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# **Police Accountability**

## Written Evidence

### Section A - D

Evidence Number	Name	Stakeholder category
E1	Association of Chief Police Officers (ACPO)	Professional organisation
E2	Association of Democratic Services Officers (ADSO)	Professional organisation
E3	Association of Police and Crime Commissioners	Professional organisation/Police and Crime Commissioner
E4	Association of Policing and Crime Chief Executives (APAC <sup>2</sup> E)	Professional organisation
E5	Audit Commission	Independent public body
E6	Avon & Somerset Police and Crime Commissioner	Police and Crime Commissioner
E7	Barry Loveday, University of Portsmouth	Academic
E8	Paul Cain, Independent Lay Member and Vice Chair of Bedfordshire Police and Crime Panel	Police and Crime Panel
E9	Deputy Police and Crime Commissioner for Cambridge	Police and Crime Commissioner
E10	Cambridgeshire Police and Crime Panel	Police and Crime Panel
E11	Centre for Public Scrutiny	Think tank/Charity
E12	Cheshire Police and Crime Commissioner	Police and Crime Commissioner
E13	Cheshire Police and Crime Panel	Police and Crime Panel
E14	Cleveland Police & Crime Commissioner (Office)	Police and Crime Commissioner
E15	Colin Rogers	Academic
E16	College of Policing	Professional organisation
E17	Crime and Policing Group, Home Office	Government department
E18	David Hufton M.Ed Ph.D	Academic
E19	Police and Crime Commissioner for Derbyshire	Police and Crime Commissioner
E20	Derbyshire Police and Crime Panel	Police and Crime Panel
E21	Desmond Hughes and Clare Anderson	Member of the public
E22	Devon and Cornwall Police and Crime Commissioner	Police and Crime Commissioner
E23	Devon and Cornwall Police and Crime Panel	Police and Crime Panel
E24	Dorset Police and Crime Commissioner	Police and Crime Commissioner
E25	Dorset Police and Crime Panel	Police and Crime Panel
E26	Durham Constabulary	Police force
E27	Alan Reiss, Chief of Staff of the Office of the Durham Police and Crime Commissioner	Police and Crime Commissioner
E28	Dyfed Powys Police and Crime Commissioner for Dyfed-Powys	Police and Crime Commissioner

Submission to the Committee on Standards in Public Life.

Chief Constable Jacqui Cheer, Cleveland Police and National Lead for Professional Standards and Ethics.

November 2015.

This document is submitted following the request from the Committee on Standards in Public Life outlined in the letter from Lord Paul Bew dated 9<sup>th</sup> October 2014. The content of this document supports the information given by Chief Constable Cheer during the meeting held on the 26<sup>th</sup> November 2014.

Although I have no doubt that you are aware of the structure of policing throughout the U.K. and of the Association of Chief Police Officers (ACPO), for the sake of completeness I will briefly outline the role of National Policing Leads and the authority that gives me to represent colleagues in police forces in England, Wales and Northern Ireland with regards to Policing Professional Standards and Ethics in policing.

Each force has a Chief Constable (CC) who is in law operationally independent from other CCs, the Home Office and importantly in the context of this report, from their Police and Crime Commissioner (PCC). This concept is understood by Chief Constables who operate within it day in day out but it has proven difficult to define and phrases such as PCCs 'must not fetter' the operational decision making of CCs have been introduced to try and explain it. However, there have been and will continue to be differences of opinion about what are or what are not operational matters. A simple example would be the closure or altering of opening hours for a police station front desk. Deployment decisions about operational staff and police officers sit with the CC, estates issues (and some would argue therefore the opening times of buildings) sit with the PCC. This tension existed during the time of Police Authorities and continues under the new accountability regime. This tension may increase as financial and human resources continue to reduce significantly.

The role of the PCC includes holding the Chief Constable to account for the effective and efficient delivery of policing services. In ensuring effectiveness and efficiency they both have a duty to consider the content of the Strategic Policing Requirement (SPR) and the Policing Protocol.

The Police Reform and Social Responsibility Act 2011 introduced PCCs and created CCs and PCCs as Corporation Soles. Until this point CCs could not employ people or hold contracts, since the 1<sup>st</sup> April 2013 they can. Before this police staff were employed by the Police Authority, they then transferred to the PCC at the time of the election and latterly the majority have been transferred to be employed by the Chief Constable. However there are significant differences between the arrangements in each force and a service may be delivered by staff employed by a CC in one force and by staff employed by a PCC in another. Added to this complexity are the outsourcing arrangements in some forces where the service (e.g. finance) is delivered to the force by a private sector partner under a contract held by the PCC. It is not necessarily obvious or agreed that the Code of Ethics applies to the staff in each of these arrangements and in some jobs the individuals will also have their own professional codes according to their role e.g. accountants.

The Code of Ethics states at paragraph 1.2.1 that it applies to 'everyone in the profession of policing, including all those engaged on a permanent, temporary, full-time, part-time, casual, consultancy,

contracted or voluntary basis' and goes on in the next paragraph to say 'Although the Code applies to all in policing, those with leadership roles have additional expectations placed on them to lead by example'.

PCCs and their Chief Executives hold differing views amongst themselves as to whether the Code applies to them and/or the people they employ. Some have fully embraced the Code and are taking a leading role in working with their Chief Constables to embed it, for example by jointly funding independent Ethics Committees. In other places there is a debate as to whether the staff supporting the PCC (known as the Office of the PCC or OPCC) are in fact 'in the profession of policing'. As the Policing Principles originate from the 'Principles of Public Life' published by your Committee in 1995 at least seven of the Policing Principles will apply to PCCs as 'people who are elected or appointed to public office, nationally and locally' and may apply to their staff as 'people appointed to work in the civil service, local government, the police, the courts and probation services, non-departmental public bodies, health, education, social and care services and all those in other sectors that deliver public services'. This does not however appear to be widely understood.

All police officers are attested as constables and hold an 'office' rather than being an employee. The only police officers with any semblance of employment status are Chief Constables and their deputies (DCCs), who although sworn constables are at the same time on fixed term appointments. The CC is appointed by the PCC, the DCC by the CC for up to five years.

Whilst the introduction of PCCs demonstrated a desire to be focused on and respond to local needs, CCs (and PCCs) also have a duty to take account of regional and national policing issues. In addition, as employers and with direction and control over police officers, CCs need to consider regional and national responses to matters to do with their workforce, who are and will continue to be deployed outside of their force area in response to national or regional need.

To ensure that this consideration and co-ordination can take place in a cost effective way that focuses on delivering high quality policing services to the public, chief officers undertake work on particular topics on behalf of all of their colleagues. A chief officer will be selected by colleagues to lead on a particular topic or area of policing and they will have the authority and support of their colleagues to speak on their behalf. The National Leads undertake this work in addition to their role within their own forces and they all work with people from across the service (all ranks and grades, police officers and police staff) and relevant external partners to develop and implement best practice. National Leads will present their work to Chief Constables Council for discussion and where appropriate seek a collective agreement that the chosen option will be introduced into each force area for the overall benefit of the public. The National Leads are currently developing professional working relationships with the College of Policing.

It is in this role as a National Lead for Professional Standards and Ethics as well as the CC of Cleveland Police that I submit this document. Given the deadline and the plethora of national reviews, inspections and consultations currently taking place, into the same or related matters, I have not sought specific feedback from my colleagues and I know that some CCs have responded to your letter personally.

Before answering your specific questions I would take this opportunity to draw your attention to our work with Transparency International UK. Following the publication of their report Corruption in the

UK, in June 2011, they undertook a piece of work commissioned by ACPO on behalf of the National Lead for Professional Standards (then Chief Constable now HMIC Mike Cunningham) and the then National Lead for Counter Corruption (DCC Bernard Lawson). This was published in January 2013 and is entitled 'Benchmarking Police Integrity Programme'. Within the context of this submission I would draw your attention to the paragraphs at 4.2. which focuses on the PCC.

I and my colleagues who are committed to embedding the Code of Ethics welcome your consideration as to whether sufficient safeguards are in place and if not, what more could be done.

In response to your specific questions:

- i) Are there any gaps in the existing mechanisms for holding PCCs to account?

In short yes. Those that could be addressed are considered below:

Limited ability to remove from post.

Along with other elected positions there is no power of recall for an electorate who wish to remove their PCC between elections. This matter was raised by CCs during the consultation prior to the introduction of PCCs but dismissed. Recent events, particularly in South Yorkshire demonstrate the potential for effort, resource and attention to be diverted from dealing with the issue(s), leading to the call for resignation, towards managing and responding to the public, media or political demand for an unachievable dismissal or an unlikely resignation.

I understand that PCCs are attracting similar frivolous, vexatious and malicious complaints to those received by Chief Constables and other police officers, so any process must guard against the adverse or perverse impact of such complaints. However, the legitimacy of policing and the long established model of policing by consent can be damaged as much by the behaviours and actions (or inactions) of a PCC as by a Chief Constable, especially as the media often inaccurately and inappropriately label PCCs as 'Police Chiefs'. The PCCs have been given the ability to remove CCs. It would not be unreasonable to consider whether the public should be able to remove their PCC in certain situations.

Not subject to HMIC inspection.

Likewise the exclusion of PCCs from the remit of Her Majesty's Inspectors of Constabulary could be viewed as a gap. The HMIC is wholly independent and inspects in the public interest. The re-introduction of annual reports about each force across the totality of their work provides further public scrutiny and accountability about a particular force and by implication it's Chief Constable. When the CC is charged with delivering the strategic directions of the PCC it might well be expected that the inspection would consider how those directions were arrived at, whether they represent the true risks, harms and threats in a locality and whether due consideration has been given to duties placed upon PCCs and CCs within the Strategic Policing Requirement. Moreover it would appear appropriate for the public to expect a recognised inspectorate body to comment on how a CC is being held to account and whether that accountability model secures performance and best value for local people.

### Police and Crime Panels straying into operational matters.

Police and Crime Panels (PCP) provide a mechanism for accountability. It would be fair to say that some Panels have strayed beyond their remit into operational matters (behaving more like Police Authorities). This leads to demands placed upon already stretched force resources to produce reports for Panel meetings and in some cases requests from Panels and/or PCCs for police officers or police staff to attend and present the reports and/or answer questions.

Forces and police officers expect to be held to account and are willing to have their actions and outcomes publically scrutinised, however this was not the intended role of the PCP. Public scrutiny of our actions and performance is welcomed but in turning their attention to the force there is a danger that the PCC is not sufficiently scrutinised or held to account for their own decisions and actions.

- ii) What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?

### Public engagement.

Many PCCs appear to be utilising a wide range of engagement and communication tools. These include public meetings, web-chats, twitter, newsletters, blogs etc. (The real question is whether this engagement goes beyond telling to a robust two-way dialogue, public accountability and true consultation.) In addition many of the public's questions and concerns during these events are about operational policing matters for which the Chief Constable is accountable and not the PCC.

### Decision notices.

Several PCCs publish decision notices on their websites and several of these contain clear and comprehensive explanations or rationales. However many of these decisions are informed by complex, sometimes contradictory, often technical or jargon laden material which is not published for a number of reasons. This is an area that seems worthy of further work so that the electorate have reliable, timely and sufficient information to judge the impact of their PCCs decision making on the service they receive.

In some forces the PCC demonstrates decision making by holding meetings with the Chief Officer team. Some of these meetings are open to the public and the papers presented at the meetings together with the associated minutes are published. This could be said to be a re-working of a Police Authority structure and a glance at the attendance at some of these meetings (from the OPCC and the chief officer team) would seem to support this view.

PCCs also attend force meetings at which they are part of the decision making process. Examples would include change management boards or collaboration committees. The decisions will be recorded and available in accordance with the force publication scheme, however unless specifically referenced a member of public would need to search to see which force decision making meetings a PCC has attended.

### Audit Committees.

Where the matters relate to financial considerations the establishment of the independent Audit Committees provides scrutiny, transparency and accountability for agreed topics and nationally agreed financial codes and regulations. The PCC and their office are subject to the same rigorous internal and external audit regime as the Chief Constable and the Force. Some PCCs have joined with their CC to have a single Audit Committee, others have two separate Committees. I am not aware of any information that suggests that one practice has worked better than the other. It is likely the effectiveness of either arrangement is in the hands of the Chair of the Committee,

### Annual Reports.

PCCs have a responsibility to produce Annual Reports and these offer another mechanism for public accountability. The range of the Annual Reports could be considered to be a sign of localism and that PCCs are reflecting the wishes of their own electorates in the style and content. Alternatively the variance between Annual Reports could be seen as a missed opportunity for the electorate to contrast and compare the performance of their PCC against others. An informed public would be better able to then hold their own PCC to account for the matters that are their responsibility and how they are spending tax payers' money particularly in relation to the commissioning of victims' services.

### Complaints and dissatisfaction.

The complaints system for PCCs suffers from the same bureaucracy, complexity and inconsistency as the system for police officers and in particular CCs. A growing tendency for decision makers to be risk averse about recording issues, deciding how to progress and an early resort to full process before a preliminary assessment, has led to increasing numbers of complaints proceeding to disproportionate and lengthy investigations for both CCs and PCCs. This is unlikely to be in the best interests of the complainant.

A small number of PCCs (Avon and Somerset, Northumbria and North Yorkshire amongst others) are approaching this with a creative mind and looking to improve the process for complainants and all those involved. However what is a complaint or conduct matter and how to proceed is governed by Statutory Regulations and other Acts of Parliament. The inflexibility of these Regulations could frustrate some of the changes that are being suggested. It would be wholly inappropriate for forces (and PCCs) charged with upholding the law to disregard the Statutory Regulations just because they no longer seem, in a number of respects fit for purpose.

