

Policing and Crime Bill

The Independent Police Complaints Commission: organisational structure and corporate governance

Introduction

1. The Policing and Crime Bill includes a range of measures which will strengthen the role and powers of the Independent Police Complaints Commission (IPCC) and wider reforms to the police complaints and discipline systems, which are detailed in separate factsheets¹. See also the separate factsheet on changes to the IPCC's jurisdiction, powers and investigations. Below, this factsheet sets out the reforms to the IPCC's organisational structure (contained in Chapter 4 of Part 2 of the Bill).

Background

2. The package of policing integrity measures in the Bill build on earlier reforms to the police complaints and disciplinary systems, and on the IPCC's major change programme (announced by the then Home Secretary in 2013) to increase the organisation's capacity and funding to investigate all serious and sensitive matters involving the police².
3. These changes are reshaping the IPCC. It has recruited an additional 323 operational staff, and has increased the number of independent investigations taken on nearly fivefold, starting 517 new investigations in 2015/16, compared with 109 in 2013/14. The average duration of investigations reduced from 294 working days in 2014/15 to 225 working days in 2015/16.
4. Despite these positive changes, issues with the organisational structure and corporate governance of the IPCC were identified by the Triennial Review³ of the IPCC, which was carried out by the Home Office in March 2015. The IPCC's response to the Triennial Review⁴ set out proposals for reform of its governance arrangements, including vesting powers in a single Crown appointee who would have final accountability for decision-making.
5. The then Home Secretary, Theresa May, asked Sheila Drew Smith OBE, a member of the Committee on Standards in Public Life, to undertake an independent review of the IPCC's proposals. The report summarising Sheila Drew Smith's review⁵ was published in December 2015. It made clear that the

¹ 'IPCC powers', 'Police discipline' and 'Police complaints and whistle-blowing'

² HC Deb. 12 February 2013. Vol 558 Part 115 Col 713.

<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm130212/debtext/130212-0001.htm#13021255000004>

³ Triennial review of the independent police complaints commission (IPCC). The Home Office. 12 March 2015. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411566/IPCC_Triennial_Review.pdf

⁴ https://www.ipcc.gov.uk/sites/default/files/Documents/speeches/IPCC_response_to_the_Triennial_Review_report_June_2015.pdf

⁵ An independent review of the governance arrangements of the Independent Police Complaints Commission. Sheila Drew Smith OBE. 17 December 2015. ISBN 978-1-911194-62-0.

IPCC's current governance arrangements are not sustainable for a growing and modernising organisation, and made a number of recommendations for a suitable governance structure for the expanded IPCC.

“As the IPCC expands its role, and takes on more cases, I found universal agreement that its governance arrangements need to be strengthened. Having a single head of the organisation, supported by a strong board with a majority of non-executive directors, should help streamline decision-making, help the IPCC become more efficient and deliver the objective scrutiny which the public and the police have a right to expect.”

Sheila Drew Smith, *An independent review of the governance arrangements of the Independent Police Complaints Commission*, 17 December 2015

6. Given the importance of the IPCC's work to the public, the Government launched a public consultation regarding the proposed changes to the structure and governance of the organisation in December 2015⁶. The proposed changes were intended to deliver a more capable and resilient organisation, with clear lines of accountability and decision-making, which is of particular importance as the organisation continues to expand and take on more cases.
7. The consultation received 106 responses from a variety of stakeholders, including police staff associations, Police and Crime Commissioners (PCCs), police forces and the public, with 80% of respondents in general agreement with the Government's proposals. The Government's response to the consultation⁷ was published in March 2016, and set out the significant changes to be made to the IPCC, including renaming it as the Office for Police Conduct (OPC).
8. The Government also announced that the new organisational model will be based on:
 - appointing a single head of the organisation, the Director General, who will have ultimate responsibility for all casework decisions, is a Crown appointment, and cannot have worked for the police; and
 - corporate governance provided by a unitary board with a majority of non-executive members, who will provide independent strategic input and support and advice to the Director General on the carrying out of his/her functions.
9. The Government wants to ensure that the IPCC is organised in a way that best equips it to discharge its enhanced role efficiently and effectively, and that enhances public confidence by providing greater clarity on the way the organisation makes its decisions.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486702/20151215-Independent_review_of_IPCC_governance-WEB-UK_O.pdf

⁶ Reforming the Independent Police Complaints Commission: structure and governance. The Home Office. 17 December 2015. ISBN: 978-1-91119-463-7.

<https://www.gov.uk/government/consultations/reforming-the-independent-police-complaints-commission-structure-and-governance>

⁷ Reforming the IPCC: structure and governance – summary of responses and next steps. The Home Office. 7 March 2016. ISBN: 978-1-78655-067-5.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/505839/20160307-IPCC_Governance_ConRep-v4.0-UK_O.pdf

The IPCC's existing structure and governance

10. The statutory provisions for the IPCC's existing governance are set out in Part 2 of the Police Reform Act 2002⁸. The basic features of the Commission are mandated as follows:

a. Membership of the Commission

- The Chair of the Commission (a Crown appointment);
- The Chief Executive (appointed by members of the Commission, and approved by the Secretary of State);
- Not less than five ordinary members, known as Commissioners (public appointments overseen by the Secretary of State); and
- Not more than two deputy Chairs (appointed by the Secretary of State from amongst the Commission).

b. Bars to membership of the Commission

- All members of the Commission, including the Chair, are expressly prevented from having served as constables in any part of the UK, or having served with other law enforcement agencies⁹ (e.g. the National Crime Agency).
- All persons who have served a prison sentence of more than three months within the past five years are expressly prevented from serving as Chair of the IPCC¹⁰.

