



Home Office

Reforming the Powers of Police Staff and Volunteers

Summary of Consultation Responses and Proposals for Legislation

January 2016

Reforming the Powers of Police Staff and Volunteers – Summary of Consultation Responses and Proposals for Legislation

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Foreword by the Home Secretary



When I launched the consultation on these proposals in September, I was clear that the office of constable is central to the delivery of policing in England and Wales. That is why we proposed in the consultation that we would set out in legislation for the first time the core powers of a police officer. That received overwhelming support, with over 90% of the 150 respondents endorsing this concept.

I was equally clear about the need to explore whether police staff and volunteers could play an even greater role in helping officers to police our communities, bringing new skills and expertise to policing, and freeing up police officers to concentrate on the core policing task that most requires their particular powers and experience. There was strong support for giving chief officers the discretion to expand the powers of their police staff, subject to them being appropriately selected, trained and accountable, and there was also support for enabling volunteers to be designated with powers. This included support from senior police officers and from the body representing senior Special Constables.

The responses to the consultation demonstrate that there is support for reforming the powers and roles of police staff and volunteers, enabling chief police officers to deploy a flexible and balanced workforce with the appropriate mix of skills and experience. Such a workforce can provide the policing that our communities require, reflecting the most important principle of my predecessor as Home Secretary, Sir Robert Peel, when he said that “the police are the public and the public are the police”.

This document sets out the key themes highlighted in the consultation and the Government’s response to the issues raised. Given the level of support for these proposals, together with the significant flexibility that they offer to police forces, we will bring forward legislation as part of the forthcoming Policing and Crime Bill to bring these reforms into effect.

The Rt Hon Theresa May MP

Executive Summary

The Government consulted in September 2015¹ on a series of reforms to enhance the powers of designated police staff and, for the first time, enable volunteers to be designated with powers without taking on the office of Special Constable. We also proposed that, for the first time, a single piece of legislation should set out the core list of powers available only to those that hold the office of constable.

We received 150 responses from a wide range of representative bodies and individuals, from members of police forces, existing police staff and volunteers and from the wider public. The majority of the responses were supportive of all our proposed reforms and a number of key themes have emerged from the responses, which this document examines in more detail.

- The vast majority of responses (86%) agreed with the principal proposal to give chief officers a greater level of control over the designation of powers on their staff;
- 67% of responses agreed that chief officers should be able to designate powers on volunteers. The Police Federation were concerned that such moves should not lead to the replacement of police officers by paid staff or volunteers, while UNISON expressed similar concern that volunteers should not be used to replace paid staff.
- The proposal to create a list of powers exercisable only by police officers was very well received, with 92.5% of respondents welcoming this. The content of that list, as set out in the consultation document, was also well received, with few proposals to add to the list and none to subtract from it.
- A significant minority (20%) of respondents also expressed concern over the merger of the roles of detention and escort officers, whose primary responsibility is the welfare of the detainee, with the role of investigating officer, for whom the progress of the investigation is the priority.
- 6% of respondents queried the need for designated staff and volunteers to wear uniform, given the cost of providing a uniform to a volunteer who may only perform a few shifts per month.

Given the majority of respondents welcomed all of the proposals, with the caveats in some areas as summarised above, we intend to legislate in the forthcoming Policing and Crime Bill to give effect to the proposals consulted on. However, we will make two changes to our proposals, as set out in this document, in the light of the responses received.

¹ <https://www.gov.uk/government/consultations/reforming-the-powers-of-police-staff-and-volunteers>

Introduction and Background

The Government consulted² on a series of reforms intended to enhance the powers of designated police staff and, for the first time, enable volunteers to be designated with powers. We also proposed that, for the first time, a single piece of legislation should set out the core list of powers available only to those that hold the office of constable. Beyond these core powers, we want police forces to have a more flexible workforce and we proposed that, subject to key safeguards, chief officers should be able to designate other police powers to staff. This will enable police officers to focus on the most important roles; roles that only they can carry out or that they are best suited to.