There is a genuine desire amongst some PCCs and CCs to develop a more complainant driven response to genuine complaints and incidents of dissatisfaction and we would welcome greater debate and discussion.

### Hospitality and expenses.

PCCs tend to publish the same information as forces about hospitality, gifts and expenses. They also have the same responsibility to publish expenditure over £500. However, they do not have the

equivalent of a Professional Standards Department or the HMIC to regularly check the registers and importantly cross check information from the registers with procurement, grant and commissioning processes. This is an area that could easily be addressed but there would need to be a purpose. Without the ability for any sanction other than public rebuke for inaccuracy or non-criminal but unethical behaviour any such exercise is meaningless in the years between elections. Criminal allegations would of course be pursued via a criminal investigation.

A quick glance at the Operation Sacristy material on the Cleveland Police website demonstrates what happens when a Chair of a Police Authority (substitute PCC), a Police Authority Chief Executive (substitute same role in OPCC), a CC and a DCC decide to use tax payers money to fund an extravagant lifestyle. They did this in plain sight of the Authority and the Force. Registers on their own would not have changed their personal decisions as they believed that such behaviour was within the rules at the time.

#### Expenditure.

The cost of the post and the associated costs of the office to support the PCC are published. The HMIC Value for Money (VFM) profiles seek to compare the costs in a meaningful way for public scrutiny. However, coming from a force area with high comparative costs I am not aware of any questioning of the detail behind the VFM profiles by the public, the media or the PCP. Whilst there has been media commentary questioning the costs of appointing deputy PCCs and such like in some areas, there is little evidence of this disquiet altering any decision or course of action.

The commissioning role of the PCC is arguably the most important and yet under-developed part of their job. The commissioning of victims' services can and will have a direct impact on victims and the most vulnerable in society. As a CC I see little scrutiny of the process, the early decisions or intended outcomes. This is an area that requires urgent improvement as there are no longer the police resources to fill the gaps that could be created if victim services are inadequate as we have previously done.

- iii) How are PCCs ensuring transparency in their decision making?

As mentioned above the majority of PCCs appear to making good use of one or a combination of four options: public meetings, publishing decision notices, publishing minutes of accountability/governance meetings and attendance at Local Authority meetings or scrutiny panels.

An area still under development is the transparency of the commissioning process and governance of the outcomes. This is a critical part of the PCCs work and has the potential to be a real force for improvement and positive change, with decisions focused on local needs and local outcomes. The practices and processes are evolving and this may well be an area that would benefit from an ability to compare and contrast across PCCs, not least to identify best practice so that all communities get the best decisions.

- iv) What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?



There is a plethora of information available to the public about their police force as well as the ability to compare it to others. Crime data for those crime types measured through traditional means is also readily available. Forces regularly publish timely data, the Office of National Statistics (ONS) publishes data several months behind on a quarterly basis and annual data is available from the HMIC website, force websites, the Crime Survey of England and Wales and the ONS. Notwithstanding the controversy about the accuracy of the data itself, crime data only describes a minority of our work and is not the sole reflection of the performance of a force.

The traditional crime categories used to group data and therefore determine force performance do not reflect the complexity and variety in the methods of commission of the offences, or types of perpetrators. To take just two examples, taking money from someone else dishonestly is likely to be recorded as a theft. If physical violence is used to obtain the money it might instead be recorded as a robbery and be shown in a different crime type. However if a computer is used to take the money it will be recorded with all the other traditional types of theft or fraud. There is no specific crime group for recording computer/cyber-enabled thefts, which need a different style of investigation. So the crime recording rules take note of the use or threat of physical violence but not the difference between taking a purse from a bag or persuading someone to hand over money over a computer. Similarly, sexual offences particularly against children are recorded according to the sexual act not the commission of the offence which could be by a family member, an acquaintance, a stranger, within a violent and abusive domestic relationship or as part of large scale exploitation. It can be committed in person or again in the case of images via the internet. All such criminal acts are completely unacceptable and a priority for forces to tackle, but because of the way the rules group crimes for publication meaningful debate and constructive accountability can be problematic.

In addition much of our work to tackle the most serious, organised and complex criminal activity which causes the greatest harm to individuals and communities is about disruption, removing the threat and mitigating risk. Forces work with regional and national partners, both other police forces and other agencies to achieve this, but rarely is it or indeed can it be published in a way that adds value to accountability regimes. Media coverage of prosecutions goes part way, but clearly covers only those cases that reach court and could be some time after the arrest or offence,

Forces are currently working with the College of Policing to develop an evidenced narrative about the role and work of police forces. So far the evidence suggests around 30% of work is what the public would recognise as responding to crime. The remaining activity is wide ranging and is best described as protecting people from actual or potential harm. This activity includes but is not confined to dealing with the issues raised by people in a mental health crisis or coping with long term mental illness, missing people enquiries, working with others to support troubled families, visible patrolling, policing public protest and public gatherings/sporting events and investigating road collisions. None of this work can be explained in numbers.

As Corporation Soles, both the PCC and the Chief Constable are required to publish financial information, governance statements and annual statements of accounts. Forces also regularly publish information about the workforce as well as discrete areas of public concern such as the use of force or the use of powers such as stop and search. This is supplemented by the annual or more regular publication of a wide range of data sets by the Home Office. Forces and PCCs also publish registers for hospitality, gifts and expenses. They publish data about officers and staff who earn

more than £50,000 a year. Many publish the reward packages for the most senior staff and officers and some now publish the outcomes of conduct investigations when officers are dismissed or resign

This information is available directly to the public and the media. Different communities, individuals or media outlets will look to the PCC, the Chief Constable or both to explain and respond to the trends and issues identified. In my own experience the public are rarely interested in information at the organisational level, they are interested in what is happening in their street or on their estate. At this level they seek to get such information from their local commander and speak directly to the force. The information is rarely used to hold the PCC to account. Any such enquiries for the PCC are usually from the PCP, local MPs or Local Authority scrutiny panels.

v) What has worked best for PCCs in engaging with the public and local communities?

This is a question that the public and communities are best positioned to answer. My only comment is that in order to decide what works best it might be useful to explore the purpose and need for such engagement. In other words, is there a clear understanding of why the public and local communities wish to engage with their PCC and only once that is understood would it be possible to point people towards best practice.

There are many good examples of PCCs sharing information and meeting with a wide range of individuals, groups and communities. It could be argued that this is largely determined by what the PCC and the force wish to tell people. However, PCCs have responded to public concerns and can be and are powerful advocates for people across the criminal justice system and community safety partnerships as well as in policing.

vi) How well are Police and Crime Panels able to hold a PCC to account between elections?  
a. Does the role of the Police and Crime Panel need any further clarification?

There appears to be significant variance in the work undertaken by PCPs. This can be seen by the difference in the number of meetings each year, the topics discussed and whether the report and/or verbal presentation is prepared or given by the PCC or a member of the police force. It does not necessarily follow that greater clarification of their role would alter this variance. The purpose and role is defined within the Act and yet some Panels have chosen to extend their remit. The role of the PCP is limited and it is perhaps inevitable that people interested in policing enough to sit on the PCP would wish to examine other areas. This leads to PCPs taking information from and questioning police officers and police staff members rather than questioning and holding the PCC to account. Put more simply the PCC is left out of the accountability process as the PCP scrutinises the force.

Forces have no problem with being scrutinised and welcome the opportunity to explain and discuss the dilemmas they face in balancing the increasingly more complex demands placed upon them as resources diminish, but this does not appear to have been the original intention of the PCP and in focusing so much on the police the 'and crime' piece of the PCC role is rarely given sufficient attention.

b. How well are the current 'balanced' membership arrangements ensuring effective scrutiny and support of PCCs?

There is sufficient information available from the current working relationship between the Chief Constables, PCCs and PCPs to suggest that party politics will be an important feature in any future election process for PCCs. It is imperative that forces and Chief Constables are able to retain an apolitical and impartial stance and are not required to intervene or make statements to retain the trust and confidence of their local communities in the work of the force. The definition of 'support' for a PCC from the PCP during this period may be tested.

- c. Are the current membership thresholds requiring a two thirds majority to veto a PCCs level of precept and appointment of a Chief Constable proving practicable?

I am not aware of a situation where the power of veto for appointment has been used.

As there is no separate question regarding the dismissal of Chief Constables I will take this opportunity to express concern about how this is intended to operate and how it is in fact operating. The Police Reform and Social Responsibility Act introduced new regulations to allow PCCs to dismiss chief constables by calling on their CC to resign or retire. Schedule 8 makes it clear that this 'call to retire or resign' must not be made until the end of the scrutiny period, as laid down in the Act and Schedules has been reached.

Two examples suggest that neither the intention nor the process as described has or would be followed. One would be the resignation of Chief Constable Napier from Gwent. The circumstances of this are publically documented and both the Chief Constable and the Gwent PCC appeared before the Home Affairs Select Committee about the matter. The other is more recent, in the pre-election period for the South Yorkshire PCC two candidates made public announcements that they would dismiss the Chief Constable if elected.

Chief Constables are public servants and proud to serve the public. A drawn-out, potentially acrimonious and public dispute about a call for resignation will not serve the public but neither will the loss of a competent Chief Constable who choses to resign or retire in the public interest rather than draw out the process.

Chief Constables, like their deputies are appointed for fixed terms. Currently many are in the Police Pension Scheme that builds towards thirty years service for a full pension. This will not be the case as officers on the newer pension schemes become Chief Constables. The ability of PCCs to extend or otherwise the fixed term appointments could in some circumstances lead to an imbalance of power between the PCC and the CC. In these circumstances there would appear to be an important but as yet undefined role for the PCP.

- d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?

This is an area that should be explored with the electorate.

- e. How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?

PCCs do not have the powers invested in police officers that require police officers to consistently demonstrate the higher standards of professional and ethical conduct expected of them by the

public. They are however elected by the public to represent them and do need to retain the trust and confidence of the public and, as importantly, the police officers and police staff in their respective forces.

The PCCs are not specifically included in the body of people required to abide by the Code of Ethics but several have embraced it. The principles in the police Code of Ethics include the Nolan Principles which would apply to the PCC as elected persons. It seems appropriate that there should be opportunities for the PCC to demonstrate and be held to account for their own personal conduct. Many publish registers of gifts and the like, similar to those published by forces. It would be possible for local Ethics Committees to consider matters pertinent to the PCC in a similar fashion to their scrutiny of force matters.

It would seem odd that the person considering the professional and ethical conduct of Chief Constables was not themselves required to behave in an appropriate manner and be held to account by some means on behalf of the public. It has been put forward that the election is the method of holding the PCC to account but this can only be the case if the public are aware of any conduct issues.

- vii) Are the boundaries between the local roles and responsibilities of the PCC and the Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?

Any apparent confusion between the roles is evident in the language used within the media who refer to PCCs as 'Police Chiefs'. Even where local communities and individuals appear to understand the difference, some people do try to manipulate the respective roles by asking PCCs to intervene in operational matters such as arrests or the deployment of resources. However, this has always been the case with people asking their MPs or local Councillors to intervene and the police service is used to explaining the reasons and rationale for decisions and actions in these circumstances. The apparent apathy around the elections for PCCs should not necessarily be mistaken for confusion about the role. It is apparent from national surveys that crime and disorder, whilst important, are not the issues most worrying communities and individuals at the moment.

- viii) According to the Financial Management Code, Audit Committees should advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements? How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?

Audit Committees existed pre PCCs. The Financial Management Code gives clarity and direction to the PCC, CC and their respective Chief Finance Officers (CFO). There is variety in the setting up of the Audit Committees. I work to a joint committee which scrutinises the PCC and the CC. The people selected to sit on the Committee have a wide range of backgrounds and fully understand the previous problems in Cleveland. I have encountered no conflicts of interest arising from having a joint committee who are clear in their application of process as to who or what is being scrutinised.

Like others I considered a joint CFO when a vacancy arose. Upon consideration I decided against sharing a CFO with the PCC at the same time as having a joint Audit Committee. It seemed that there

could be a real and/or perceived conflict of interests. That said the PCC shares his CFO with a neighbouring PCC and in another neighbouring force the CC and the PCC share a CFO. I am not aware of any conflicts of interest arising through these arrangements. On the contrary as forces seek to collaborate more and more it may in fact be beneficial that CFOs work across force boundaries.

- ix) What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or if not, suggest what can be improved?

PCCs need to be recognisably ethical and they need to be leaders. They should recognise that the Nolan Principles apply to themselves and actively seek opportunities to demonstrate values based decision making and ethical behaviour. This will apply both during work time and 'off duty'. Like police officers, PCCs will be seen as PCCs 24/7 365 days of the year by the public, regardless of whether they are on a working day. This will include when they are out socially, canvassing for local politicians or supporting striking fire fighters. Many have social media accounts and these can be used to reinforce ethical behaviour through language and activities.

- x) What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?

Police Forces are following the Cycle of Integrity to be found in the Transparency International Benchmarking document. In May within weeks of the Code of Ethics being laid before Parliament every force in the UK attended a conference jointly hosted by myself, as the National Lead for Ethics, and the College of Policing at which the Service agreed to use this model. Several PCCs or their representatives also attended the conference.

The model requires an assessment and a plan, both of which would be available for the PCC to scrutinise. Each force has a strategic lead and an operational lead who attend national meetings to share good practice and discuss dilemmas. In some forces PCCs are actively involved in the activities, attending briefings and training sessions with their staff.

The Police Service adopted the National Decision Making Model (NDM) some time ago, originally it had at its core the Mission of Policing. This has now been replaced by the Code of Ethics which embeds it at the heart of all decisions. The NDM is taught wherever decisions have to be made be that a firearms commander course, training for those involved in child abuse investigations or staff induction courses. To make defensible decisions officers and staff will use and record their considerations as per the NDM and the Code of Ethics. When the PCC asks about a decision made by the force or an individual within it, they will be exposed to the NDM and the role of the Code within it.

