranging appeal hearings.

CONSULTATION QUESTION:

22. TO WHAT EXTENT DO YOU AGREE THAT THE PROPOSED WAY OF APPOINTING LAY MEMBERS IS THE MOST EFFECTIVE?

- (i) **STRONGLY AGREE**
- (ii) **AGREE**
- (iii) **NEITHER AGREE NOR DISAGREE**
- (iv) **DISAGREE**
- (v) **STRONGLY DISAGREE**

22(A). IF YOU DISAGREE, WHAT ALTERNATIVE APPROACH SHOULD THE GOVERNMENT CONSIDER?

3.42 Outcomes must be fair, robust and either seek to rehabilitate or dismiss officers, as appropriate. Following the recommendations in the Chapman Review, the Government therefore proposes that the sanctions of ‘dismissal with notice’ and ‘extension of a final written warning’ should be removed (25, 26), as they are unnecessary and do not fit with the Government’s determination to take a robust approach to police discipline.

CONSULTATION QUESTION:

23. ARE THERE ANY PRACTICAL REASONS WHY DISMISSAL WITH NOTICE IS JUSTIFIED IN CERTAIN CASES?

3.43 Disciplinary panels should have the option of a new sanction of a reduction in rank for use in all disciplinary cases (27), not just performance as is currently the case, to give panels fuller discretion to make appropriate decisions. However, the Chapman Review recommends that the same standards should apply to all ranks and it would not be acceptable, for example, to reduce in rank where a constable in the same circumstances would have been dismissed.

3.44 The language used in warnings issued should be changed to reflect the focus on rehabilitation for cases that do not lead to dismissal. The Chapman Review suggested a ‘memo of correction’ could replace ‘management advice’ and that a ‘written corrective warning’ and a ‘final corrective reprimand’ could replace current written warnings (28, 29, 30). The Chapman Review also recommended warnings should remain on police officers’ records for longer.

CONSULTATION QUESTION:

24. FOR HOW LONG SHOULD WARNINGS REMAIN ON OFFICERS’ RECORDS?

Bringing the police officer and staff disciplinary systems together

3.45 Looking further ahead to possible future models for the police disciplinary system, the Chapman Review suggests that further consideration be given to whether the separate disciplinary systems for police officers (an internally managed, regulated system) and civilian

staff (an employment tribunal system common to most organisations) could be brought together into the same system (16). The Government is interested in views on this proposal.

3.46 Merging both systems could ensure greater consistency and fairness in the outcomes of disciplinary cases that involve both officers and staff, and the sanctions that are applied to both. However, merging both systems would mean substantial changes to terms and conditions of employment. It could also have a significant impact on the culture of the police and on the personal lives of those affected, which need to be carefully considered. There are two options for merging the systems on which the Government would welcome views:

Option One: Move civilian staff into the regulated police officer system: this would mean that staff would be subject to the same process as officers. This would include holding hearings in public, appeals being considered by the Police Appeals Tribunal body rather than an Employment Tribunal, as well as the same range of sanctions applying to both police officers and staff. The system would be more structured than the current staff system, which is based on ACAS (the Advisory, Conciliation and Arbitrations Service) principles.

Option Two: De-regulate the police officer system (wholly or in-part) and adopt the civilian staff system. Where an officer is dismissed from duty, they would be able bring a claim in the Employment Tribunal (in the same way as employees) if they wish to challenge the decision. Damages in compensation for losses incurred as a result of the dismissal would be available. Some of the current stages of the system would no longer need to apply, though it would be possible to regulate parts of the system to keep some features and, for example, still allow the claim to proceed to an Employment Tribunal. This proposal may have implications for the Office of Constable and further work would therefore be required.

CONSULTATION QUESTIONS:

25. TO WHAT EXTENT DO YOU AGREE OR DISAGREE WITH THE PRINCIPLE OF BRINGING TOGETHER THE STAFF AND POLICE DISCIPLINARY SYSTEMS INTO ONE SINGLE SYSTEM?

- (i) STRONGLY AGREE**
- (ii) AGREE**
- (iii) NEITHER AGREE NOR DISAGREE**
- (iv) DISAGREE**
- (v) STRONGLY DISAGREE**

25(A). IF YOU AGREE, WHICH OPTION DO YOU PREFER:

- (i) OPTION ONE**
- (ii) OPTION TWO**

26. WHAT ISSUES SHOULD THE GOVERNMENT CONSIDER BEFORE DECIDING WHETHER IT SHOULD IMPLEMENT OPTIONS ONE OR TWO?

Compelling police officers to answer IPCC questions

3.47 In addition to the recommendations from the Chapman Review, the Government is interested in views on how to ensure there is a robust link between the expectation, if not duty, that officers will answer IPCC questions and available sanctions for failure to do so under the disciplinary system.

3.48 In the most serious and sensitive cases, it is important that the IPCC is able to carry out its investigations effectively. The Government has already given the IPCC the power to compel serving officers to attend witness interviews. The Government intends to go further, to ensure that police officers answer questions put to them by the IPCC during its investigations. Protections would need to be put in place, for example an officer could not be forced to incriminate him or her self.

3.49 There are three options on which the Government would welcome views as to how officers can be best compelled to cooperate fully with IPCC investigations.

Option One: Make it a summary only offence for a police officer to refuse to answer a reasonable question posed by the IPCC. A summary only offence is ordinarily dealt with in the magistrates' court. Any officer found guilty of this offence would be liable to a maximum of 6 months imprisonment and/ or a fine.

Option Two: Introducing a disciplinary sanction. Any officer who is found by the force, or through a hearing, to have failed to cooperate could receive a sanction up to the level of dismissal. The officer's record and the seriousness of their actions would be taken into consideration.