What changes are being made by the Bill?

Single head of the organisation

What changes are being made?

9. The vast majority of respondents to the consultation (80%) agreed with the Government's core proposal for a Crown-appointed single head of the reformed organisation, who will take decisions about investigations independently of government, with corporate governance of the organisation provided by a unitary board with a majority of non-executive members.
10. The new single head, to be known as the Director General, will be subject to the same existing legal provision that applies to the IPCC Chair and Commissioners, stipulating that they cannot have previously worked for the police or other law enforcement agencies.
11. The Director General will lead the executive of the organisation, and will ultimately be responsible for all investigation and casework decisions. The existing general functions of the IPCC will become functions of the Director General. For practical purposes, the Director General will be able to delegate

⁸ See in particular section 9 of, and Schedule 2 to the Act.

⁹ PRA 2002, Section 9(3).

¹⁰ PRA 2002, Schedule 2, Paragraph 1(2).

any and all of his or her functions, and authorise any employee of the OPC to exercise functions and powers on behalf of the Director General.

The Office

Policy aims and background

12. The new structure of the corporate body ('the Office') will ensure a clear division of roles and responsibilities between the Director General, non-executive members, and executive members, addressing the weaknesses in the current model whereby Commissioners have a "dual role" covering both governance and operational activity.

What changes are being made?

13. The Office (in effect the board of the Office for Police Conduct) will consist of the Director General and at least six other members. The other members will include both non-executive and executive (employee) members. The total number of executive members of the board (including the Director General) will be limited by the requirement to have a majority of non-executive members.
14. The non-executive members will be appointed by the Secretary of State via the public appointments process. An employee of the Office may be appointed as an executive member of the Office on the recommendation of the Director General, subject to the consent of the non-executive members.
15. The functions of the Office will be: to ensure that appropriate arrangements are in place to secure good governance and financial management of the organisation; to determine and promote its strategic aims and values; to provide support and advice to the Director General in the exercise of his or her functions; and to monitor and review the carrying out of those functions.

The relationship between the Director General and the Office

Policy aims and background

16. In any good governance model it is important to ensure there is clarity on the respective roles of individuals in senior decision-making and governance positions. To support public confidence, decisions on investigations must be completely independent of government, with clarity on who is responsible for decisions taken by the Office for Police Conduct.

What changes are being made?

17. Under the new model, the Director General will have ultimate responsibility for decision-making on casework, he/she will manage the organisation, and will be its Accounting Officer. The non-executive members will play no role in individual casework decisions.

18. The Director General and the Office will jointly be responsible for preparing a Strategy/Business Plan detailing how they intend to carry out their functions, as well as a Code of Practice setting out the relationship between them.
19. The Code of Practice will reflect the principle that the Director General is independent when making decisions in connection with carrying out his or her functions. The Code of Practice is to be published to ensure transparency.

Staff

Policy aims and background

20. The aim is to ensure there is a clear line of accountability for decision-making in the organisation.

What changes are being made?

21. All executive posts (apart from the Director General) will be employee positions. The Director General will have ultimate responsibility for investigations, and employees of the organisation will operate under the delegated authority of the Director General along a single “spine” of decision-making from the bottom to the top of the organisation. This contrasts with the existing arrangements, which have led to blurred lines of accountability between investigators and Commissioners.

Police experience

Policy aims and background

22. It is important that the public can have confidence that the Director General is independent of the police, and that investigations will be conducted impartially and to the highest standards. Under current legislation, those who have served with the police or other law enforcement agencies are barred from Commissioner roles within the IPCC.
23. As well as independence, the quality and timeliness of casework decisions is essential in inspiring public confidence. The organisation needs to be able to appoint the best people, including those with policing expertise, and also be able to organise and structure itself in the most effective way. These requirements need to be balanced alongside the ability to be demonstrably independent from the police.

What changes are being made?

24. To provide a clear signal of the independence of decision-making, the existing restrictions that apply to Commissioners in the IPCC will apply to the Director General, (that is, he or she will not be able to have previously worked for the police or other law enforcement agency).

25. The legislation will provide that the Director General may determine the functions or roles where there is to be a similar restriction on the appointment of an individual who has worked for the police. The Director General will be required to list the posts which are restricted, and publish the details of the restriction.
26. No such restriction will apply to non-executive members of the Office, who will play no role in investigations or casework.

New name for the reformed IPCC

Policy aims and background

27. The changes to the IPCC's structure and governance involve moving away from the existing Commission model, but do not represent a complete break with the past in terms of the vital role the organisation performs in the police complaints system. However, the name does signal the end of the Commission structure. It also reflects the growing role of the organisation in investigating all serious and sensitive matters involving the police, including deaths and serious injuries following police contact, regardless of whether these investigations stem from a complaint from the public.

What changes are being made?

28. The IPCC will be renamed as the Office for Police Conduct (OPC). The corporate body of the OPC will be known as the Office. The Director General will lead the organisation and will be responsible, ultimately, for all investigative decisions.

**Home Office
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