The NDM can be applied to non-operational decisions as well as operational ones. CCs will also have a range of models for making risk based assessments and decisions, which they are required to do

regularly. One of the issues that has, and continues to impact on policing decisions is the inequity between the knowledge levels of the CC and PCC on the threats and risks prevalent locally, regionally and nationally. A decision was taken not to vet PCCs and information is shared under the auspices of the PCC signing the Official Secrets Act. There are examples that demonstrate a lack of understanding of the 'need to know' principle and that being open and transparent needs to be balanced with the potential or actual risk of harm to people, the administration of justice or national security. CCs may also be aware of information or material which by law they cannot share or discuss.

In order to overcome this potential obstacle many PCCs have attended awareness sessions to learn more about the work that underpins the areas of policing referred to in the SPR and they are involved in the discussions to develop and implement the force's STRA (strategic threat and risk assessment). These documents lay out the priority risks in a locality and are used to determine such things as the allocation of resources or the requirement for training or recruitment of specialists. The National Crime Agency has willingly engaged with PCCs and been prepared to talk about their work with them where appropriate.

There is huge variance in how PCCs engage with or indeed understand the many different collaborative arrangements found around the country as forces brigade their specialist resources to achieve improved effectiveness and efficiency. The governance structures vary considerably as does the PCCs enthusiasm for such structures which are a necessary requirement in this expensive and complex area of policing.

There is tension between the very local ward based neighbourhood priorities, the organisational level PCC Police and Crime Plan, the force objectives and our regional and national work. However it has always been present and CCs who will have managed this difficultly as commanders and chief officers with their respective Police Authorities understand the tension and work productively within it.

- xi) Is there sufficient transparency of propriety information from PCCs? For example published information on expenses, registers of interest, gifts and hospitality and external meetings?

PCCs have been encouraged to be open and transparent and publish at least the same level of information as forces. It is up to each PCC to decide and many will be taking guidance from their Chief Executives. This role has not been considered in this set of questions but is a key role in how the PCC operates. The influence of Chief Executives over the ethical and professional conduct of the PCC and the OPCC should not be underestimated and yet the scrutiny and accountability of their work and their own ethical leadership is rarely considered.

- xii) What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocol and guidance in place locally to manage these in a transparent way?

I am not aware of any information I can give you to answer these questions.



Association of  
**Democratic Services**  
Officers

## **Submission from the Association of Democratic Services Officers**

### **Committee on Standards in Public Life Local Policing – accountability, leadership and ethics**

#### **Q1. Are there any gaps in the existing mechanisms for holding PCCs to account?**

At present, the only *direct* means of holding a PCC to account is through the ballot box every four years. Given the role of the PCC, as a single individual in direct control of local policing, crime strategy and a significant budget, the current public accountability structure feels insufficient. The PCP is the principal body for holding the PCC to account; however, its role is unclear in a number of areas (see Q6a). The PCP can only express opinions and seek to influence the PCC indirectly; the PCP's direct powers of veto are extremely limited in practise.

There is also potential for conflict and confusion in accountability. The underlying community safety landscape is crowded, particularly in a two-tier county. The responsibilities of District Councils, the County Council, the PCC, and Community Safety Partnerships at district and county level overlap to some extent. Similarly, some scrutiny of what a PCC is doing (or not doing), could in theory be undertaken by a number of bodies, including local authority scrutiny committees at district or county level and PCC Audit Committees, in addition to PCPs. But in practice, the PCP is the likely to be the only effective public scrutiny of the PCC as it is focussed exclusively on the PCC.

The role of HMIC is too limited. HMIC needs to be able to take a whole systems approach to inspection including the governance arrangements. HMIC should be inspecting both PCC and PCP not just the force. If there is weakness in a police force, it may be the result of weakness in the governance arrangements which have not spotted it.

**Q2. What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?**

PCCs use the local press, radio, Internet and social media to engage with the public. Some also hold public scrutiny meetings (some of which are webcast) at which members of the public can put questions to either the PCC or the Chief Constable. However, the level of public participation reported at these meetings is not high and it is difficult to determine whether these methods have had any impact on the decisions and activities of the PCC or the Chief Constable. Hence it is difficult to answer the question as to how well the 'accountability to the public' mechanisms are working in practice, in the absence of any recent surveys of the public or other evidence to gauge the public perception.

**Q3. How are PCCs ensuring transparency in their decision making?**

PCCs are not subject to the same legislation that local government authorities are (i.e. the requirement publish a Forward Plan of key decisions and give five working days public notice of proposed decisions). PCCs publish decisions on their website, but this tends to be after the decision has been made, rather than during the process of consideration. This is not transparency. There is a rigid approach to local authorities around decision-making, but none of the obligations for the PCC. As both Councils and PCCs are elected by the public and are in control of public budgets, there needs to be consideration about how PCC decision-making could be more transparent. The Home Office may wish to consider the manifesto of CLG in terms of local government transparency (see the Openness of Local Government Bodies Regulations 2014).

There is also an issue around 'confidential' decisions which cannot be viewed at all; the reason is not always evident as to why each of those papers merits a confidential categorisation. Again, by comparison, local authorities are required to explain why decisions are categorised as 'Part II' non-public items.

**Q4. What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?**

This will be different for each policing area.

**Q5. What has worked best for PCCs in engaging with the public and local communities?**

Unknown. There is no data readily available that gives an answer to this question. In any event, the question is ambiguous in that it does not indicate



the intended purpose of the 'engagement'; e.g. engagement with the public could be with a view to understanding needs, informing people about plans, seeking feedback on personal performance / popularity, etc. What works best from a popularity perspective may or may not work best with regard to understanding overall needs and impacts on policing and crime in the area.

**Q6. How well are Police and Crime Panels able to hold a PCC to account between elections?**

The ability of a PCP to effectively hold a PCC to account primarily relies on the relationship with the Commissioner and the resources provided to the Panel. For example, in Warwickshire, the PCC has been open and willing to share information and subsequently a positive working relationship has developed. This has greatly assisted the Panel's ability to both scrutinise and support the PCC. Some PCCs are very inexperienced but wise enough to recognise that effective scrutiny is really helpful in ensuring they are doing a good job.

Resources to the PCP are considered to be insufficient. The Panel requires professional support; for example, in undertaking analysis of performance and budgets, in addition to the administrative support (which is all that can be funded from the existing Home Office grant). Elected members on the PCP have other important roles in their local authority and are not granted an extra allowance (in the majority of cases) for their role on the PCP. In many cases, the independent co-opted members do not receive an allowance and the skills for which they were appointed are not valued. A lack of resource ultimately limits the level of activity the Panel can achieve. However, recent events, such as the resignation of the South Yorkshire PCC, have demonstrated the importance of PCPs in holding the PCC to account, which is contrary to the Home Office's initial intention of 'light touch' scrutiny (which is what the Home Office grant can only provide for).

**Q6a. Does the role of the Police and Crime Panel need any further clarification?**

The concept of a PCP both scrutinising and supporting a PCC can be in conflict, particularly if the PCC does not want to be thoroughly scrutinised. And if the majority of a PCP's members are from the same political party as the PCC and may even be former colleagues, there are risks that *scrutiny* may become secondary to *support*. In light of this, the PCP role does need further clarification.

There is no recent guidance to PCPs on *how* they should hold PCCs to account and there are no standards that they have to meet. Revised standards and best practice guidance, based on PCPs *now* (rather than how they were intended in 2012) may improve the effectiveness of PCP scrutiny. Furthermore, the role of PCPs in monitoring police performance is unclear. The PCC holds the Chief Constable to account, and the PCP holds the PCC

to account. The PCP therefore needs to scrutinise how the PCC is holding the Chief Constable to account, needs to know what information s/he has to do this, whether it is sufficient, how s/he uses it and whether s/he is effective in their methods. This in itself is a major task. Some view this as the PCP intruding on the PCC role.

Similar to local government Overview and Scrutiny Committees, the 'power' of the Panel is predominately indirect, via influence and holding the PCC to account. The Panel can make recommendations to the PCC, but ultimately s/he decides whether to accept or reject them. In light of this, the 'power' of the Panel is largely dependent on the interpersonal relationship between the PCP members and the PCC. If a PCC is evasive, unwilling or tardy in providing what a PCP needs, the PCP has limited means of forcing the PCC's hand. For this situation, PCPs need more powers over budgets, appointments, and information, and powers to require the PCC to provide information, not just attend meetings.

While the PCP has limited power in terms of complaints against the PCC, responding to the proposed precept and in Confirmation Hearings for senior appointments to the OPCC, it appears to have significant power when considering Confirmation Hearings for Chief Constables. Although a Panel's decision to veto the PCC's proposed candidate requires a two-thirds majority vote in favour, and would only be used in exceptional circumstances, if a Panel does agree to veto, the candidate cannot be appointed – this is likely to have significant implications for the candidate and for the PCC. There appears to be an imbalance of power when comparing the role of the PCP in this event with their role when considering the precept. Why does the legislation permit the PCC to largely ignore the Panel's veto of the precept but prevent the PCC from appointing a particular candidate for the Chief Constable? This also needs clarification.

The concept of light touch scrutiny promoted by the Home Office is now inappropriate. It seems to have been based on the fact that the PCC is accountable to the electorate; however, turnout and actual numbers voting for any candidate are low. Home Office guidance suggested that PCPs should meet four times a year, but in practise PCPs that take the role seriously have found it necessary to meet more frequently. Many have been required to also establish both standing and time-limited sub-committees to undertake detailed scrutiny work on the PCC's budgets, plans and activities.

**Q6b. How well are the current 'balanced' membership arrangements ensuring effective scrutiny and support of PCCs?**

It is appropriate that all parts of the relevant police area are represented on the PCP and that membership is 'balanced' both politically and

geographically; however, this has implications on a practical level which can, to an extent, hinder the ability of the PCP to effectively hold the PCC to account. Each County, District and Borough Council within a police force area has their own election cycles – this often means that there is an election in at least one area every year. This has implications for the membership of the Panel because: a) following an election, the balance of political parties may change, which means the political make-up of the Panel has to be amended accordingly; and b) members of the Panel who are standing for election may not win their seat or may be appointed to a different role, post-election. Subsequently, the membership of the PCP is inconsistent and there is not a continuity of members. The changes can disrupt the Panel; new members may take a while to understand the role of the PCC/PCP, they will not have the prior knowledge of the PCCs strategies and policies, and they may not have the necessary scrutiny skills to effectively hold the PCC to account. It is worth highlighting here that the co-opted members help to provide continuity when there is a turnover of elected members in May each year.

The requirement to represent the political make-up of the relevant local authorities could also impact on ensuring effective scrutiny and support of PCCs. The PCP is a scrutiny committee and good scrutiny should operate *apolitically* (e.g. ref. the [Centre for Public Scrutiny](#)). In some local authorities there are overt rules to ensure, for example, that the scrutiny committee is chaired by a person who is not affiliated to the same political group as the person(s) being scrutinised; however this does not necessarily make the scrutiny any better – the key requirement is that the chairman is apolitical. Applied to PCPs and PCCs, such a policy might suggest that there could be an argument for the political affiliation of the PCC to be taken into account when determining the political make-up of the PCP; however, unless the legislation required the Chairman to be one of the independent members then the practicalities of appointing an opposition chairman as Chairman might be difficult to apply, particularly if one party had the vast majority of seats in a geographical area. Moreover, as recognised in the CSPL briefing paper, there is inherent tension in the PCPs acting as both accountability and support mechanisms for PCCs, and the best arrangements for one aspect of the dual role might not necessarily be best in relation to the other aspect.

The role of the co-opted members, as independent members of the public, is essential to maintaining a balance and encouraging a non-political approach should that situation arise. The possibility of increasing the number of co-opted members to ensure that there is sufficient representation on Panel sub-committees should be considered. There also needs to be consideration about strengthening the requirement for co-opted members to have particular expertise or knowledge in key areas of criminal justice, such as victim support or probation.

**Q6c. Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?**

It appears to be an appropriate threshold given the gravity of a veto decision in the case of Chief Constable appointments. However, with regard to the precept, PCPs understand that the power of veto is largely symbolic, in that the PCC can respond with a minimal variation (e.g. just 1p) with no further veto possible by the PCP.

**Q6d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?**

The key issue that needs to be considered is how the role/power of the PCP is balanced against employment law. If a candidate goes through a full and robust recruitment process and is then vetoed by a PCP with limited information, would they have a case legally?

The PCP is not an appointments panel and would not necessarily have the skills and resources to fulfil such a role. It is reasonable to expect the PCC to have an audited, robust and objective appointments process, and for the PCP to have (confidential) access to the necessary information during the recruitment process for PCC appointment of senior staff. There needs to be clarity about why the PCP is able to veto Chief Constable appointments (which ultimately prevents the candidate from being appointed) but not able to veto the senior staff appointments to the OPCC and whether the PCPs responsibility or role in either event is appropriate.

The PCC is accountable to the electorate and the Chief Executive and other OPCC staff are appointed through standard appointment processes in line with public sector practices; however, the Deputy PCC is not subject to either of these assessments and is neither elected nor recruited. In some parts of the country the deputy PCC 'earned' the post by working as election agent to the PCC. Such an important post should go under greater scrutiny than that at the point of recruitment. There needs to be consideration about how DPCCs are assessed prior to being awarded the position.