Option Three: The IPCC could seek to rely on a disclosure notice. The notice would be enforceable through the courts and would have the same consequences as those described in option one if officers fail to comply with it. This would need to be linked to an existing offence, such as the new police corruption offence which is expected to be introduced in 2015. The disclosure notice would then be served on the officer in question requiring them to do all or any of the following:

- (i) Answer questions with respect to any matter relevant to the investigation;
- (ii) Provide information with respect to any such matter as specified in the notice;
- (iii) Produce such documents, or documents of such descriptions, relevant to the investigation as are specified in the notice.

CONSULTATION QUESTIONS:

27. WHICH OPTION FOR COMPELLING POLICE OFFICERS TO ANSWER IPCC QUESTIONS DO YOU THINK THE GOVERNMENT SHOULD PURSUE:

- (i) **OPTION ONE**
- (ii) **OPTION TWO**
- (iii) **OPTION THREE**

Chapter Four:

Strengthening Protections for Police Whistleblowers

4.1 As the previous chapter set out, the vast majority of conduct issues that lead to dismissal come to light following a report by a police officer or member of staff about their colleagues. The standards of professional behaviour set out under the Police (Conduct) Regulations 2012 and in the Code of Ethics, launched by the College of Policing in July 2014, include a positive obligation for police officers and staff to challenge or report the conduct of colleagues that falls below the expected standards. Officers can be subject to disciplinary action if they fail to meet this duty: in North Yorkshire the then Deputy Chief Constable was disciplined for failing to challenge the behaviour of the Chief Constable.²⁸

4.2 There is anecdotal evidence from police staff associations and from police forces that some police officers and staff are not confident about reporting their concerns about the conduct of colleagues. More can be done to ensure all police officers and staff are able to come forward and report wrongdoing by their colleagues and can do so with confidence.

4.3 This chapter sets out proposals to strengthen protections for police whistleblowers. It invites views on strengthening the IPCC's ability to deal with issues raised by whistleblowers, including through sealed investigations. It also invites views on changes to the police disciplinary system to ensure that whistleblowers are treated fairly, as well as requiring organisations investigating issues raised by whistleblowers to consult them and provide feedback at key parts of the process. It also invites views on whether whistleblowers should be offered anonymity and immunity from prosecution to give them confidence to come forward.

The current system for police whistleblowing

4.4 Whistleblowing²⁹ occurs when police officers or staff raise a concern about wrongdoing or poor practice in their force, whether with a line manager, the force PSD, the IPCC, or occasionally, when necessary, elsewhere. Whistleblowing is not just about addressing misconduct. Individuals may come forward with concerns about wider poor practice, allowing the force to pick up potential problems early and to learn and improve as an organisation.

4.5 If a police officer or member of police staff wants to raise a concern about the conduct of a colleague or poor practice in their force, they can do so in a variety of ways. They can report their concerns to their line manager or to their force PSD. Others may report their concern outside their force and approach their PCC or CrimeStoppers, or use the anonymous reporting system provided by their force PSD. Police officers and staff can also report concerns about their own force directly to the IPCC, under any circumstances. They are not required to go through their line manager or force PSD to do so.

4.6 Following publication of the review by Mark Ellison QC into whether corruption had influenced the police investigation into the murder of Stephen Lawrence, the Government

²⁸ A misconduct meeting found Adam Briggs, then Deputy Chief Constable of North Yorkshire, had failed to challenge and report improper conduct. The misconduct arose following an investigation into allegations relating to a force recruitment exercise carried out in February 2010: <https://www.ipcc.gov.uk/news/ipcc-update-outcome-misconduct-meeting-involving-dcc-adam-briggs>

²⁹ Based on definition of a "protected disclosure" in Part IVA of the Employment Rights Act 1996: www.legislation.gov.uk

committed to strengthen protections for police whistleblowers and is already taking forward new measures.

4.7 The College of Policing is producing a new, national policy for police forces on whistleblowing. The national policy will deliver the recommendation from the Leveson Inquiry for enhancing the system for the protection of whistleblowers, by giving greater prominence to the IPCC report line for police whistleblowers.

4.8 From April 2015, the Home Office will collect and publish information from police forces about the number of conduct matters reported to PSDs by police officers and staff and the action taken as a result. This will include matters reported through the anonymous reporting lines operated by police forces.

4.9 The Government has also launched a separate consultation on changes to the Police (Conduct) Regulations 2012 to protect police whistleblowers from unfair disciplinary action and reprisals.³⁰

The case for reform

4.10 Many forces have initiatives in place to encourage and support whistleblowers, ensure intelligence received from whistleblowers is acted upon, and publicise successful cases to encourage police officers and staff to come forward.

4.11 However, discussions with police forces and police staff associations suggest there are some police officers and staff who do not come forward. They may choose not to come forward for a variety of reasons. Evidence suggests that they may fear being subjected to disciplinary action, harming their career prospects, the reaction of their colleagues, or that they may lack confidence in internal reporting mechanisms or in the culture of the force to support their actions.

The Government's proposed reforms

4.12 The Government is already taking action to support whistleblowers across a range of sectors.

4.13 In June this year the Department for Business, Innovation and Skills published its response to a review of the UK's whistleblowing legislation (the Public Interest Disclosure Act 1998³¹), which provides a remedy through the courts for whistleblowers (including police officers and members of police staff) unfairly treated by their employer. The Government's response included a commitment to produce better information and guidance to improve the interpretation of the legislation across all sectors, and a new duty on regulators and other prescribed bodies to report annually on whistleblowing.³²

4.14 The Department of Health has commissioned an independent review of whistleblowing practices in the NHS, conducted by Sir Robert Francis QC, which will report shortly.