We will enhance the role of volunteers by ending the anomaly whereby volunteers can either have all of the powers of the constable, as a Special; or have none of the powers, as a police support volunteer. We will instead allow volunteers to mirror the roles played by police staff, for example as Community Support Officers.

The proposals consulted on were:

- to enable chief officers to designate a wider range of powers on police staff and volunteers;
- to create a list of 'core' police powers that would remain exclusive to police officers;
- to take an order-making power to enable Parliament to add to the list of those 'core' powers;
- to enable volunteers to be designated with powers in the same way as staff;
- to adopt new titles for the changed support role and the new volunteer role; and
- to abolish the office of traffic warden under the Road Traffic Acts.

All of these proposals were welcomed by the majority of respondents, with varying levels of approval as set out in the body of this document. We therefore intend to take these reforms forward, helping to finish the job of police reform.

These changes will give chief officers greater flexibility in meeting the demands on police forces at a time when such flexibility is necessary to meet the demands on the police. They will take further the process started in the Police Reform Act 2002, which first introduced the PCSO role and the concept that police staff, as well as police officers, could have enforcement powers.

In addition, enabling volunteers to be designated with powers in the same way as staff will enable them to work with their police staff colleagues to support police officers – including volunteer Special Constables – in keeping their communities safe.

These reforms extend to England and Wales only.

² <https://www.gov.uk/government/consultations/reforming-the-powers-of-police-staff-and-volunteers>

Summary of Consultation Responses

Designating powers

Q1. Do you agree with the idea of giving greater control to chief officers over the powers of their designated staff?

Over three quarters of responses (86%) agreed with the proposal to give chief officers a greater level of control over the designation of powers on their staff. We proposed that chief officers would be able to designate staff with all the powers of a constable apart from a list of core powers reserved only for officers. Comments underlined the Government's view that the reforms to date have brought a number of advantages, with PCSOs and other civilian and designated staff roles playing important roles and making a significant contribution to policing. It is evident that there is an appetite for the further flexibility in the use of staff – and volunteers – that these proposals would enable.

The Police Federation of England and Wales were concerned that these proposals should not lead to the replacement of police officers by paid staff or volunteers, while UNISON expressed similar concern that volunteers should not be used to replace paid staff. We would reassure both organisations, and their members, that these reforms are intended to give both forces and staff greater flexibility in the way that they work, and to support officers to focus on the duties that they have the specific expertise to deliver.

We will therefore amend the law to:

1. Give greater control to chief officers over the powers of their designated staff.

Role titles

Q2. Do you have any views on the proposed new role titles?

The consultation proposed to retain the well-understood role of 'Police Community Support Officer', alongside creating the volunteer role of 'Police Community Support Volunteer'. It also proposed the amalgamation of the currently separate roles of Investigating Officer, Detention Officer and Escort Officer in the single role of Investigation Support Officer, with a similar volunteer role of Investigation Support Volunteer.

A significant number of responses expressed concern at bringing together the role of investigating officer, whose role is focused on supporting criminal investigations, with the roles of detention and escort officers, whose role is focused on supporting the custody officer in discharging the police's duty of care towards those in detention. Others expressed practical concerns over a differential in grade and therefore pay between Investigating Officers and Detention Officers, while others noted that the Detention Officer role had been contracted out in their force.

Under the present system, certain powers flow from designation as one (or more) of the four designated roles. It is therefore already possible for a chief officer to designate a single member of police staff as an Investigating Officer and a Detention Officer. However, given the very different roles, the fact that a significant number of forces have contracted out their detention work and the importance of the independence of the custody function from the investigation, as set out in the Police and Criminal Evidence Act (PACE) 1984, we are not aware of any forces having such a dual designation in place.