**Q6e. How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?**

Requiring the PCC to sign up to a more robust Code of Conduct may help the PCP to measure his/her personal conduct. At present, PCCs are required to declare an oath which includes: '*I will act with integrity and diligence in my role ... I will take all steps within my power to ensure transparency of my decisions, so that I may be properly held to account by the public. I will not interfere with the operational independence of police officers*'. However, unless the criminal line is crossed, there is little that can be done, which is similar to local authority councillors under the new regime. There is a debate at present regarding granting PCPs powers of recall over PCCs, primarily following the conduct of the South Yorkshire PCC to which the PCP could only take a vote of no confidence. However, no committee or public body

currently has a power of recall of elected members in local government and, ultimately, it is the electorate that determines the future of Councillors and PCCs; that is one of the fundamentals of local democracy.

PCPs should continue to hold PCCs to account for their personal conduct as part of the interaction between the two (i.e. the PCP acting as a 'critical friend') and by enabling members of the public to represent their views to the PCC at meetings (as undertaken by the South Yorkshire PCP – there was a large representation from the victims of Child Sexual Exploitation who presented their experiences and views to the PCC).

**John Austin, Chair of the Association of Democratic Services Officers (ADSO)**

**Contact Details; [REDACTED]**

[REDACTED]

**27<sup>th</sup> November 2014**



## Committee on Standards in Public Life Consultation on Local Police Accountability

### 1. Introduction

The Association of Police and Crime Commissioners (APCC) is the national body put in place to support Police and Crime Commissioners ('PCCs') and a number of other policing governance bodies, such as the British Transport Police Authority. We have circulated to PCCs and other police governance bodies the consultation by the Committee on Standards in Public Life, so that our members are able to let us know their views on these proposals.

This paper summarises the views that police and crime commissioners have sent or copied to us on your consultation – the majority of these responses have also been sent to you direct by the PCCs involved, but are attached to this response as **Annex A** for ease of reference. 14 police and crime commissioners have provided us with their written views, but our response also utilises other information provided through conversations and meetings with police and crime commissioners. The main body of our response highlights key issues, themes and commonalities emerging from these separate responses, but does not seek to repeat the detailed answers to the consultation questions already provided in the individual responses.

### 2. General

- ▶ A number of our members have commented that this inquiry is limited to exploring policing accountability. It does not deal with the other half of the remit of police and crime commissioners in relation to 'crime' and the criminal justice/community safety system. They feel this may be an oversight, because it misses many of the new approaches and innovations they are putting in place in relation to their role as a catalyst for local partnerships, dealing with issues such as criminal justice boards and offender management, mental health, victims commissioning, 'blue light' collaboration and a range of other issues aimed at enhancing services to, and confidence of, the public.
- ▶ Another issue which a number of police and crime commissioners picked up on was that, strictly speaking under the relevant legislation, police and crime panels do not hold police and crime commissioners to account, contrary to the assumption in many of the questions. This is the role of the public, while police and crime panels were put in place to scrutinise and support the work of PCCs.

- ▶ PCCs see an ethical culture, both personally and in respect of the organisations which they oversee, as critical to their accountability and to maintaining public confidence. They do, however, see accountability as a local issue – so they are held to account by the people that elected them in relation to issues that matter locally. Inevitably this means there are variations in local priorities, approaches and practices so that it is tailored to the needs of local communities. For this reason PCCs generally take issue with suggestions that consistency is essential, or that comparisons desirable, or that there need to be national registers or national formats. They see this is inhibiting their relationship with local people and reducing their ability to respond to local wishes.

### 3. Specific Questions

We do not attempt to answer the specific questions set out in the consultation. The responses you have received from our members already provide significant detailed information about what they are doing locally in answer to these questions. However, we do draw out below some issues and commonalities which emerge under key themes addressed in your questions.

#### 1. Accountability/Transparency/Engagement of PCC

##### a. Gaps/innovation in accountability:

- ▶ Several members mention the need to deal with issues around recall through a fair mechanism with appropriate safeguards. This is the subject of a separate submission we are making to the Home Office. The main body of this document (without Annexes) is attached for information at **Annex B** and you will see that there is no universal agreement amongst all our members that recall is necessary. Where it is supported, police and crime commissioners also have differing views on the form that recall should take. Independent members generally favour a process aligned to whatever is put in place for MPs, for instance, but others favour alternative options. However, there is general agreement that if a recall process is put in place, it needs to be evidence based and fair to all, and there is a general feeling that PCCs should not be singled out and a similar mechanism needs to be put in place for all elected officials.
- ▶ There was mention that, if any additional mechanisms are put in place, it is important that these do not frustrate or subvert the primary accountability to local people through a system of regular elections.
- ▶ Several members also mention that the panels' role in scrutinising PCCs could be improved by focussing on professionalising their approach and ensuring better training and support is provided.
- ▶ It is also worth noting that a number of PCCs (some of whom have not responded to this consultation) are putting in place innovative arrangements locally to improve the

accountability of both the force and the PCC to the public - such as residents' panels to scrutinise specific issues, for instance force performance information, or ethics and complaints. Others are looking at developing ways to present complex force performance information on their websites in a way that is easy to understand.

b. Transparency

- ▶ It is evident from the responses to this consultation that a large number of mechanisms are in place aimed at improving the transparency of policing. These vary from place to place, but range from webcasts of meetings/holding meetings in public and arranging 'challenge' events for the public, to making use of social media for information sharing, or publishing papers, reports, registers and related material on PCC websites.
- ▶ In addition to publishing a decision log, which is required under the Specified Information Order, many police and crime commissioners have put more innovative arrangements in place to make decision making more transparent, which range from providing detailed rationale for decisions (often with information on risks, options, implications, or sometimes linked back to public survey results), video footage of public decisions, and, where these relate to commissioning decisions, information on how victims have contributed to design decisions.
- ▶ Many PCCs also see direct engagement with the public as an essential element of transparency, and an opportunity to answer their key questions.

c. Engagement

- ▶ A very large range of different mechanisms for engaging the public are mentioned in the various responses provided by our members. Whilst many observe that 'piggy-backing' on partner meetings, such as those organised by councils and community organisations, often work quite well, many also mention surgeries, street surgeries/super market drop-ins, or local visits/tours. Some have also focused on engaging with specific sections of the population, such as young people, who are otherwise under-represented.
- ▶ Some have developed dedicated phone lines, e.g. for victims to raise issues and, of course, most PCCs use various new media to engage with people as well, including facebook/twitter, web chats, etc.
- ▶ Most have mentioned surveys as a key means of gathering public views, and most have also built links with local media and are often in demand for local radio or TV shows, through which they can enhance contact with the public.
- ▶ Some are also developing contact management systems to ensure emails, letters or other contact is responded to and followed up on, and several have quoted statistics about the scale of correspondence they deal with. We are also aware of other PCCs



(who have not necessarily responded to this consultation directly) who are developing other engagement/information mechanisms, such as 'track my crime' – a web-based facility for victims.

## 2. Role and Powers of Police and Crime Panels

There are mixed views amongst our members about panels. Some have constructive relationships which work well, but others have mentioned significant difficulties in developing effective working relationships with local panels.

- ▶ Whilst the majority of our members were clear on the proper role of panels, and in some areas had formalised this through an agreement or protocol with the panel, some thought there was room for additional clarification to the public and additional guidance and training for panels on their role. However, most PCCs did not think that giving more powers to panels would make them more effective and were opposed to doing so.
- ▶ There were differing views on the effectiveness of panels locally. Some thought the relatively high turnover unhelpful in engendering expertise, others suggested there should be more independent members for continuity, and others thought a system predicated on the makeup of the panel being determined by the percentage of votes for parties across the area as a whole, could be more effective in ensuring political balance. On the other hand it was noted that those that were more effective had developed a business-like approach, which typically included scrutiny projects looking at particular areas of work and were becoming more confident in their role.
- ▶ PCCs generally support the 2/3 majority being retained for elements where the panel has a veto – they think this is working well in practice and see this is a helpful safeguard to ensure a significant power is not misused, or based on a politicised or parochial approach.
- ▶ In relation to any proposed powers for the panel to veto the appointment of senior staff, although a small minority of the responses would favour panels having this power, the majority would not. Generally the reason for this was that the PCC as a corporation sole must have the ability to hire and fire its own staff, and the staff must be accountable to the PCC, not an external entity.
- ▶ Most responses thought the panel should have a role in monitoring the personal conduct of the PCC. This should enhance public confidence and is consistent with the existing statutory role in relation to complaints against the PCC. This would involve panels looking at whether the PCC had acted in accordance with their local ethical framework or other relevant conduct statements and policies – although the PCC's monitoring officer would also have a role in ensuring compliance.

### 3. Relationships with Chief Officers

- ▶ The majority of members that responded were very clear on the boundaries between their role and that of the local Chief Officer, although most felt their post bags showed that the public were sometimes not clear – particularly on the inability of the PCC to interfere in operational decisions or take a direct role in force complaints. However, generally it was felt that understanding is growing as police and crime commissioners respond to issues referred to them by the public.
- ▶ There will remain grey areas, which are not clearly either operational or strategic, but a mixture of both, where the key to success is a mature and constructive relationship between the PCC and the chief, in order to achieve the best outcomes for the public – this might include issues, such as force restructuring or the closure of local police stations.
- ▶ There are a few PCCs that are concerned that panels did not fully understand the different roles, and particularly the extent to which they were able to scrutinise the force, rather than the PCC, although the general perception is that panels are now becoming more knowledgeable about this.

### 4. Audit

- ▶ Nearly all PCCs responding thought the joint audit arrangements worked well – and indeed that trying to unpick the arrangement at this stage would be extremely difficult, since it was a structure designed to audit a single budget, which is held by the police and crime commissioner – the majority of it being passed to the force to spend under consent arrangements and within an agreed corporate governance framework.
- ▶ None of the PCCs that responded thought there was any problem with their staffing arrangements in relation to their chief finance officers – although none shared a chief finance officer with the force. There was one area, however, where two PCCs shared a chief finance officer, and commented that this seemed to be working well and had not encountered any conflicts of interest.

### 5. Ethics and Integrity

- ▶ PCCs that responded pretty much universally thought that leadership in an ethical context was about ensuring public confidence through setting an example to others and enabling and embedding a culture of ethical behaviour throughout the organisation. Most cited examples of how they were putting this into practice locally.
- ▶ In relation to their own ethical standards most responses mentioned local ethics frameworks, statements or codes which PCCs had signed and published, setting out how they will adhere to their ethical responsibilities. Some responses also mention conduct

frameworks and training for OPCC staff, or senior leadership development events, both of which are designed to promote and embed ethical values. Where PCCs have set up an ethics committee or similar, it often has a role in advising the PCC on ethics issues, including measures to improve the application and impact of codes and frameworks.

- ▶ In relation to PCC oversight of the force Code of Ethics, most noted that mechanisms to influence and embed this in forces was at a relatively early stage, given that the Code had only been formally published a little over six months ago. Many mentioned their awareness of the steps that their force were taking to train or run workshops for police officers and staff about the new Code, although there was some comment that the realities of the situation are that this needs balancing against competing demands on workload in the current financial situation. Most also mentioned mechanisms through which they can challenge and monitor force progress on embedding the Code. In some cases this is through a joint PCC/force ethics committee, in others it is through OPCC staff sitting on force ethics boards to monitor progress.
- ▶ Most PCCs think that the responsibilities placed on them to publish 'proprietary' information, expenses, registers of interest, gifts and hospitality are already more than adequate, if not onerous. Some have arranged audits of their compliance, and some go beyond the strict legal requirements already (for instances in relation to publishing all expenditure of the OPCC, not just that above a certain limit). Most are acutely aware that the main point of publishing all this information is so that local communities will find it helpful in understanding what PCCs are doing, so they can hold them to account. They see the legislative requirements as not always supporting this primary purpose, and sometimes a burdensome ask of a relatively small team of staff. The requirement to publish all expenditure of the OPCC over £500 they find particularly difficult, as this includes a requirement to publish the whole contract where the figure is over £10,000, or provide a digest of the purpose/terms/parties, etc, where it is not, as well as a requirement to publish historic information on contracts. Several also mention their concerns about 'national' registers for the reasons set out under the 'General' section.
- ▶ In relation to information or other measures which have helped PCCs to resolve conflicts, most responses refer to a range of local documents which help to guide them in navigating this area. This includes things like local Standing Orders or Constitution, Governance/Consent/Delegating Frameworks, codes of conduct/ethical frameworks, whistleblowing policies, Financial Regulations, and various protocols. They are aware of the need to consider conflicts of interest in making decisions, but most respondents do not seem to have encountered a problem with conflicts of interest as yet, and have not therefore been able to supply examples of how issues have been resolved. It should also be noted, of course, that staff within the OPCC, particularly the monitoring officer, have a role in preventing conflicts of interest.

## 6. Conclusions

A collated response on behalf of police and crime commissioners cannot do justice to the range of local structures, innovation and other arrangements they have put in place. However, their individual responses are attached, which will go some way to illustrating the great diversity of approaches.

Nevertheless, we hope the summary of key themes and issues which emerge from the individual responses and are set out in this collated response are a helpful overview.

If you have any queries on the document, please get in touch with Cat McIntyre

[REDACTED]



## APCC Report

### Tenure of Office of Police and Crime Commissioners

#### 1. Introduction

This paper sets out the views of police and crime commissioners on certain changes that could be made to their tenure of office, particularly matters concerning any proposed powers of recall. The Home Secretary has suggested that police and crime commissioners should have an opportunity to express their views on this matter.

This report represents the views which police and crime commissioners have expressed to the APCC, both through a written consultation exercise, and through an extensive discussion of the matter at a meeting for police and crime commissioners on 18 November 2014. Where police and crime commissioners have provided written responses, these are set out in **Annex A**.

However, it should be noted that the Independent Police and Crime Commissioners have expressed a wish to opt out of this report and have already written separately to the Home Secretary. This letter is set out in **Annex B** for ease of reference. As a consequence of this, any individual responses which were originally forwarded to us by Independent members are not included in Annex A, as this has been superseded by the letter which they signed at Annex B.