4.15 The Government wants to ensure that measures are in place to protect and support police whistleblowers when they come forward, and that the systems for reporting and investigating their concerns are effective.

³⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/375965/PoliceDisciplinaryWhistleblowingCon.pdf

³¹ The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996.

³² <https://www.gov.uk/government/consultations/whistleblowing-framework-call-for-evidence>

4.16 To achieve this, the Government intends to create a strengthened independent route for whistleblowers to raise their concerns, separate from the systems put in place by their force. Whistleblowers will usually report their concerns internally, to a line manager or the force PSD. However, there may be occasions when an external route is needed, for example in cases where the force did not address the issue when raised originally, or when the whistleblower lacks confidence in the ability of the force to address a particular issue. The IPCC should continue to provide this external outlet. Officers and staff are able to report concerns directly to the IPCC under any circumstances, although the system lacks independence due to a requirement for the officer's home force to record the matter before the IPCC can take action.

4.17 To address the lack of independence and improve confidence in the effectiveness of the system in responding to reports, the IPCC should be able to record conduct matters reported to them by whistleblowers through a power of initiative, allowing the IPCC to consider an investigation into a conduct matter that has not been recorded by a police force. Further detail on this power is included in chapter five. This proposal will allow the IPCC to control the early stages of the process, and direct any preliminary enquiries that need to be made with the force. While the force would no longer lead in the initial stages, it is likely contact will be required at an early stage in order to progress the allegation. In the event of a serious risk associated with a report, for example a risk to life under Article 2 of the European Convention on Human Rights which requires immediate force action, the IPCC will not be prevented from informing the force. Giving the IPCC the power to record conduct matters reported to it by whistleblowers will enable the IPCC to fulfil the recommendation from the Leveson Inquiry that the IPCC should filter reports to ensure they are investigated at the right level and that genuine whistleblowing reports are distinguished from personal grievances.

4.18 The IPCC would investigate all serious and sensitive cases reported to them by whistleblowers. It is for the IPCC to decide whether an allegation falls into this category. The remainder should be referred back to the force for formal investigation. This will allow police whistleblowers to deal directly with the investigative body, and report both conduct matters involving individual officers and wider concerns about the force. Personal grievances and HR issues are outside the IPCC's remit and should continue to be considered by police forces as they are currently.

CONSULTATION QUESTIONS:

28. TO WHAT EXTENT DO YOU AGREE THAT THE IPCC SHOULD HAVE THE POWER TO MANAGE THE EARLY STAGES OF AN INVESTIGATION BROUGHT TO THEIR ATTENTION DIRECTLY BY A WHISTLEBLOWER BEFORE INFORMING THE FORCE?

- (i) STRONGLY AGREE**
- (ii) AGREE**
- (iii) NEITHER AGREE OR DISAGREE**
- (iv) DISAGREE**
- (v) STRONGLY DISAGREE**

29. HOW SHOULD CASES REPORTED BY WHISTLEBLOWERS TO THE IPCC WHICH FALL BELOW SERIOUS AND SENSITIVE BE DEALT WITH?

4.19 In addition to giving the IPCC the power to record conduct matters brought to its attention by police whistleblowers, the Government also propose to introduce sealed investigations, carried out by the IPCC, to prevent the possibility of collusion, destruction of evidence, or pressure being applied to the investigation. There may be occasions where an effective investigative strategy means restricting who knows about the investigation, and how much information they are given. For example, it could be beneficial to contain the investigation where allegations concern senior officers, or a widespread problem. Limiting knowledge of the investigation also allows the identity of the whistleblower to be protected – once details of an allegation become known, it is often self evident who reported it, especially at senior levels.

4.20 Under this proposal, the IPCC would be given the power to choose its own investigative strategy, rather than be subject to any requirements to notify the force. In the majority of cases it will be either unnecessary or impractical for the IPCC to carry out a sealed investigation. However in the event of a case that warrants it, the power should be available. The law already permits delay in notifying individual suspects of a complaint or conduct matter referred to the IPCC, if notification might prejudice the investigation.

4.21 By removing the requirement to notify the force, the IPCC would have the following options available to it:

- a) Investigate via a small number of designated force contacts, who could provide access to force systems, records and premises and check against existing investigations. The IPCC would use a non-disclosure agreement to restrict the dissemination of information about the investigation. This will give the IPCC certainty, even in high pressure investigations, that they can determine the disclosure of information by the force.
- b) Make generalised requests for information from the force, allowing the investigation to proceed without revealing the full details of the allegation, or its source.
- c) Investigate off force premises, by making general inquiries or using powers under PACE or RIPA.

Any covert investigation, or use of RIPA powers, would require assistance from another force. The assisting force would direct the covert element of the investigation on behalf of the IPCC.

CONSULTATION QUESTION:

30. TO WHAT EXTENT DO YOU AGREE THE INTRODUCTION OF SEALED INVESTIGATIONS WILL INCREASE THE ABILITY OF THE IPCC TO CARRY OUT INVESTIGATIONS AND PREVENT THE POSSIBILITY OF COLLUSION, DESTRUCTION OF EVIDENCE OR PRESSURE BEING APPLIED TO AN INVESTIGATION:

- (i) **STRONGLY AGREE**
- (ii) **AGREE**
- (iii) **NEITHER AGREE OR DISAGREE**
- (iv) **DISAGREE**
- (v) **STRONGLY DISAGREE**

4.22 To reassure whistleblowers that action is being taken as a result of their decision to come forward and report their concerns, the Government proposes to give whistleblowers the right to receive feedback. Evidence across all sectors shows that a whistleblower will only report a concern twice; if no action is taken they will stop reporting their concerns. It is not just the individual reporting who may be deterred by a perceived lack of action; colleagues will be watching the response and may also be less likely to report a matter in the future.