We do not envisage that these reforms need result in any change to the current position; this is intended as a simplification exercise for the legislation, and where someone is designated to

perform both detention and escort functions in future, they would only require a single designation to do so. Given that there is nothing to stop forces from designating the same individual with all these powers at present, we see no need to create a legislative distinction as part of these reforms, relying instead – as now – on the professional discretion of chief officers to achieve the objective. Similarly, Chief Officers can continue to designate staff as now with a separate focus on investigation and detention. However, we do recognise that giving the legal title of ‘investigation support officer’ – or volunteer – to those whose primary role is the welfare of detainees could give rise to questions about their independence. We therefore propose to use the titles of ‘Policing Support Officer’ and Volunteer to emphasise their role in supporting police officers to deliver policing to communities.

We will therefore amend the law to:

2. Preserve the current role of Police Community Support Officer, creating the parallel role of Police Community Support Volunteer.

3. Amalgamate the existing roles of Investigating Officer, Detention Officer and Escort Officer into a single role of Policing Support Officer, creating the parallel role of Policing Support Volunteer.

Core Role of the Constable

Q3. Do you agree with the concept of a single list of the ‘core’ powers that would remain exclusive to police officers?

There was overwhelming support (92.5%) for the proposal to create a single list of the core powers of police officers, which would in future be available only to those holding the office of constable (including Special Constables). For reference, this list is at Annex X.

Q4. Is the proposed list correct, or should other powers be added or removed?

The majority of responses (57%) agreed that the list of core powers was correct, covering the most intrusive of the powers of a police officer.

In its response, the Police Federation proposed that one power, with which staff and contracted-out detention officers can be designated under the Police Reform Act 2002, should be a core power of a police officer. That power is set out in section 55(6) of PACE and enables an officer, authorised by an officer of at least inspector rank, to carry out an intimate search of a person at a police station for an item or items that could be used to cause physical injury and might be so use while in police detention. Such a search should normally be carried out by a medical professional, and can only be carried out by an officer where the authorising inspector considers it is not practicable to wait for a medical professional.

According to the Police Powers and Procedures statistics gathered from police forces and published annually³, this power has been used by a designated detention officer twice in the thirteen years since it became available, compared with 66 times by a police officer and 927 times by a medical professional. Given the lack of use of this power and the substantial level of intrusion inherent in an intimate search, the Government accepts the proposal from the Federation and will add this power to the list of core powers of a constable (subject to the existing condition that such a search can only be carried out by an officer where the authorising inspector considers it is not practicable to wait for a medical professional).

³ <https://data.gov.uk/dataset/police-powers-procedures-england-wales>

Q5. Do you agree that it would be helpful to include an order-making power to enable the Home Secretary to add to the list of powers which designated officers cannot have?

A clear majority of respondents (71%) agreed that it would be appropriate to include an order-making power to enable the Home Secretary to add to the list of core powers, in order to ensure any new, intrusive powers introduced are placed on the list or to respond to future concerns over the use of particular powers by staff or volunteers.

We will therefore amend the law to:

4. Create a single list of the ‘core’ powers that would remain exclusive to police officers.

5. The list of ‘core’ powers will be that consulted on, with the addition of the power (currently available to staff and contracted-out detention officers) to conduct an intimate search for items likely to be used to injure the arrested person or another while in detention.

6. Include an order-making power to enable the Home Secretary to add to the list of powers which only police officers can have.

Volunteers

Q6. Should chief officers also be able to designate volunteers with powers?

There was a strong welcome for this proposal, with 67% of respondents agreeing that chief officers should be able to designate volunteers with powers in the same way as staff. The National Policing Lead for Citizens in Policing⁴, Chief Constable Dave Jones, commented in his response that:

“This is a very positive development and one that removes an obvious anomaly in using and deploying volunteers as outlined in the useful table on page 6 of the consultation document. Provided that the caveats of suitability, capability and training are approached rigorously rather than bypassed, flexibility over police powers will allow a more sensible and effective volunteer workforce to emerge with a “sliding scale” of empowerment matched to the duties they perform. The leap from current volunteers to fully trained Specials is far too wide and limits the effectiveness of the workforce overall. The proposals will open up new opportunities for people to use statutory powers who would like to be part of the volunteering police family but who are unable to commit to the rigorous and intensive selection and training requirements associated with the special constabulary. The proposals will empower Chief Constables to have a much more flexible resource platform.”