However, this report has not relied wholly on written responses and also reflects other discussions which have taken place with police and crime commissioners about this issue.

#### 2. Background

Recent events have highlighted some concerns in relation to ending the term of office of police and crime commissioners prematurely, or during periods of incapacity where a police and crime commissioner is unable to fulfil his/her duties, under the current legislation. Primarily, this has related to events in South Yorkshire, but there is also some learning from the West Midlands in relation to the death of Bob Jones during his term in office, and other areas where the commissioner has been taken ill for a significant period of time.

In addition, the Home Affairs Select Committee issued a report on 18 October following up on an earlier report it had issued on child grooming in Rotherham. The follow up report examined in particular the institutional response in Rotherham and the accountability of PCC and senior council members, and one of its key recommendations is that PCCs should be subject to a power of recall. The report recommends that recall should be triggered by either the Police and Crime Panel or a local authority representing at least half the population in the area passing a motion of no confidence in the PCC. Where it has done so, there must be a petition of local voters and at least 10% must support the removal of the PCC to trigger a by-election for the PCC. The



report publishes a draft Bill to this effect as an annex, but does acknowledge that there are a number of possible methods by which this could be done and that more discussion is needed.

The APCC consulted police and crime commissioners on a number of possible options about how these issues could be resolved and what options they would want to see in any final report which is submitted to the Home Office setting out their views.

### 3. Current Legislation

This section sets out the key issues which have become apparent through recent experience, in the application of the current legislation, which could be addressed in suggesting options for change.

- ▶ The current legislation only allows for the term of office of a police and crime commissioner to be terminated prior to the next election period for commissioners in very limited circumstances. These are broadly circumstances where the commissioner resigns, dies, becomes incapacitated for more than six months, or becomes disqualified (this includes the commission of a criminal offence carrying a maximum sentence of more than two years, but also includes a number of criteria related to bankruptcy and similar issues).
- ▶ Current legislation makes no provision for termination in other serious circumstances, for instance where an individual brings the office of police and crime commissioner into disrepute. The inability to take action in these circumstances has caused significant media and public comment recently, which arguably damages the reputation of all PCCs.
- ▶ Once a vacancy in the office of police and crime commissioner has been declared – for whatever reason – this automatically triggers a by-election (except where the vacancy is very close to the next period for the election of PCCs). Although this is totally in line with democratic principles, it has been criticised as an expensive mechanism to use, particularly when turn-out has been very low.
- ▶ Recent experience has also demonstrated some problems with the current provisions about appointing Acting PCCs, where the commissioner is unable to fulfil functions, or during the period before a by-election when a commissioner is no longer in office. These concerns are primarily about:
  - The capacity within small PCC Offices to provide a suitable acting PCC where there is no deputy PCC (bearing in mind that the legislation currently provides that an acting PCC must be appointed by the Panel from amongst the staff of the PCC);
  - A possible conflict of interest, where the acting PCC is not a Deputy, between the politically restricted role of other staff members and carrying out a role which is inherently political, particularly if these arrangements are in place at the time of year when an acting PCC has to set the precept. There is a similar potential conflict



in relation to carrying out executive functions, if the acting PCC is the chief executive and therefore also monitoring officer;

- The varying ability of Police and Crime Panels to respond swiftly in appointing an acting PCC, and the lack of definition or guidance about when the point of 'incapacity' is reached (at present this is entirely at the discretion of the police and crime panel) if a commissioner is ill or otherwise unable to carry out their role.

#### 4. Consultation on Possible Options

The consultation document which the APCC circulated to police and crime commissioners, and which also formed the focus of the debate on 18<sup>th</sup> November, focused on 5 key questions:

- a. *Whether there should be additional defined criteria for triggering action which might lead to termination of a police and crime commissioner's term of office?*

The consultation paper had suggested additional grounds might include:

- i. Bringing police and crime commissioners into disrepute;
- ii. Causing a significant loss of public confidence in police and crime commissioners;

but also asked if other grounds should be considered.

- b. *Who should have the power to trigger action which might lead to termination or recall?*

The paper suggested the following bodies as being candidates for exercising this power:

- i. The Police and Crime Panel
- ii. The Home Secretary
- iii. The Home Secretary on advice from the Police and Crime Panel
- iv. The public – through a power of recall

but also asked if any other bodies should be considered.

- c. *What provisions should be put in place to safeguard the appropriate use of the power to trigger termination or recall?*

Depending on who should have this power, the paper suggested a number of safeguards might be considered including, powers being dependent on receiving a supporting opinion from a defined independent body or bodies, being dependent on a 2/3 majority, being dependent on public surveys, being dependent on meeting a minimum percentage of electorate in relation to petitions to either initiate or complete recall action, measures to guard against electoral fraud, particularly in on-line petitions, and rights of reply for police and crime commissioners.



- d. *Whether a by-election should be automatically triggered when a PCC leaves office, or whether PCCs and Deputies should stand on a joint ticket to give a Deputy the mandate to carry on as the PCC for the remainder of the term when a PCC leaves office*
- e. *What changes police and crime commissioners would like to see in the current arrangements about Acting PCCs?*

Options suggested in the paper included widening the pool of candidates to look outside the PCCs office, specific provision to exempt the holder of a politically restricted post from those provisions when acting as an Acting PCC, guidance to clarify the point at which 'incapacity' is reached, and mechanisms to speed up Panel appointment of an Acting PCC.

## 5. Police and Crime Commissioner Views

Police and Crime Commissioners have expressed a range of different views on the questions asked – and indeed on a number of issues where there were no specific consultation questions. There are a number who are sceptical that it is advisable to produce an APCC report on this subject because of the wide range of different views expressed, and as noted earlier, the Independent Police and Crime Commissioners have opted out of this report. However, the range of views expressed is set out below.

### 5.1 Should the Legislation be Changed?

Firstly, there are some police and crime commissioners that take issue with the concept of changing legislation on the basis of one exceptional experience. They point out that, in fact, the existing system worked in the end, as the police and crime commissioner in question resigned due to public pressure. There are three key points, in particular, they would wish to make in this regard: that Parliament almost never legislates to regulate exceptional circumstances, because of the grave difficulties inherent in defining what these exceptions should be; that if recall provisions based on public petitions had been in place at the time, the commissioner concerned would almost certainly still be in office, as any petition of the electorate would be unlikely to have gained the percentage required; that the public already has a right of recall in the form of elections held every four years for police and crime commissioners. There is also some nervousness that having a power of recall will provide a disincentive to police and crime commissioners making difficult, and sometimes unpopular, decisions.

Other police and crime commissioners believe it is important to address this issue in order to retain the confidence of the public, and believe this is particularly acute if they are in future to take on wider powers in relation to the criminal justice system. In addition, they point out that commissioners, unlike most other elected politicians, exercise considerable executive powers. This arguably implies an additional reason why public confidence must be maintained, but it also means that uncertainty over the future of a police and crime commissioner leaves those executive powers in limbo, while attempts are made to resolve issues through non-legislative





means. This potentially paralyses effective decision making and the administration of policing and crime prevention services, if this situation endures for any length of time.

These commissioners have suggested that the APCC report to the Home Office should set out key principles, based on practical approaches, such as:

- What is the trigger – how can this be formulated, so that it is evidence based?
- Once triggered, how is it possible to achieve a decision/result based on facts and evidence?
- How can the professionalism of panels be improved, if they are given a role in the process, so they are able to make decisions on the facts?
- How will the provisions be fair to all and encapsulate a right of reply/appeal for PCCs?
- How will effective safeguards against misuse/abuse be incorporated? (In some areas panels are very political and concerns were expressed about abuse of the system for political purposes.)

## 5.2 Key Criteria/Grounds for Triggering Action

The APCC consultation paper for police and crime commissioners, set out two key suggested grounds, as set out below, but also invited comment on whether there should be other criteria:

- i. Bringing police and crime commissioners into disrepute;
- ii. Causing a significant loss of public confidence in police and crime commissioners;

In their responses, police and crime commissioners gave a range of different responses on this point:

- a. While some did not express a view, a number of commissioners thought that additional grounds should not be created, given the difficulties of defining these effectively;
- b. The majority that responded thought a proper and robust legal framework within which recall provisions could be enacted was important, including specific reasons for triggering the process, the role of the various players, the process to be used, strong safeguards and a right of appeal/answer for police and crime commissioners;
- c. Whilst there was some support for both of the grounds suggested in the paper, several commissioners noted the difficulties in ensuring these were defined adequately – particularly in relation to the concept of loss of public confidence. The concept of bringing a particular office into disrepute is slightly less problematic, as this is used in other areas of employment law and is a clear and objective test. However, an alternative approach suggested by one commissioner was that grounds should be formulated around exemplar instances, set out in detailed guidance, rather than strict criteria;



- d. The need to ensure that any additional grounds were factual and evidence-based was stressed, as was the need to incorporate mechanisms that would guard against misuse or abuse in interpreting these grounds.

### 5.3 Who Should Have Powers to Take Action?

There were also a range of different views on this area – and there is some distinction to be made between who can trigger action and who can make a final decision, since in many scenarios, this is a two or three stage process. The key options put in the consultation paper about who might trigger action were:

- i. The Police and Crime Panel
- ii. The Home Secretary
- iii. The Home Secretary on advice from the Police and Crime Panel
- iv. The public – through a power of recall

Broadly the views of police and crime commissioners fall into two separate groups:

- Those who think powers should broadly be vested in the Police and Crime Panel, with safeguards
- Those who think powers should be vested in the public, with safeguards – including those who feel that PCCs should follow whatever is put in place for MPs and other elected officials.

There are a few police and crime commissioners that take a different view, which is discussed in more detail below. However, of those that favour one of the above four options, opinion is roughly equally divided between whether the decision to trigger should rest with panels or the public, although many contemplate a mixture of the two at different stages. The following key themes emerged from written responses and discussions:

#### *a. Where the Police and Crime Panel has Powers*

PCCs recognise that Panels have an existing role both in scrutinising commissioners, dealing with complaints against commissioners, and in terminating their office for the limited reasons allowed under current legislation. If additional reasons for termination or recall are to be added, then a role for the panel in either triggering or deciding action would be consistent with current practice.

Panels have the advantage of being local and understanding local context. They also, arguably, are more likely to look at the facts than media hype. However, there are a number of police and crime commissioners that feel they are not as professional as they ought to be. One commissioner suggested (with some support from others) that their



training and support should be improved to enable panel members to be able properly to interpret an evidence base, and that any additional responsibility which might be given to them to trigger or escalate action should be dependent on improved panel capabilities. It was also suggested that some panel members have conflicts of interest, such as membership of CSPs, which should be prevented if they are truly to play an unbiased role. If these difficulties could be overcome, then the suggestion was that panels might operate something akin to a disciplinary process for police and crime commissioners, with verbal and written warnings, before escalating further.

Against this, however, a significant number of police and crime commissioners feel that in their locale, panels are politically motivated, biased and often not fulfilling their duty to co-operate with the police and crime commissioner. In these circumstances, many commissioners feel it would be unhelpful to place further powers in their hands.

Of those that favour a role for panels, the majority think they should be involved in triggering the process, but with the final decision taken elsewhere – mostly by either public petition or by the Home Secretary (subject to certain safeguards set out later in this paper).

However, a few think the entire decision should lie in their hands, and some also think they should play an interim role of escalation between initiating action which is taken elsewhere, and a final decision taken elsewhere.

The issue of the proportion of the vote that would be needed for panels to take action is discussed under the section on safeguards.

#### *b. Where the Public has Powers*

Many police and crime commissioners believe that the power should ultimately rest with the public, who elected them in the first place, and that anything else would not have democratic legitimacy. In addition several commissioners note that whatever is put in place for MPs and/or other elected posts should be followed by police and crime commissioners, since this would give consistency across the board and would be more easily understood by the public.

Against this, however, there is some concern that PCCs are not directly comparable to MPs, in that they exercise executive powers, and a lengthy process involving several stages of public petitions, followed by elections, could paralyse PCC offices to the detriment of policing, crime and the public. In addition, several police and crime commissioners are nervous that the public will not find it easy to distinguish media hype from fact and might, therefore, not be best placed to make the decision.

Many, but not all, police and crime commissioners that favour a change in the current legislation, see the public as having some part in the process – either in triggering action (perhaps through either petitions or surveys) that are sent to the panel – or through having



the final say, by way of a petition. Some see the whole process being in the hands of the local electorate, in the same way as contemplated for the recall of MPs.

Issues around the appropriate percentage of the public that should sign petitions are dealt with under the section on safeguards.

*c. Other Views*

Whilst agreeing that the process of activating recall measure needs to be local and democratic, there are a small number of police and crime commissioners that believe these principles are consistent with giving a role to local authorities. This would be based on a vote of all the local authorities in the area. The argument for this is that, particularly where there is more than one local authority, this would guard against politicisation of decisions, in a way that might not be possible if panels were to have the decision.

At least one PCC wondered if Parliament should also be added to any list of bodies that might have powers to terminate or trigger recall – this would have the value of being consistent with the process for MPs.

#### **5.4 What Safeguards Should be Put in Place?**

The consultation paper made a number of suggestions in relation to safeguards, according to who was making decisions. Broadly these included issues like:

- A specific proportion to vote in favour whether panels or local authorities had a role
- The need to show significant public support where the panel had a role
- The power to be dependent on an independent opinion from a specific body where either the panel or Home Secretary had a role
- Where the public has a role, the appropriate percentage of the electorate that would need to sign a petition or complete a survey
- How electorate fraud can be guarded against where the public has powers.