4.23 Police officers and staff who report a concern, whether to the IPCC or their force PSD, should have a guarantee of feedback at certain points in the process. This should include periodic updates on the investigation and any action taken subsequently, including lessons learned and changes to force practice as well as disciplinary or criminal proceedings. Regular information, even when necessarily limited to protect confidentiality or the integrity of any subsequent prosecution, will provide reassurance that concerns are being taken seriously.

CONSULTATION QUESTION:

31. AT WHAT POINTS IN THE PROCESS DO YOU THINK A WHISTLEBLOWER SHOULD HAVE A RIGHT TO FEEDBACK?

4.24 In addition, the Government proposes to give whistleblowers a right to be consulted if they report a concern to the IPCC. Both forces and the IPCC can, and do, handle whistleblowers sensitively. The Government wants to build on this and give whistleblowers clear reassurance that the system is able to respond effectively. To help provide that reassurance, whistleblowers could be consulted by the IPCC on the following issues:

- a) Whether they wish to make their report anonymously, in confidence, or overtly. Having decided to make a report in confidence, the whistleblower would additionally have to be consulted on any action that might reveal their identity. A whistleblower who chooses to report anonymously cannot be consulted further.
- b) Whether the matter is referred back to the force to be recorded, or recorded by the IPCC.
- c) Whether there are any parts of the force that, if involved in the investigation, might compromise its effectiveness or lead to the whistleblower's identity being exposed.
- d) The right to comment on the findings of the final investigation, and the force's response to those findings, and receive a reply.

4.25 The whistleblower's views may assist in how best to progress the investigation or protect their identity, and provide a check on the final outcome. However, the final decision will always be taken by the IPCC, based on an assessment of all the relevant factors. The whistleblower's views should be taken into account, but nothing in this requirement will prevent the IPCC acting to ensure an investigation follows its proper course, or to ensure effective use of its resources.

CONSULTATION QUESTION:

32. FOR EACH OF THE ISSUES SET OUT ABOVE, PLEASE STATE WHETHER A WHISTLEBLOWER SHOULD, OR SHOULD NOT, HAVE A RIGHT TO BE CONSULTED BY THE IPCC.

4.26 Where a whistleblower has committed misconduct, they should continue to be subject to investigation by their force. The fact that they are a whistleblower should not mean that their future conduct cannot be challenged or preclude the ability of a force to take action against them, where necessary.

4.27 However, if the disciplinary system is seen to unfairly penalise people who report failings by the force, confidence in the system may be lost. The proposed changes to panels for disciplinary hearings in Chapter Three will help strengthen the independence of the system, making sure that outcomes are fair and robust.

4.28 To ensure that decisions about whether a whistleblower should be subject to disciplinary action are fair, the Government proposes giving whistleblowers an opportunity to request an independent review of any decision that they have a case to answer regarding their conduct.

4.29 The review could give any individual who has blown the whistle in the 12 months preceding the allegation against them an opportunity to request an independent opinion from a legally qualified chair of a disciplinary hearing on the 'case to answer' decision. The review would be in cases of pre-existing contention, rather than offering an appeal route, and would need to be invoked before a 'case to answer' decision is confirmed.

4.30 Legally qualified chairs could provide unbiased and consistent assessment of the principles of protected disclosures as set out in Part IVA of the Employment Rights Act 1996 and, due to their involvement in any later proceedings, would ensure recommendations are given significant weight. The final decision about whether to proceed to a full disciplinary meeting or hearing will rest with the force.

CONSULTATION QUESTION:

33. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO GIVE WHISTLEBLOWERS THE OPPORTUNITY TO REQUEST AN INDEPENDENT REVIEW OF ANY DECISION THAT THEY HAVE A CASE TO ANSWER REGARDING THEIR CONDUCT?

- (i) **STRONGLY AGREE**
- (ii) **AGREE**
- (iii) **NEITHER AGREE OR DISAGREE**
- (iv) **DISAGREE**
- (v) **STRONGLY DISAGREE**

Offering Whistleblowers anonymity or immunity

4.31 To ensure that serious conduct and criminality by police officers is brought to light, the Government is interested in whether there are benefits in offering police whistleblowers a guarantee of anonymity or immunity from prosecution.

4.32 Police officers and staff may, in some circumstances, be reluctant to come forward and report serious misconduct and criminality. Force PSDs use anonymous reporting systems to enable officers and staff to come forward in secrecy. However, anecdotal evidence from force PSDs suggests that levels of trust in these systems among some officers is low. Offering police whistleblowers an alternative means of protecting their identity if they report serious misconduct or criminality could help them come forward with confidence. The Government is interested in views as to whether whistleblowers could be offered a guarantee that their identity will be protected if they come forward in confidence.

CONSULTATION QUESTION:

34. TO WHAT EXTENT DO YOU AGREE OR DISAGREE THAT THE IDENTITY OF A POLICE WHISTLEBLOWER SHOULD BE PROTECTED BY LAW?

- (i) STRONGLY AGREE**
- (ii) AGREE**
- (iii) NEITHER AGREE OR DISAGREE**
- (iv) DISAGREE**
- (v) STRONGLY DISAGREE**

4.33 There is an imperative in bringing criminality in the police to light because of the unique position of power held by the police and the range of coercive powers available to them. Some police officers may fear reporting criminality committed by fellow officers for fear of triggering an investigation focusing on their own involvement. This may be particularly relevant in the police, where officers could be involved through following orders, or where officers work closely as part of a team and if they fail to come forward immediately, they become implicated. Existing legislation under the Serious Organised Crime and Policing Act 2005 (SOCPA) allows the Crown Prosecution Service to offer immunity from prosecution, but it is used extremely rarely. The Government is interested in views on whether there are circumstances relevant to the police, either currently or in the past, where guidance should recommend that prosecutors consider the SOCPA provisions.