In addition, Victim Support said in their response that:

“Victim Support believes that enabling chief officers to designate powers to volunteers would allow them to assist police officers in supporting victims of crime and improving service delivery. This should, however, be conditional on the use of safeguards to ensure that they are appropriately trained to support victims and accompanied by an accurate, consistent and reliable way of measuring compliance.”

⁴ “Citizens in Policing” is the national policing portfolio representing the police’s 500,000+ volunteers who support the police either directly or indirectly, from Special Constables and Police Support Volunteers to Neighbourhood Watch, Crimestoppers and Independent Custody Visitors.

As set out in the consultation document, we are clear that volunteers will be subject to the same tests as police staff before they are designated with powers, namely that the chief officer must be satisfied that they are suitable, capable and adequately trained (i.e. the tests set out in section 38(4) of the Police Reform Act 2002), and it will not be in the interest of police forces to deploy volunteers on tasks they are not capable of performing.

We will therefore amend the law to:

7. Enable chief officers also be able to designate volunteers with powers, under the same suitability conditions as police staff.

Traffic wardens

Q7. Should we abolish the office of traffic warden?

Responses to the consultation were in favour (72%) of the Government's proposal to abolish the office of traffic warden, given the almost universal transfer of responsibility for parking control to Civil Enforcement Officers employed by or contracted to local authorities.

However, issues were raised relating to the control of parking on private land at a major airport, and specifically the issues raised by byelaws made under the Airports Act 1986. We will work with the airport concerned and its local police force to help them deal with these issues. For example, we know that other major airports use PCSOs to control traffic on the roads of the airport; another option might be to designate Policing Support Officers with the necessary traffic powers. The Government therefore intends to proceed with the abolition of traffic wardens.

We will therefore amend the law to:

8. Abolish the office of traffic warden.

Additional Issues Raised in Consultation Responses

1. Replacing police officers with volunteers – including training

A number of responses expressed concern that the public would be confused by the lack of apparent distinction between police officers, staff and volunteers, assuming that a person in uniform is a warranted officer and has the associated powers. As a result, they contended, the actions of police staff and volunteers will have an impact on public perception of, and confidence in, the police. Similar concerns were expressed when the PCSO role was mooted almost fifteen years ago, and experience has shown that the public value the presence of PCSOs as part of their neighbourhood policing teams.

Some respondents said that considerable care should be taken to avoid replacing paid staff with volunteers, including Special Constables, as this can lead to staff fear of job insecurity. Groups representing police officers and staff noted that reductions in police officers and staff cannot simply be back-filled with volunteers, whatever powers they may have, while others expressed concern that police support volunteers would not be prepared to submit to the necessary lengthy training without pay that would be required in order to allow them to safely assume police powers. For reasons of practicality, volunteers may have a smaller set of powers at first, gaining further powers as they gain greater experience in the role.

Lincolnshire Police have already recruited and trained 'Volunteer PCSOs' to the same standard as their regular counterparts, which would seem to allay these concerns. In any event, our proposals would enable chief officers to designate staff and volunteers with only those powers they judge necessary in their area, so there would be no need for future PCSOs or PCSVs to be trained in the current broad range of PCSO powers.

2. Accountability of police staff and volunteers

A number of respondents said that there must be appropriate oversight mechanisms and ways of addressing conduct, performance issues and complaints levelled against volunteers, with a view to achieving as much parity as possible between the way these matters are handled for police officers, staff and volunteers, while recognising that a volunteer's relationship with the police service will be different to that of an employee or officer. Consideration should also be given to circumstances where the use of delegated duties or powers may raise human rights implications, especially Articles 2 and 3, and how this would be regulated by the chief officer to ensure that statutory obligations are fulfilled.