*a. Where the Police and Crime Panel or Local Authority has Powers*

- Many PCCs thought there should be a 2/3 majority in any decision where the panel or local authority exercised powers in relation to recall, whether to trigger, decide, or escalate the issue. Some pointed out that this needed to be a 2/3 majority of the entire panel, not just those present.
- As mentioned earlier, there were some police and crime commissioners who thought any additional powers for the panel should be dependent on professionalising the panel through improving training and support for members, and dealing with conflicts of interest.

- Commissioners generally support an evidence based process, and a few thought any panel decision should be subject to an independent opinion/assessment.
  - Several saw the Home Secretary having a role in deciding a panel recommendation, but noted the need to make this evidence based again. Police and crime commissioners that favoured a role for the Home Secretary as final arbiter thought this would have the advantage of ensuring national consistency in how an evidence base was interpreted.
  - Several also thought the panel would need to show significant public support before taking action, for instance through public surveys or petitions.
- b. Where the Public has Powers*
- The key issue here was the appropriate percentage of the public that would need to show support to enable action to be taken. The majority that supported this approach and stipulated a figure, favoured around 20% of the electorate. Some merely expressed this in terms of being a high enough proportion to guard against single issue campaigns, while others just commented that the 10% suggested by the Home Affairs Select Committee might be too low, and some thought this should be in line with the recall powers for other elected offices, once these measures are decided.
  - A few commissioners commented on various issues that would need to be assured if surveys were undertaken, ranging from the proportion of the electorate that should be surveyed to the robustness of the approach, including issues like methodology, consistency in questions asked, etc.
  - In relation to petitions, there was concern to ensure that this was limited to the local electorate. There was some discussion about whether enabling this on line would overcome some of the bureaucracy and expense involved in organising petitions, but also concern that this could leave greater scope for fraud. However, at least one PCC was keen to see whether this had potential to draw out issues that could ultimately shed light on how elections could be enabled on-line.
- c. Other Safeguards*
- Several police and crime commissioners noted the need to include in the process, whether the decision lay with the panel or with the public, some mechanism to enable them to have a right of reply/appeal in relation to allegations made against them. This relates back to the earlier principle discussed of ensuring the process is evidence based.



### 5.5 By-election or Joint PCC/DPCC Ticket?

There were also mixed feelings amongst our members about whether, when a PCC's term of office terminates, a by-election should automatically be triggered, as per current legislation, except where it is very close to the next PCC election date - or whether police and crime commissioners should stand on joint tickets with deputies, to give deputies democratic legitimacy to serve out the rest of the term and avoid a by-election.

Those that responded were roughly evenly split between whether standing on a joint ticket should be voluntary or compulsory. Those that favoured this approach were conscious of the cost of additional elections and the unpopularity with the public of 'unnecessary' elections. It would also overcome difficulties about who to appoint as an acting police and crime commissioner (see chapter below) in the period before the election could take place, as leadership would automatically pass to the deputy, and obviate the need for appointing an acting police and crime commissioner.

Others thought this should be voluntary and a choice for the local PCC candidate or party, as any scandal involving a PCC may also embroil a deputy and make both positions untenable, requiring an election in any event. They generally thought the electoral mandate of the new police and crime commissioner would be strengthened if the public had an opportunity to vote, in a way which would not be possible if the new commissioner was the old deputy, who might be seen as tainted. However, as noted above there were some who wondered if commissioners could lead the way in enabling on-line elections, which would significantly reduce costs.

On the subject of elections, several police and crime commissioners made the point that, in general, the election periods need re-thinking to tie PCC elections to other national elections – either general elections or euro elections, to improve turn out. Even if linked to local elections, these do not take place in all areas, and the fear is that turnout will remain low unless PCC elections take place at the same time as national elections. This is in part due to the size of PCC electoral areas meaning that in some, relatively few councils go to the polls in the same year and many councils do not have an 'all out' policy.

### 5.6 Acting Police and Crime Commissioners

The consultation paper noted that there was anecdotal evidence that the provisions about acting police and crime commissioners could be improved. In particular there were concerns about:

- The capacity of small OPCCs to free-up the chief executive to take on this role
- The possible conflict in switching from a politically restricted post to an inherently political post for any senior members of the OPCC staff



- The similar conflict problem in switching into an executive role from a monitoring officer role for chief executives, and the need to appoint a separate monitoring officer within the staff
- The lack of clarity about when the point of 'incapacity' is reached, where a commissioner is ill, which would require the appointment of an acting PCC
- The lack of clarity about whether a deputy can serve as the acting PCC until an election takes place, when their appointment is tied in law to the term of appointment of the PCC – does the term of appointment finish when the PCC stands or down, or when the election takes place?
- Putting in place mechanisms to speed up the ability of the panel to act swiftly in appointing an acting PCC.

There was some general support for looking again at this issue, although sometimes for different reasons. Some police and crime commissioners were concerned about conflicts for their staff, whilst others were concerned about capacity – but both thought the panel should be able to look more widely than the staff of the OPCC in appointing a suitably qualified person to undertake an acting role. It was noted that there would be conflicts for panel members in taking on the role, as much as there were for staff and, at least one police and crime commissioner suggested that a neighbouring police and crime commissioner might be best placed to do this on a temporary basis.

One also mentioned a need to look again at what an acting police and crime commissioner could do and felt that overtly 'political' tasks, such as setting the precept or altering the police and crime plan should only be done with the approval of the panel.

Most supported some clarification of the other issues raised in relation to 'incapacity' and appointing deputies as acting PCCs, and there was support for ensuring panel mechanisms were speeded up.

## 6. Conclusions

Clearly there are a wide range of views emerging from our members, and the key issues which they raised are as follows.

1. There is a significant minority that do not believe any change in the current legislation is required, as discussed at paragraph 5.1. However, there are also a significant number that think it is important to change the law to maintain public confidence. Both think it is important that the Home Office hears their voice.
2. Of those that support change, although there is some variance of opinion on the exact process, all are agreed that it needs to be formulated around key principles, the most important of which is that it should be evidence based, fair and guard against misuse/abuse.



3. In relation to the criteria for triggering action, there was a mixture of views between those that thought these should not be defined, because of the difficulties of doing so without creating unintended consequences, and those that thought a firm definition should be part of a rigorous framework. There was more support for formulating the criteria around bringing the office into disrepute, than there was for causing a loss of public confidence, because the former is a term familiar from employment and is a clear and objective test, which aligns to the principle of an evidence based process.
4. In relation to who should have the powers to take action, members were roughly evenly split between the police and crime panel and the public, although several saw a role for both in a two or three stage process. Those that supported the public having the major role generally thought this was more consistent with democratic principles and were often nervous about the possible misuse of powers by panels. Those that supported panels in having the key role noted that this was consistent with existing provisions about terminating the office of the police and crime commissioner, and thought they were more likely to take decisions on an evidence base and less likely to take media hype as their guiding information than the public. There was some support for ensuring consistency of process across democratic offices, aligned to whatever is put in place for MPs. There were one or two police and crime commissioners that suggested completely different options, as set out in paragraph 5.3.
5. There were a number of suggestions about safeguards to any process of recall. The most important of these were suggestions that the panel vote should be on a 2/3 majority; that the panel should be able to demonstrate significant public support before taking action; and that panels should be professionalised to enhance their ability to interpret evidence. The safeguards suggested in relation to the public having a greater role included petitions having to demonstrate a percentage of support of the electorate – 20% was the most frequently mentioned – and measures to guard against electoral fraud. It was accepted this was particularly difficult if provisions were put in place to explore an on-line voting facility to help reduce costs.
6. Members were roughly evenly split about whether police and crime commissioners should have to stand on a joint ticket with deputies or not.
7. There was some significant support for looking again at the provisions about Acting PCCs and the other related issues mentioned in paragraph 5.6, including widening the pool from which Acting PCCs can be drawn, clarifying when the point of ‘incapacity’ of a police and crime commissioner is reached, and clarifying the position of deputies in becoming Acting PCCs where a commissioner has already stood down.
8. As note earlier, the Independent Police and Crime Commissioners have submitted their collective view to the Home Secretary separately. They broadly support PCCs following whatever is put in place for MPs recall.





Although there is no clear direction of travel emerging from the views of our members, there are a number of common themes. We hope this paper is useful nevertheless, and if you have any queries on the document, please get in touch with Cat McIntyre

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APCC Secretariat  
November 2014

## **Committee on Standards in Public Life**

### **Local Policing – accountability, leadership and ethics**



### **Response from the Association of Policing & Crime Chief Executives (APAC<sup>2</sup>E)**

## RESPONSE TO CONSULTATION

### Local Policing – accountability, leadership and ethics

#### Introduction

1. The Association of Policing and Crime Chief Executives (APAC<sup>2</sup>E) is the professional body which represents chief executives and other senior staff within the offices of Police and Crime Commissioners (PCCs) The Association's objectives are to:
  - provide professional support and development for its members
  - liaise and work closely with government departments and relevant policing bodies
  - provide a forum for professional debate
  - represent and promote the interests of members to key stakeholders
2. Chief executives support and advise Police and Crime Commissioners. Our response is derived from the advisory and technical role which chief executives perform, particularly with regard to the delivery of PCCs' Policing and Crime Plans and effective governance for both policing and PCCs' wider role. As such our response is limited to those aspects of the consultation directly affecting a PCC's role.
3. We are grateful for the opportunity to respond to the paper and we have a few specific comments that we hope will assist.

#### General observations

- i. Are there any gaps in the existing mechanisms for holding PCCs to account?*
  - ii. What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?*
  - iii. How are PCCs ensuring transparency in their decision making?*
4. The existing mechanisms for holding PCCs to account are considerable. They are directly accountable to their communities through the democratic process which is probably the purest form of electoral accountability and offers the most direct relationship between the public and the police. They are also accountable through traditional and social media. The visible and individual nature of the PCC's role invites a level of scrutiny of standards and conduct in a way not seen in many other public bodies. Additionally, they have extensive duties to regularly publish information about their decisions and actions, predominantly prescribed through the Elected Local Policing Bodies (Specified Information) Order 2011 as amended. PCCs actions and decisions are also publically scrutinised by the Police and Crime Panel.

*iv. What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?*

5. PCCs ensure transparency in their decision making by publishing them on their websites, and, where appropriate, publicising those decisions through traditional and social media. Each decision may also be accompanied by the rationale and information used to make that decision.
6. As indicated above, the information PCCs are required to make available to the public is set out in the Schedule to the Elected Local Policing Bodies (Specified Information) Order 2011 as amended. The relevant part is attached as an Appendix for ease of reference. Compliance with this enables PCCs to be very transparent and therefore easily held to account by the public they serve.
7. HMIC inspection reports are also available; offering the public the opportunity to look at in depth findings and key recommendations relating to the force. However, as HMIC only focus on the policing element of the PCC's role, many PCCs when publishing their annual report, highlight progress made by the PCC in all areas of their responsibility.
8. The volume of information required to be published is very extensive, both in its depth and breadth. There is so much information published there is the risk that members of the public will be unable to locate what they are looking for.

*v. What has worked best for PCCs in engaging with the public and local communities?*

9. Many PCCs have found that meeting the public and local communities is best achieved through attending pre-existing meetings such as formal meetings of the local council, social and charitable organisations, and informal gatherings such as fairs, fetes and social events. PCCs work closely with statutory, community and voluntary partners who also represent the public and communities. In addition, some PCCs hold joint open days with their force or community safety partners which are an effective way of making both the PCC and the police more accessible to local communities. Traditional and social media, and questionnaires are effective at engaging with certain sections of the public. However their reach is not comprehensive and taking a holistic approach will enable engagement with as wide a cross-section of the public and local communities as possible.
10. An advantage that PCCs have over the former police authority, is the ability for more flexibility to respond to public problems and issues when they are raised in public. PCCs can make many decisions more quickly and easier than if each issue had to be brought before a police authority committee. This ultimately means they are seen making a difference to individuals within a meaningful time scale.

*vi. How well are Police and Crime Panels able to hold a PCC to account between elections?*

*a. Does the role of the Police and Crime Panel need any further clarification?*

*b. How well are the current "balanced" membership arrangements ensuring effective scrutiny and support of PCCs?*

- c. Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?*
- d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?*
- e. How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?*

11. The Police and Crime Panel has a clearly set out role. However, there is evidence of confusion about the Police and Crime Panel's functions and role among the police, the public and, at times, the Panel itself. It is not a statutory function of the Police and Crime Panel to "hold the Police and Crime Commissioner to account". The Police and Crime Panel must, in public, review or scrutinise decisions made, or other action taken, by the PCC in connection with the discharge of the commissioner's functions<sup>1</sup> and must exercise the functions in Schedules 1, 5 and 8 of the Act. The Police and Crime Panel must exercise its functions with a view to supporting the effective exercise of the functions of the PCC for that police area.
12. It is the electorate that holds the Police and Crime Commissioner to account, and it is the panel's responsibility to scrutinise and support. This gives Panels adequate standing to challenge a PCC for their standards of personal conduct. Further guidelines as to how the panel should scrutinise and support would be useful.
13. A weakness in the current system is the regular turnover of membership in Police and Crime Panels, due to the regular nature of elections, and changes in nominations from large numbers of constituent local authorities. This means that some members gain more experience and are more effective than others. Consequently, Police and Crime Panels would benefit from better support than host authorities are able to provide within the inadequate resources available to them for this purpose.
14. The current membership thresholds requiring a two thirds majority to veto a proposed precept or appointment of chief constable are workable. Given the processes prescribed for the recruitment of chief constables, any veto of such appointments will be very unlikely and very hard to justify. If it were too easy to veto a proposed precept, the power would emasculate the democratic mandate of a commissioner, thereby fundamentally undermining Parliament's intention.
15. There is a low level of public engagement with panels. While their meetings are held in public and advertised in advance, the Police and Crime Panel attracts few if any members of the public to its meetings. The few who do attend are generally being drawn by individual complaints.
16. As for the power to veto PCC appointments of senior staff, this means the Deputy Police and Crime Commissioner, and the statutory officers, namely the chief executive and the chief finance officer. The first of these is a unique role, being free of the two key statutory restrictions that apply to other senior local government staff including the Police and Crime Commissioner's chief executive and chief finance officer. These restrictions are the requirement to be appointed

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<sup>1</sup> Police Reform and Social Responsibility Act 2011 s.28(2)

“on merit”<sup>2</sup> and the disqualification and political restriction of certain officers and staff imposed by the Local Government and Housing Act 1989<sup>3</sup>.