CONSULTATION QUESTION:

35. ARE THERE CIRCUMSTANCES WHERE GUIDANCE SHOULD RECOMMEND THAT PROSECUTORS CONSIDER THE SOCPA PROVISIONS FOR POLICE WHISTLEBLOWERS WITH INFORMATION ABOUT SERIOUS CRIMINALITY IN THEIR FORCE?

Chapter Five:

The Role and Powers of the IPCC

5.1 The role of the IPCC is critical in a complaints system that functions well and commands the confidence of the public. Recent surveys show that the public have high levels of confidence in the ability of the IPCC to act impartially and that it has been successful in ensuring public awareness of its role.³³

5.2 In the future the IPCC will change, both as a result of its expansion to investigate all serious and sensitive cases, as well as the changes that arise as a result of proposals in earlier chapters. Within a new system, the role of the IPCC can be clarified and its powers strengthened further.

5.3 This chapter invites views on proposals to reform the IPCC, including possible structural change to support the IPCC to deliver an increased number of investigations.

The current role of the IPCC

5.4 For the public to have confidence in the police complaints system, the responsibility for overseeing that system needs to lie with an organisation that is wholly independent of the police. As set out in chapter two, the IPCC has performed that role through its statutory duty to secure and maintain confidence in the police complaints system.³⁴

5.5 The IPCC aims to fulfil its statutory duty through three main functions:

- a) Oversight of the system to ensure complaints are handled well and identified failings lead to improvements in policing.
- b) Considering appeals when people believe a police investigation into a complaint has got it wrong.
- c) Carrying out its own investigations into the most serious matters relating to the conduct of the police.

5.6 Since its creation, the IPCC's powers and responsibilities have evolved. The IPCC's investigative remit has widened and now covers complaints made against National Crime Agency officers, a number of non-Home Office police forces (such as the British Transport Police), other police-like bodies (such as Her Majesty's Revenue and Customs and some activities of Home Office immigration staff) and criminal allegations made against PCCs and their Deputies. More recently, the Government secured powers for the IPCC to enable it in exceptional cases to investigate matters which were previously investigated by the (now defunct) Police Complaints Authority, allowing it to conduct its vital investigation into police actions during and after the Hillsborough disaster.

5.7 As well as expanding its remit, the Government has equipped the IPCC with greater powers to allow it to carry out its functions more effectively. The Police Reform and Social Responsibility

³³ In the IPCC's recent survey on confidence in the police complaints system, 64% of those surveyed had heard of the IPCC and, of those, 77% were confident that the IPCC deals with its work in an impartial way. Source: Public Confidence in the Police Complaints System, July 2014, pp1-3 https://www.ipcc.gov.uk/sites/default/files/Documents/guidelines_reports/IPCC_Public_confidence_survey_2014.pdf

³⁴ See section 10 of the Police Reform Act 2002

Act 2011 and the Anti-social Behaviour, Crime and Policing Act 2014 have given the IPCC the powers to compel serving officers to attend witness interviews, require a formal response to IPCC recommendations and direct unsatisfactory performance procedures following investigations into death or serious injury.

The case for reform

5.8 The ability of the IPCC to carry out its role depends on its resources and how it deploys them as well as its powers. Historically, the IPCC's funding has meant that it has independently investigated only a small number of the most serious complaints and conduct matters referred to it. The bulk of the remaining cases are sent back to police forces for local investigation.³⁵ Although the number of referrals has increased significantly since the IPCC's creation, the number of IPCC investigations remains low. In 2013/14 the IPCC started 109 independent investigations out of 3,176 referrals from police forces, around 3%.³⁶

5.9 To increase the IPCC's ability to carry out more investigations, in February 2013, the Home Secretary committed to transfer additional resources for the IPCC to enable it to investigate all serious and sensitive cases. The IPCC is expected to achieve this capacity by 2017/18.

5.10 This commitment has significant implications for the IPCC as an organisation. A substantial increase in the number of investigations the IPCC undertakes and a change in the types of cases it takes on means that the IPCC will have to undergo major organisational change over the coming years. The IPCC has already started to increase its capacity and has taken on additional investigations this year.

The Government's proposed reforms

5.11 The IPCC will retain its oversight role within the reformed complaints system. However, the Government proposes to clarify the IPCC's main functions and strengthen certain powers. The Government is also interested on views about the IPCC's structure in light of the changes it is proposing.

Clarifying the functions of the IPCC

5.12 In order for the IPCC to continue to fulfil its statutory duty, its current role must be clarified, reflecting the changes proposed to the complaints and disciplinary systems, as well as proposals to strengthen protections for police whistleblowers.