Others suggested that the public, in general, make the assumption that a person in uniform is a warranted officer and has the associated powers. The actions of police staff and volunteers will therefore have an impact on public perception of, and confidence in, the police. It would be helpful to understand how a distinction between the various roles will be achieved and how this difference will be publicised.

We recognise that there must be an appropriate system of accountability in place for anyone who holds powers over their fellow citizens. We will ensure that, as part of the work already underway to reform the police discipline and complaints systems, appropriate measures are put in place to enable the holding to account of all designated police staff and volunteers. Additionally, these staff will also be subject to scrutiny through the annual inspection programme delivered by Her Majesty's Inspectorate of Constabulary.

3. Consistency of powers across forces

A number of respondents expressed concern that giving chief officers complete flexibility with respect to designating powers on staff and volunteers would lead to significant differences between forces; their preference was for a set of standardised powers to ensure consistency. While there are currently 20 standard powers for PCSOs, listed in the consultation document published in September, the consultation document also sets out the 44 further discretionary powers that can be designated by chief officers, and there are no standard powers for detention, escort or investigating officers. The greater flexibility of powers proposed in the consultation was broadly welcomed by many within the police; for example, Chief Constable Dave Jones, National Policing Lead for Citizens in Policing, said in his response:

“Chief Officers are best positioned to decide how to police their local area most effectively through the empowerment of their workforce, through their understanding and knowledge of the needs of their local communities.

We are in agreement to provide local ability (and responsibility) to designate powers to staff – this allows us to shape the service according to local needs and local context.

This supports the recommendation 7 in the College of Policing's Leadership Review (Increase flexibility in assigning powers and legal authorities to staff).”

Police forces will need to be transparent and clear about the powers that police staff and volunteers hold in each area and ensure that this information is accessible to the public – including a statutory requirement for designated staff and volunteers to carry both identification and a clear statement of their powers.

4. Requirement to wear uniform

6% of respondents queried the need for designated staff and volunteers to wear uniform, given the cost of providing uniform to a volunteer who may only perform a few shifts per month. The need for designated staff to wear uniform was set out in the Police Reform Act 2002 as a clear means of delineating when powers are available (as opposed to a constable, who is able to use their powers whether on or off duty, in uniform or not). We therefore consider that the requirement for staff – and volunteers – to be on duty and in uniform when exercising their powers should remain as a safeguard for staff, volunteers and the public, although we intend to

preserve the limited circumstances set out in section 42(2A) of the 2002 Act in which someone exercising investigation functions and powers may work out of uniform when authorised to do so by an Inspector (or above).

Summary of Responses

Respondents

The Home Office received 150 responses to the consultation on Reforming the Powers of Police Staff and Volunteers; 141 by email and 9 by post. Of these responses, the largest group (53) were from those describing their organisation or professional interest as 'Police Force'.

Voluntary sector or community organisations made up a further 21 responses, with another 20 coming from Police and Crime Commissioners or from the office of a PCC. The remainder were from a range of organisations, including members of the public, government departments, academic bodies and universities, and representative bodies.

Responses were received from across England and Wales. The highest response levels were from the South East of England (43%), Greater London (14%) and the East Midlands (9.8%). The lowest proportions of responses were from the East of England (2.8%), West Midlands (4.2%) and Wales (4.9%).