17. The other two posts (chief executive and chief finance officer) are critical to the effective management of their Police and Crime Commissioner’s strategic planning and executive functions. They also play a key role in ensuring the probity and regularity of the management of the Police and Crime Commissioner’s affairs. These post holders also provide continuity across changes in the Police and Crime Commissioner.
18. While these two posts should be occupied by people with the proper qualifications and experience – a matter in which the Police and Crime Panel have some limited oversight – it is hard to see how the important working relationships could be achieved if the Panel was in a position to veto the Police and Crime Commissioner’s choice. It is also difficult to see how, practically, any such veto might work. For example, how many times might it be deployed, against what criteria would the panel interpose themselves between employer and potential employee, and how would they be reliably assessed? Etc. Such a power would also be inconsistent with the statutory functions of scrutiny and support that panels currently have and would allow ‘mission creep’ towards de facto police authorities.
19. The Committee may wish to examine how confident the incumbents of these key statutory roles feel in discharging their duties and how far they provide reassurance and impartiality in the eyes of the police, partners and the public<sup>4</sup>.
20. There are problems with the arrangements for complaints about a Police and Crime Commissioner. Hence, the current legislation and procedures are the subject of a significant review by the Home Secretary. The role of the Independent Police Complaints Commission (IPCC) is ill suited to the swift, participative and balanced resolution of complaints about PCCs and their deputies. Is it appropriate for appointed and unelected commissioners to investigate the alleged conduct of publicly elected ones?
21. In terms of other measures for regulating conduct, when Parliament required all PCCs to appoint a statutory chief executive it also provided for this person to be the Police and Crime Commissioner’s monitoring officer. This is a key role derived from local government but, in the context of the Police and Crime Commissioner, it has very few express responsibilities within the context of PCC complaints; this is an area that could usefully be reviewed.
22. In addition, the former Chair of the Association of Police Authorities and the Chair of the Association of Police Authority Chief Executives invited the Minister for Policing and Justice to consider requiring all elected PCCs to declare an oath before taking up office. The proposed oath was accepted by ministers and was subsequently made part of the statutory attestation process for all PCCs. Our view is that the importance of both the public declaration of the oath and the

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<sup>2</sup> Section 7 of the Local Government and Housing Act 1989, removed in the case of the Deputy Police and Crime Commissioner by the Police Reform and Social Responsibility Act 2011 sched 1, para 8(4)

<sup>3</sup> s.1 – the Deputy Police and Crime Commissioner is expressly excluded.

<sup>4</sup> The Association of Policing and Crime Chief Executives and the Police and Crime Commissioners’ Treasurers’ Society would be able to assist if required.

application of its content has been borne out over the first two years of the new governance arrangements and these could usefully be given greater prominence in the future.

*vii. Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?*

23. The majority of the population appear to understand the difference in roles between the PCC and Chief Constable. There will always be the occasional individual who writes to a Commissioner on a purely operational matter, but the difference in roles is easily explained. The public can get confused by the approach of the news media who frequently refer to the Police and Crime Commissioner as the local “police chief”, “crime Tsar” or similar description. Whilst it will always be helpful to take opportunities to explain the difference in roles to reinforce communications and maintain understanding locally and nationally, no further clarification or guidance is required.

*viii. According to the Financial Management Code, Audit Committees should ‘advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.’ How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?*

24. Audit arrangements are working well and we do not believe that PCCs have experienced any conflict of interests as described. The Audit Committees follow established good practice.

*ix. What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?*

*x. What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?*

25. The key responsibilities of PCCs are the same as those of any elected public office holder. They work within a statutory framework where senior staff have overarching obligations to ensure probity and regularity; they are subject to normal public law remedies and a system of complaints and conduct investigation. Police and Crime Commissioners are responsible for effective and efficient policing and for setting the strategic direction of policing and community safety through the Police and Crime Plan. The Police and Crime Commissioners acknowledge the Nolan principles, and therefore recognise there is a need to set a good example in the way they fulfil their responsibilities whilst also expecting the highest ethics and standards of police officers in their force area.

*xi. Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?*

26. There is sufficient transparency of proprietary information from PCCs (see paragraphs 5 to 8 above). Transparency is vital in any public office and as such PCCs provide records of all expenses, meetings, hospitality and gifts on their websites for the public to view.

*xii. What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?*

27. Awareness, openness and honesty in relationships between key individuals including the Commissioner, their office, chief officers and other leaders in the police and partners have been critical factors in supporting the Police and Crime Commissioner to identify and resolve conflicts of interest. Some issues are relationship based and being open and transparent about where people and resources both come and go helps significantly.

28. The issues arising in South Yorkshire earlier in the year would not have been addressed or the Commissioner supported by any good practices we are aware of.

## **Conclusion**

29. We welcome the opportunity to comment on this consultation and look forward to reading the report of the Committee in due course.

30. Any queries about this response should be directed, in the first instance, to Mark Sayer, APACE coordinator, email: [REDACTED]



### Elected Local Policing Bodies (Specified Information) Order 2011 as amended

#### SCHEDULE PART 1 – INFORMATION

- 1.** In relation to the relevant office holders of the elected local policing body—
  - (a) the name of each relevant office holder;
  - (b) the address for correspondence of each relevant office holder;
  - (c) the salary of each relevant office holder;
  - (d) the allowances paid to each relevant office holder in respect of expenses incurred by the office holder in the exercise of the body's functions;
  - (e) a register of interests of relevant office holders, including every paid employment or office or other pecuniary interest of each relevant office holder.
  - (f) the number of complaints or conduct matters that have been brought to the attention of a relevant office holder by the police and crime panel (either because they have been referred to the Independent Police Complaints Commission, or because they are being subjected to informal resolution by the panel).
  
- 2.** In relation to the staff (and, in relation to gifts and hospitality, also the relevant office holders) of the elected local policing body—
  - (a) the number of members of the staff;
  - (b) the proportion of the staff who—
    - (i) are women,
    - (ii) are, to the knowledge of the elected local policing body, members of an ethnic minority,
    - (iii) have, to the knowledge of the elected local policing body, a disability (within the meaning of section 6 of the Equality Act 2010);
  - (c) an organisational chart showing the structure of the staff;
  - (d) the job title, responsibilities and salary of each senior employee and (unless the senior employee refuses to consent to the publication of his name) the name of the senior employee;
  - (e) a register of each offer of a gift or hospitality made to a relevant office holder or member of staff, indicating whether the offer was accepted or refused.
  
- 2A.** In relation to—
  - (a) the duty of the chief officer of the police force maintained by the elected local policing body to provide assistance to the body under section 2(5) or 4(5) of the 2011 Act; and
  - (b) the power of a local authority to provide administrative, professional or technical services to the elected local policing body under section 1(1) of the Local Authorities (Goods and Services) Act 1970(c),information as to any arrangements for use by the elected local policing body of the staff of the chief officer or of a local authority under those provisions.
  
- 3.** In relation to the income and expenditure of the elected local policing body—
  - (a) the total budget of the elected local policing body;
  - (b) where the elected local policing body is a police and crime commissioner, the precept issued by the commissioner;
  - (c) information as to each anticipated source of revenue of the elected local policing body (other than, in the case of a police and crime commissioner, the precept);
  - (d) information as to the proposed expenditure of the elected local policing body;
  - (e) a copy of the annual investment strategy of the elected local policing body;
  - (f) information as to each crime and disorder reduction grant made by the elected local policing body, including the conditions (if any) attached to the grant, the recipient of the grant, the purpose of the grant and the reasons why the body considered that the grant would secure, or contribute to securing, crime and disorder reduction in the body's area;
  - (g) information as to each item of expenditure of—
    - (i) the elected local policing body, or

- (ii) the chief officer of the police force maintained by the body, exceeding £500 (other than a crime and disorder reduction grant made by the elected local policing body or an item of expenditure to which sub-paragraph (h) applies), including the recipient of the funds, the purpose of the expenditure and the reasons why the body or the chief officer (as the case may be) considered that good value for money would be obtained.
- (h) information as to each item of expenditure of the elected local policing body in relation to travel by, accommodation for, or the subsistence of, a relevant office holder, including the recipient of the funds, the purpose of the expenditure and the reasons why the elected local policing body considered that good value for money would be obtained.

**4.** In relation to the property, rights and liabilities of the elected local policing body—

- (a) the identity of any premises or land owned by, or occupied for the purposes of, the elected local policing body;
- (b) a copy of each contract with a value exceeding £10,000 to which—
  - (i) the elected local policing body, or
  - (ii) the chief officer of the police force maintained by the body, is or is to be a party;
- (c) a copy of each invitation to tender issued by—
  - (i) the elected local policing body, or
  - (ii) the chief officer of the police force maintained by the body, in relation to a contract which the body or chief officer (as the case may be) expects will have a value exceeding £10,000;
- (d) a list of every contract with a value not exceeding £10,000 to which—
  - (i) the elected local policing body, or
  - (ii) the chief officer of the police force maintained by the body, is or is to be a party, including the value of the contract, the identity of every other party to the contract and the purpose of the contract.

**5.** In relation to the decisions of the elected local policing body—

- (a) the date, time and place of each public meeting to be held by the elected local policing body;
- (b) a copy of the agenda for each public meeting held by the elected local policing body, and any report or other document that is the subject matter of an item on the agenda;
- (c) a copy of the minutes of each public meeting held by the elected local policing body, and of each meeting which is not a public meeting but at which matters of significant public interest arising from the exercise of the body's functions are discussed.
- (d) a record of each decision of significant public interest arising from the exercise of the elected local policing body's functions, whether made by the body at or as a result of a meeting or otherwise.

**6.** In relation to the policies of the elected local policing body—

- (a) a statement of the policy of the elected local policing body in relation to the conduct of relevant office holders, including procedures for the handling of qualifying complaints and conduct matters (within the meaning of section 31 of the 2011 Act);
- (b) a statement of the policy of the elected local policing body in relation to the making of decisions of significant public interest arising from the exercise of the body's functions;
- (c) a statement of the policy of the elected local policing body in relation to records management, including procedures for the security and sharing of information and the retention and destruction of documents;
- (d) a statement of the policy of the elected local policing body in relation to the handling of qualifying disclosures (within the meaning of section 43B of the Employment Rights Act 1996).

**7.** In relation to the prevention of crime and disorder, a copy of any report required by the elected local policing body from the responsible authorities for a local government area under section 7(1) of the Crime and Disorder Act 1998.

**8.** In relation to the independent custody visitor arrangements made under section 51 of the Police Reform Act 2002(a), information as to the operation of the arrangements.

Dear Sir/Madam,

Thank you for the invitation to contribute to your review of how ethical standards are being addressed in the new police accountability landscape. I set out below responses to those questions in the Issues and Questions paper where we feel most able to comment. For the remaining questions the Audit Commission does not hold information to enable us to provide a response.

### **The current accountability structures**

*i. Are there any gaps in the existing mechanisms for holding PCCs to account?*

It is too early to conclude whether the new accountability structures leave significant gaps in arrangements for holding PCCs to account, but some early work on the design and implementation of the new arrangements has been undertaken by the National Audit Office (NAO). In their police accountability landscape review, the NAO concluded that while the framework has the potential to represent an improvement over the previous arrangements, potential gaps in the new control framework exist. The NAO identified these potential gaps as “the limited effectiveness of panels, the potential conflict of interest with joint chief financial officers and inadequate publication of data” (*Police Accountability: Landscape Review*” (NAO, January 2014 - Conclusion, paragraph 16).

*iv. What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?*

The quantity of performance information provided by forces and PCCs varies by local police area. Her Majesty’s Inspectorate of Constabulary (HMIC) produces detailed ‘value for money profiles’ for each force, which members of the public can use to hold PCCs to account. The data from HMIC is generally well explained, but there may be more that forces and PCCs could do to help members of the public understand and interpret the data contained within the HMIC profiles, and on the forces’ own websites.

*vi. How well are Police and Crime Panels able to hold a PCC to account between elections?*

*a. Does the role of the Police and Crime Panel need any further clarification?*

The extent to which Police and Crime Panels (PCPs) hold PCCs to account effectively is not yet clear; there are as yet few instances of serious issues emerging which have led PCPs and PCCs to test the respective limits of their authority. In its January 2014 report, the National Audit Office (NAO) noted that “*Police and crime panels lack powers to act on the information they receive, meaning there are few checks and balances on commissioners between elections*” (*Police Accountability: Landscape Review, NAO, January 2014 – Key findings, paragraph 11*). There may therefore be scope to expand the remit of PCPs in this respect.

Furthermore, with membership of between 10 and 20 individuals, PCPs will need to be chaired effectively. There also needs to be a clearly focussed work programme to ensure that they are able to provide effective and targeted scrutiny.

*vi d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?*

If PCPs are to be effective in challenging and holding PCCs to account, we agree that an expansion of PCPs' powers to enable panels to require formal reconsideration of a PCC's decision to appoint senior staff may be beneficial. Were panels' powers to be extended to the point of veto, the circumstances in which the PCP would be able to exercise those powers should be very clearly defined.

*vii. Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?*

Governance arrangements vary from police area to police area, but we believe that PCCs and Chief Constables should ensure that local arrangements are clearly explained to, and understood by, local communities using a range of approaches.