5.13 To enable the IPCC to continue to fulfil its statutory duty, the Government proposes to ensure that the scope of the IPCC reflects the proposed changes to the complaints system to enable it to continue to oversee the system effectively. One of the key functions of the IPCC is to develop an expert knowledge of the system by which complaints and other matters are investigated, and to spread the lessons learned from police forces. It currently does this by collecting and publishing quarterly statistics on the performance of every force and by commissioning and producing regular research reports into confidence or thematic reviews into important issues such as the use of TASER. It shares this knowledge through its statutory guidance, through regular bulletins to forces and by collaborating with key partners, particularly

³⁵ In 2013/14, 70% of cases referred to the IPCC were sent back for local investigation. Source: IPCC 2013/14 Annual report and statement of accounts, July 2014, p11. https://www.ipcc.gov.uk/sites/default/files/Documents/publications/annual_report_IPCC_2014.PDF

³⁶ Source: IPCC 2013/14 Annual report and statement of accounts, July 2014, p12 and 17. https://www.ipcc.gov.uk/sites/default/files/Documents/publications/annual_report_IPCC_2014.PDF

the College of Policing and HMIC. In 2013/14 the IPCC ran a number of pilots with forces designed to improve the way forces respond to complaints and the IPCC has recently refreshed its approach to oversight, consulting on and publishing its 'Oversight and Confidence' Strategy.³⁷

5.14 The scope of the IPCC's oversight function should reflect the proposed changes in the complaints system, including the work of the offices of PCCs in handling complaints and resolving issues at a local level. As set out in chapter two, the IPCC could be given responsibility for receiving and triaging super-complaints. This would enable the IPCC to undertake independent investigations into potential system-wide issues raised by organisations representing the public or particular sections of the public.

5.15 The IPCC has an important appellate function: considering appeals about how a police force has dealt with a complaint. In 2013/14, the IPCC received 4,243 appeals.³⁸

5.16 The IPCC is responsible for appeals against the non-recording of complaints and those matters that:

- a) Involve the conduct of a senior officer;
- b) If proven, would justify criminal or misconduct proceedings against a person serving with the police; and
- c) Would involve the infringement of a person's rights under Article 2 or Article 3 of the European Convention on Human Rights.

5.17 The proposed reforms to the complaints system should reduce the number of appeals across the system. The increased role for PCCs outlined in chapter two, and their potential role providing a triage function for complaints and dealing with complaints through local resolution, will enable decisions about how a complaint should be resolved to be taken more quickly. Those changes should reduce complainants' dissatisfaction and, as a result, the number of appeals they bring.

5.18 As previously described, the Government proposes to give responsibility for hearing appeals against locally resolved cases or investigations into allegations that do not raise issues of criminality or misconduct to PCCs. However, there is a clear need for the IPCC to continue to hear appeals against complaints that, if proven, would constitute police misconduct or criminality. Such appeals should be heard by the body with the relevant expertise in investigating serious and sensitive cases. The IPCC's appellate function is an important part of its role as an oversight body, allowing it to consider the quality of local investigations and complainants' concerns.

5.19 The Government also proposes to ensure that the IPCC's ability to investigate the most serious and sensitive cases reflects the proposed changes to the complaints system and the measures proposed to strengthen protections for police whistleblowers. The Government's commitment to transfer resources to the IPCC will mean it will be able to investigate all serious and sensitive cases. The IPCC should therefore be able to, and should aim to, take on a higher proportion of the cases that are referred to it. Having a clear statutory definition of cases that must be referred to the IPCC is the right approach. There is scope for strengthening the criteria, for example to cover allegations of corruption against senior officers. The Government would welcome views on other changes to strengthen or clarify the criteria.

³⁷ Oversight and confidence strategy 2014/15 – 2016/17 and 2014/15 action plan. Found at: <http://www.ipcc.gov.uk/page/oversight-and-confidence-and-engagement-strategies>

³⁸ Source: IPCC 2013/14 Annual report and statement of accounts, July 2014, p20. https://www.ipcc.gov.uk/sites/default/files/Documents/publications/annual_report_IPCC_2014.PDF

CONSULTATION QUESTION:

36. ARE FURTHER CHANGES NEEDED TO STRENGTHEN OR CLARIFY THE MANDATORY REFERRAL CRITERIA?

5.20 As set out in Chapter Two, PCCs should have responsibility for referring complaints to the IPCC under the criteria. The IPCC will need to work closely with PCCs to develop clear guidance around referrals, as it currently does with police forces.

5.21 Currently, when the IPCC does choose to take on an investigation, it can decide whether to investigate independently or to manage or supervise an investigation undertaken by other organisations, usually a police force. A managed investigation is undertaken under the direction and control of the IPCC. A supervised investigation is undertaken under the direction and control of the police force (in most cases), but the terms of reference are set out by the IPCC. This is confusing for the complainant, blurring the lines between cases investigated by the police and those investigated by the IPCC. It is the Government's intention to legislate for just two types of investigation – those undertaken by the IPCC and those undertaken by the police.

5.22 The Government recognises that, as now, there will be times when the police are best placed to conduct parts of an investigation, for example where there are large numbers of officers under investigation or where specific police capabilities are needed, such as covert surveillance. There is a need to ensure that these occasions are the exception rather than the rule and the Government is interested in views around safeguarding independence, such as limiting the circumstances in which police can undertake parts of an investigation or prescribing certain conditions (for example, where the investigation is prompted by a whistleblower needs to be 'sealed' as proposed in chapter four).

CONSULTATION QUESTIONS:

37. WHAT ARE THE PRACTICAL IMPLICATIONS OF REMOVING THE OPTION TO CONDUCT MANAGED OR SUPERVISED INVESTIGATIONS?

38. IN WHAT CIRCUMSTANCES SHOULD THE IPCC BE ABLE TO SEEK POLICE SUPPORT TO ASSIST THEM IN THEIR INVESTIGATIONS?

Strengthening the powers of the IPCC

5.23 As previously indicated, the powers of the IPCC have been amended over time. Since 2010, several legislative changes have been made to strengthen the IPCC's ability to conduct robust and effective investigations. The IPCC's powers will need to remain applicable within the system described in chapter two, in particular with respect to complaints resolved locally by PCCs. A number of specific changes have been identified to clarify further or strengthen the IPCC's powers to support its ability to carry out its functions within a new, reformed police complaints and disciplinary system.