List of Organisations Responding

Association of Police and Crime Commissioners
Association of Special Constabulary Chief Officers
Cambridgeshire Office of the Police and Crime Commissioner
Cheshire Police and Crime Commissioner
City of London Police
City of Wolverhampton Council
College of Policing
Cumbria Police and Crime Commissioner
Derbyshire Constabulary
Derbyshire Office of the Police and Crime Commissioner
Devon and Cornwall Office of the Police and Crime Commissioner
Devon and Cornwall Police
Durham Police and Crime Commissioner
Gloucestershire Constabulary
Gloucestershire Rural Community Council
Greater Manchester Police
Hampshire Police
Hampshire Police and Crime Commissioner
Independent Police Complaints Commission
Kent Association of Local Councils
Kent County Council
Kent Office of the Police and Crime Commissioner
Kent Police

Lincolnshire Office of the Police and Crime Commissioner
Local Government Association
London Criminal Courts Solicitors' Association
Merseyside Deputy Police and Crime Commissioner
Metropolitan Police Service
National Council for Voluntary Organisations
National Police Chiefs' Council (National Policing Lead for Citizens in Policing)
National Undercover Working Group
North Yorkshire Office of the Police and Crime Commissioner
Northumbria Police and Crime Commissioner
Nottingham City Council
Nottinghamshire Police
Nottinghamshire Office of the Police and Crime Commissioner
10 Parish Councils
Police Federation of England and Wales
Police Superintendents' Association of England and Wales
South Yorkshire Police
South Yorkshire Police and Crime Commissioner
Staffordshire Police and Crime Commissioner
Sussex Police and Crime Commissioner
Sussex Youth Commissioner
Thames Valley Police
Thames Valley Police and Crime Commissioner
UNISON
Victim Support
Warwickshire and West Mercia Police and Crime Commissioners (Joint Response)
West Midlands Police

Revised list of core powers of a constable

1. Arrest (e.g. s24 PACE⁵)⁶.
2. Stop and Search (e.g. s1 PACE, s23(2) MDA⁷, s60 CJPOA⁸).
3. Power to act as a custody officer in the absence of a sergeant (s36(4) PACE).
4. Power to conduct an intimate search for items that may be used to harm the detainee or another person while in detention, where an officer of at least the rank of inspector considers that it is not practicable for the search to be carried out by a doctor or nurse (s 55(6) PACE).
5. Power to use force to effect entry to property (e.g. ss8, 17 & 18 or Schedule 1 PACE, s23(1), (3) & (3A) MDA) – although appropriately designated staff would (as now) be able to enter premises i) for the purposes of saving life or limb or preventing serious damage to property or ii) in the company of a constable.
6. Any power reserved to a police officer of a certain rank or position, including:
 - a. appointment as a custody officer;
 - b. authorising various powers, such as:
 - i. strip or intimate searches;
 - ii. use by constables of stop and search powers under section 60 CJPOA; or
 - iii. use of powers under RIPA⁹ (see below) or Part III of the Police Act 1997 (property interference, e.g. planting a surveillance device).
7. All powers under counter-terrorism legislation, i.e.:
 - a. Terrorism Act 2000;
 - b. Terrorism Act 2006;
 - c. Counter-Terrorism Act 2008;
 - d. Terrorism Prevention and Investigation Measures Act 2011; and
 - e. Counter-Terrorism and Security Act 2015.
8. The two most intrusive powers under RIPA, i.e.
 - a. Requesting a warrant to intercept communications; and
 - b. Acting as a Covert Human Intelligence Source (i.e. an undercover officer).
9. No chief officer may give authority to a designated officer or volunteer to carry and/or use a firearm or a less lethal weapon requiring special authorisation by the Home Secretary¹⁰, e.g. Taser.

⁵ Police & Criminal Evidence Act 1984

⁶ This would not prevent a member of police staff from exercising the powers of arrest open to any person, such as the power to make a citizen's arrest (s24A of PACE) or to arrest under common law for breach of the peace.

⁷ Misuse of Drugs Act 1971

⁸ Criminal Justice and Public Order Act 1994

⁹ Regulation of Investigatory Powers Act 2000

¹⁰ In accordance with the Home Office Code of Practice on the Police Use of Firearms and Less Lethal Weapons



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