5.24 The Government proposes to strengthen the IPCC's ability to investigate matters brought to its attention by giving it a power of initiative. The IPCC can currently require a referral where a complaint has been recorded. Under the proposed reforms set out in chapter two, all complaints will be recorded and so the IPCC will be able to call in any complaint made that is not referred to it (by the PCC in the new system). The Government is interested in views about whether the IPCC should have a power of initiative, allowing it to consider an investigation into matters that are brought to its attention but no complaint is made or matter recorded, similar to the 'own motion power' held by most ombudsmen.

CONSULTATION QUESTION:

39. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO GIVE THE IPCC A POWER OF INITIATIVE?

- (i) **STRONGLY AGREE**
- (ii) **AGREE**
- (iii) **NEITHER AGREE OR DISAGREE**
- (iv) **DISAGREE**
- (v) **STRONGLY DISAGREE**

5.25 In addition, the Government proposes to clarify the IPCC's ability to determine complaints effectively. It is important for the complainant that the IPCC is able to provide a decision as to whether or not a complaint is upheld. A recent court judgement³⁹ confirmed that complaints cannot be upheld where they relate to misconduct until the outcome of any subsequent disciplinary hearing. However, the IPCC should be able to uphold a complaint on other grounds, for example if the investigation has concluded that there are service failings.

CONSULTATION QUESTION:

40. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO CLARIFY THE IPCC'S ABILITY TO DETERMINE COMPLAINTS EFFECTIVELY?

- (i) **STRONGLY AGREE**
- (ii) **AGREE**
- (iii) **NEITHER AGREE OR DISAGREE**
- (iv) **DISAGREE**
- (v) **STRONGLY DISAGREE**

5.26 The Government also proposes to strengthen the IPCC's powers of remedy. In the new system described in this consultation, where there is greater emphasis on ensuring a proportionate response for the complainant, the IPCC's powers need to be revised to allow it to make recommendations that go beyond the current disciplinary, unsatisfactory performance or systemic actions. The Government is interested in what additional powers of remedy the IPCC could have. Examples of ombudsman powers are recommending an apology or providing compensation where a complainant has suffered financial loss.

CONSULTATION QUESTION:

41. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO STRENGTHEN THE IPCC'S POWERS OF REMEDY?

- (i) **STRONGLY AGREE**

³⁹ Chief Constable of West Yorkshire v Independent Police Complaints Commission [2014] EWCA Civ 1367 – Court of Appeal

- (ii) **AGREE**
- (iii) **NEITHER AGREE OR DISAGREE**
- (iv) **DISAGREE**
- (v) **STRONGLY DISAGREE**

5.27 Finally, the Government also proposes to give the IPCC the power to present cases at disciplinary hearings. As recommended by the Chapman Review, where police forces do not accept the IPCC's view that a misconduct case should be brought against a serving officer, rather than direct forces to take that case to a disciplinary hearing, the IPCC should have the power to present that case itself.

CONSULTATION QUESTION:

42. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO GIVE THE IPCC THE POWER TO PRESENT CASES AT DISCIPLINARY HEARINGS?

- (i) **STRONGLY AGREE**
- (ii) **AGREE**
- (iii) **NEITHER AGREE OR DISAGREE**
- (iv) **DISAGREE**
- (v) **STRONGLY DISAGREE**

Reforming the structure of the IPCC

5.28 The IPCC will need to make (and has started to consider) significant changes to its operating model in order to increase the number of independent investigations and to operate effectively as a larger organisation. The Government has announced a Triennial Review⁴⁰ of the IPCC that will consider the IPCC's change programme and the impact of the IPCC's governance on its ability to deliver more investigations as part of its work. Responses to this consultation will inform that Review.

5.29 The Commission structure established by legislation gives a key role to Commissioners who, with the Chair, are responsible for the governance of the IPCC and also take ultimate responsibility for the performance of the IPCC in carrying out its investigations, casework and oversight functions. Commissioners also have a direct role in overseeing independent investigations, including agreeing the terms of reference for investigations, deciding whether to refer a case to the CPS and signing off the reports of investigators.

5.30 Undertaking a greater number of independent investigations will put significant pressure on this structure and the IPCC is exploring different ways of working to accommodate the additional number of investigations. The Government is interested in views about whether changes can be made to this structure to allow the IPCC to be more flexible and responsive to an increased caseload.

⁴⁰ A Triennial Review is the process required by Cabinet Office for reviewing the form and function of Non-Departmental Public Bodies, the appropriateness of the body's delivery mechanism and its governance arrangements.

5.31 Any change in the legislation relating to the structure of the IPCC will need to reflect the principles that underpin how such a body can be effective. In particular, changes to legislation would need to reflect the principles of independence, accountability and public engagement as embodied by the Commissioners.

CONSULTATION QUESTIONS:

43. WHAT CHANGES TO THE ORGANISATIONAL STRUCTURE OF THE IPCC WOULD SUPPORT THE IPCC TO INCREASE ITS CASELOAD AND PUBLIC CONFIDENCE IN THE COMPLAINTS SYSTEM?

Annex A

Recommendations from the Chapman Review on which the Government is Consulting

Recommendation 1: A body (ideally the College of Policing) to take on the role of overseeing the police disciplinary system. It should ensure consistency across all police forces, taking responsibility for setting and reviewing standards, and issuing appropriate guidance to forces.

Recommendation 2: A benchmarking exercise is undertaken to determine the level of sanctions for both internal misconduct and performance standards, and for sanctions consequent upon civil convictions, to be universally applied across all forces.

Recommendation 3: A values based-assessment is undertaken to measure the values of police forces against those in the Code of Ethics, and that further assessments be undertaken to help the police leadership manage cultural change.

Recommendation 4: The police institute psychometric and ethics scenario testing in the recruitment and the selection process to remove those who may exhibit potential future behaviours inimical to decision making and service as a police officer.

Recommendation 5: Provide training to all officers, PSDs and hearing panel members in the disciplinary system to ensure consistency and increase effectiveness across all forces.

Recommendation 6: All management interventions short of dismissal are focused on transformation, clearly defined, reviewed, taught and reinforced across all police forces.

Recommendation 7: Conduct further work around the concept of voluntary exit windows and future manning models.

Recommendation 8: A 'police test' is defined, to guide intervention for all disciplinary issues, including performance and conduct. The 'test' would have applicability for cases that might also arise from complaints.

Recommendation 9: All police training courses are reviewed for their 'people skills' content.

Recommendation 11: Investigations for chief officers must be carried out by an independent body such as the IPCC.

Recommendation 12: The provision in PRA 2002 Schedule 3 should be amended to include a provision to tackle vexatious complainers.

Recommendation 13: Data on dismissal, resignation and retirement cases linked to disciplinary action is published yearly to ensure transparency and accountability.

Recommendation 14: To guide future training, a Training Needs Analysis is conducted to identify the competencies required in:

- leadership and management (to the core gearing level of the police at Sergeant and Inspector level, and for the DE scheme); and
- PSDs to investigate disciplinary cases effectively.

Recommendation 15: Future IT upgrades should integrate databases on complaints, discipline, HR and alerts necessary to manage personnel holistically.

Recommendation 16: Further work is commissioned that clearly defines why the office of constable is unique and why its interpretation resists change to either:

- Set the future context for harmonisation, or
- Finally determine whether harmonisation of the police family in employment terms is not an achievable or necessary goal.

Recommendation 17: A common set of fair attendance triggers must be defined and applied across all police forces.

Recommendation 18: A 'dismissal test' is applied to disciplinary issues as a second stage to the 'police test', replacing severity assessments, making clear through benchmarking (cf. with recommendation 2) what would lead to dismissal. Anything that is below the dismissal threshold is rehabilitative. The terms gross misconduct and gross incompetence are abandoned.

Recommendation 19: All hearings are chaired by a legally qualified person.

Recommendation 20: All hearings and Police Appeals Tribunals are held in public.

Recommendation 21: All hearings are regionalised.

Recommendation 22: The police officer membership on hearing panels includes Superintendents and above (at least one rank above any persons subject to the proceedings).

Recommendation 23: The police officer member on hearing panels is not from the same force (or district in the case of the MPS) as any individuals who are subject to proceedings.

Recommendation 24: Where the IPCC directs a dismissal hearing in cases where the force does not accept their recommendation, the IPCC should present the case to the hearing panel.

Recommendation 25: Remove the sanction of 'dismissal with notice'.

Recommendation 26: Remove the sanction 'extension of a final written warning' from possible outcomes.

Recommendation 27: 'Reduction in rank' becomes a sanction available in misconduct cases.

Recommendation 28: 'Memo of Correction' replaces management advice as a sanction in one common set of sanctions.

Recommendation 29: 'Written warning' is replaced by 'written corrective warning' in one common set of sanctions.

Recommendation 30: 'Final corrective reprimand' replaces 'final written improvement notice/final written warning' with time spent on officers' reports and mark time to be increased from its current level to a newly assessed (higher) level.

Recommendation 31: Mitigations that have not been previously mentioned that involved welfare or might have lead to positive early interventions should be disregarded in most cases. Non-disclosure will tell against the mitigation.

Recommendation 32: There should be an obligation to have previously declared mitigations where appropriate.

Recommendation 33: All stages as currently defined in performance regulations are removed.

Recommendation 34: Conduct and performance processes are aligned and regulations are combined in a single document.

Recommendation 35: Consider lowering the level to which the 'appropriate authority' can be delegated to inspector or equivalent for matters that do not lead to dismissal.

Recommendation 36: All terminology and language is changed to reflect what the system is designed to do - that is to say it should be 'corrective' or 'rehabilitative' for all infringements short of dismissal.

Recommendation 37: That consideration is given to the third member of the PDAT being a lay member, and that a pool of lay members be established.

Recommendation 38: All Police Appeals Tribunals are centralised.

Recommendation 39: A chief officer is identified to act as the principle agent of change in the police for the implementation of these recommendations.

How to Respond

The Home Office would welcome any comments on the policies proposed in this document.

Further information relating to this consultation, including assessments of the economic and financial impact of the proposals set out in Chapters Two, Three, Four and Five can be found at: www.gov.uk/home-office

You can also e-mail your response to the following e-mail address:
policeintegrityconsultation@homeoffice.gsi.gov.uk

Or send it by post to:

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If you have any queries regarding the consultation or your proposed response, please contact the Police Integrity and Powers Unit at the e-mail address above.

Comments must be received by 5 February 2015; we cannot undertake to consider any responses received after that date.

Responses: Confidentiality & Disclaimer

The information you send us may be passed to colleagues within the Home Office, other Government departments and related agencies for use in connection with this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with applicable access to information frameworks (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

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In view of this you should explain to us why you regard any information you have provided as confidential. If we receive a request for disclosure of the information we will take due account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

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