*viii. According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?*

The Audit Commission has no information relating to the operation in practice of these arrangements at local police bodies, but we are aware that as of January 2014, six local police areas have appointed a single chief financial officer to both the PCC and the Chief Constable. Appointment of a chief financial officer to both the PCC and Chief Constable raises a number of risks in terms of that statutory officer's ability to provide – and to be seen to provide - objective, unfettered advice to both parties.

CIPFA's "*Statement on the Role of the Chief Finance Officer of the Police and Crime Commissioner and the Chief Finance Officer of the Chief Constable*" concludes that such appointments bring with them significant risks: "A joint CFO for both PCC and the CC is not envisaged in view of the separate corporations sole. Such an appointment could compromise the ability of the CFO to provide impartial professional advice" and that where a joint appointment is proposed, the CIPFA statement recommends that "the CFO will need to consider if the principles outlined in this statement can be fully and effectively delivered and the professional responsibilities of the CFO maintained".

With regard to transparency, the CIPFA document also states that "The Statement requires that both the PCC and CC appoint separate CFOs, where under existing arrangements a joint CFO has been appointed the reasons should be explained publicly in the authority's Annual Governance Report, together with an explanation of how this arrangement delivers the same impact."

We note with reference to audit committees that paragraph 20 of the Issues and Questions paper states that "best practice from CIPFA would suggest its core

functions would include risk management, governance, internal control, consideration of internal and external audit reports, annual accounts and financial statements". In our view, it is important to make the distinction that an audit committee should not be responsible for the operation of internal controls or the management of risk. Rather, the audit committee should obtain appropriate assurances that internal controls are working as intended and significant risks are being effectively managed by those responsible. This enables the committee to provide robust challenge and recommend change where this is not the case.

## **Ethical leadership to promote and sustain the values of the Policing Code of Ethics**

*xi. Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?*

We believe the requirements for providing this information are sufficiently clear to ensure transparency, but as referred to in our comments on question iv, further assistance from the PCC and the force may improve others' ability (such as members of the public or PCPs) to turn the raw data into meaningful information which can be then used to hold the PCC to account.

Yours faithfully

David Aldous

**Audit Commission**

Associate Controller (Audit Technical Support)

Dear Sir/Madam,

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Yours faithfully

David Aldous  
**Audit Commission**  
Associate Controller (Audit Technical Support)





Lord Paul Bew  
Chairman  
Committee on Standards in Public Life  
GC.05 1 Horse Guards Road  
London  
SW1A 2HQ

Submitted by e-mail to [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk)

28<sup>th</sup> November 2014

Dear Lord Bew,

I refer to your letter dated 7 October 2014 and the questions you have asked on accountability, leadership and ethics.

Generally, my view is that it is not generally advantageous or helpful for the people subject to a governance or oversight regime to provide their opinions on it. For that reason I have not generally sought to respond to those questions which are seeking an opinion on the Governance model but have instead responded with the factual position and context in Avon and Somerset with the aim of informing the Committee's work.

**Q1: Are there any gaps in the existing mechanisms for holding PCCs to account?**

A: See above - this is primarily an issue for others and I believe that over a cycle of elections the public will effectively hold PCCs to account.

**Q2: What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?**

A: Primarily in my view accountability is improved through transparency, allowing the public to make informed judgement on my activity, performance and delivery of the Police & Crime Plan, proactively publishing information, engagement with local people and a proactive and collaborative relationship with the Police and Crime Panel. Details of how I am doing this are set out in my [Annual Report for 2013/14](#) and in my [Governance, decision-making and scrutiny policy](#) as well as the [Scheme of Governance](#), all of which are available on the PCC website.

**Q3: How are PCCs assuring transparency on their decision-making?**

A: I am committed to transparency in decision making in my work. The OPCC website is fully compliant with the Specified Information Order 2011. For more details see section 6 of my Annual Report and the Governance Policy referred to above.

**Q4: What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily available, understandable and reliable?**

A: Quarterly performance reports are published on the web site. Regular performance reports are also provided to the Police and Crime Panel. Performance information is also included in the Annual Report. Performance information is also published on the website in relation to the services commissioned as part of our commissioning plan.

**Q5: What has worked best for PCCs in engaging with the public and local communities?**

A: The introduction of a PCC in Avon and Somerset has transformed the transparency, visibility and accountability of police governance in Avon and Somerset. The PCC set up with the Constabulary an agreed resource to address and deal with contacts and local policing queries from members of the public. Since the election in November 2012, the OPCC has dealt with around 7,500 emails and letters from members of the public compared to 200 in the last year of the Police Authority.

In addition, since November 2012, 106,977 people have visited the PCC website, visiting for an average of 2 ½ minutes, Twitter followers number 3565 on the @AandSPCC account and 3564 on the @SuMountstevens account. The Avon & Somerset Police & Crime Commissioner Facebook page has had 270 likes and the Sue Mountstevens page has 194 likes. The Youtube site has had 2569 views. The PCC has hosted 13 public forums which include a road safety summit, business crime forums, rural crime forum, stop and search summit & Somerset flood public meeting, as well as attending 273 public events such as consultations, surgeries and community engagement events and also hosted 6 Awards ceremonies. The PCC has also received consultation responses from over 3,000 consultees on key policy issues such as police funding, community remedies, victims services and commissioning of local services.

**Q6: How well are Police and Crime Panels able to hold a PCC to account between elections?**

A: As above, I think this question is primarily one for others to answer. I welcome the role of the Police and Crime Panel in scrutinising my decisions. I have sought to proactively engage with them to ensure they have the information they need to do their job. For example, I have organised proactive briefings on budget issues from the Constabulary and my CFO, I have welcomed the appointment of lead members of the panel on key areas of policy who are then invited to key meetings and briefed by my lead officers and I invited the chair of the panel to attend and speak about the panel's role at our annual meeting.

**Q7: Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local**

**communities? Is there evidence that they require further clarification and guidance?**

A: The Governance, decision making and scrutiny policy referred to above explains the respective roles and includes a joint vision of how we will work together which formed part of the Chief Constable recruitment process I carried out in January 2013. This document has also been shared with the panel. I regularly explain the respective roles at my public meetings and engagements. Based on those engagements my own view is that there is still not a wide understanding of the respective roles amongst members of the public.

**Q8: According to the Financial Management Code, Audit Committees should 'advise the PCC and Chief Constable according to good governance principles and to adopt appropriate risk management arrangements'. How well is this working in practice? Are there any examples of conflicts of interest arising from PCCs and Chief Constables having in some cases a joint audit committee and/ or a joint chief financial officer?**

A: We have a joint audit committee ("JAC") and this has worked well thus far and has not presented significant conflict of interest issues. The JAC has five independent members and has reviewed risk management and commissioned a full internal audit program. This work has enabled the JAC to compare our risk and governance structures to best practice and to assess risk, mitigating controls and governance systems that has, in turn, generated a series of recommendations which have been agreed with the committee and the Chief Constable. The Chief Constable and I have separate S151 chief financial officers and I have no desire to revisit this as I think independent financial advice and challenge is important.

**Q9: What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?**

A: PCCs have a key responsibility as ethical leaders of their own office and in their leadership, holding to account and scrutiny role in relation to the Constabulary. I have adopted an Ethical Framework for myself, based on the Seven Principles, and also a Code of Conduct for my Office staff, making reference to the Constabulary's code of ethics. These documents are on my website [here](#). I agree that as well as adopting such policies it is important to take steps to ensure that they are being abided with and embedded. In terms of my oversight of the Constabulary I hold regular scrutiny meetings with the Deputy Chief Constable and the Head of the Professional Standards Department to scrutinise relevant issues in the Constabulary.

**Q10: What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics. In particular, how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?**

A: I see it as my job and that of my chief executive and senior leadership team in my office to ensure that the Office of the Police and Crime Commissioner live and

embed the various ethical policies referred to above. As an example of this my Chief Executive recently held a training session with the team which looked at the key provisions of the Staff Code of Conduct and the Ethical framework. Generally I believe transparency is a very good way of ensuring that ethical policies are being applied. I publish all my expenses, interests and hospitality in accordance with the statutory requirements. I also require my senior team to publish their interests, hospitality and expenses. My diary of key external meetings and events is also published on my website. The SW regional PCCs and Constabularies are very supportive of the Code of Ethics and we formally adopted it when it was in draft form.

The Constabulary have initiated a significant programme of work to embed the code of ethics which I am regularly briefed on and fully support. My chief executive sits on the programme board and I will be sitting on the ethics committee which is to be established in the New Year.

**Q11: Is there sufficient transparency of proprietary information from PCCs for example published information on expenses, registers of interest, gifts and hospitality and external meetings?**

A: As highlighted a number of times in this submission, I believe transparency is an important tool in embedding ethical approaches and increasing transparency in the police is a key theme in my Police and Crime Plan. I fully comply with all the regulations on publication of expenses, register of interests and hospitality. My diary of external [events](#) is published on my website.

Whilst it is important that the transparency requirements are kept under regular review I do not believe that any additional measures are needed currently.

**Q12: What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?**

A: As listed above I believe transparency is a very useful tool in addressing these issues. I publish my register of interests and require my senior officers to do the same. My diary and appointments are managed by my office. I rely on my Chief Executive in his role as monitoring officer to advise me on any potential conflicts of interest and I think this system works well.

Yours sincerely



SUE MOUNTSTEVENS  
Police and Crime Commissioner  
for Avon & Somerset

## **Evidence to the Committee on Standards in Public Life: concerning public accountability structures of the police in England and Wales.**

### **Introduction**

The decision of the Committee to consider the current arrangements for the police from the position of standards and governance structures is both novel and timely. A number of claims have been made by both the Home Secretary and the Chairman of the Association of Police and Crime Commissioners that PCCs are ‘providing accountable visible leadership’ and that they are ‘more effective than police authorities’ [Hickey 2014; McDermott 2014]. Although only 2 years in to their creation there is already some evidence to suggest that these claims may hold true in some PCC areas but certainly not in others. The evidence presented to the Committee is based upon both my own research and that of two Professional Doctorate students who I am supervising and who are engaged in researching the relationship between chief officers and PCCs and the role of local Police and Crime Panels[R Bailey and S Watts].. Both have collected preliminary data that will be drawn upon and fully acknowledged within this submission. They would appear to raise matters of immediate concern and which might prove relevant to the Committee’s investigation of the new police governance.

### **Background**

It might also be noted that that in 2002 I was to be invited by the newly established think tank Policy Exchange to research the governance arrangements for the police which then pertained. The final report entitled ‘Going Local. Who should run Britain’s police?’ was to argue that while local policing should be retained [and local police forces] there was a clear need to reformulate the accountability mechanisms for the police[Policy Exchange 2003]. These were while numerous less than effective and supported a top down system where the Home Office ultimately decided policy and where the police authority was usually seen and often saw itself as answerable to the chief constable rather than to the public. A comparative approach which came from research in both Europe and the US –primarily New York Police Department- was to suggest that local policing when linked to direct election could provide a solution to the ongoing problem of the failure of existing accountability structures in the UK which were the subject of critical comment as long ago as 1965 [Marshall 1965].

It is perhaps important to note that one central feature within the recommendations identified in the 2003 Report, was along with creating perhaps for the first time an

effective local accountability system, a commitment to ending the tripartite approach by removing central direction and control from the Home Office and placing this with directly elected representatives made answerable to the local electorate. Clearly effecting this kind of change was never going to prove to be easy. This was because the reform envisaged sought to end the cosy relationships which existed, in the main, between chief officers and the Home Office and also that which pertained between chief officers and 'their' police authorities. All of this was overseen by a Police Inspectorate [HMIC] that was far from independent and often less than objective in the course of its inspections. Indeed one primary driver for HMIC appeared to be the tired professional mantra of the need for further police amalgamations to which many senior police officers were [and remain] obsessed [HMIC Closing the Gap 2005].

Introducing the reform programme and the very magnitude of the changes envisaged was therefore always likely to prove to be a significant challenge and one where some errors [and errors of judgement] were likely to arise. It was also very likely that the nature of the change to police governance would generate opposition both in the professional and public world. This was best demonstrated by the public opposition of the President of ACPO who spent some two years publically condemning the reform as one likely to 'politicise the police'. Yet, despite this, it is a tribute to the current Home Secretary that she has remained consistent in her commitment to reform and along the way has also overseen a major change within HMIC which latterly has directed its inspections far more effectively.

However the first error of judgement in relation to PCCs proved rather ironically a political one emanating entirely from the Coalition Government. This related to the first elections for PCCs in November 2012 that were allowed to take place when it was quite clear that very few members of the electorate knew anything about PCCs or their role. This ignorance was to be compounded by the egregious decision on the part of the Home Office not to provide any detailed information to the electorate concerning the candidates.

What information was available had to be accessed on line from the Home Office which for many older voters was not an available option. The result was to be an election which achieved the questionable distinction of recording the lowest ever turnout in a national poll [Loveday 2012; Electoral Reform Society 2012]. It was also to prove to be a highly negative launch pad for PCCs and which helped sustain those critics of reform while very publicly questioning the future status and legitimacy of the new PCCs. This was indeed a lamentable introduction to what had earlier been paraded by the Prime Minister as a key element of his party's political reform programme. The background

information provided above seeks to provide a short overview of the processes leading to the launch of Police and Crime Commissioners in 2012.

## **Questions and [some] Answers**

### **i] Are there any gaps in the exiting mechanisms for holding PCCs to account?**

As argued earlier given the very magnitude and novelty of the reform of the accountability mechanism and move from police authorities to PCCs it was almost inevitable that shortcomings would be discovered and would need to be addressed. This is made more urgent by the fact that, whether by chance or design, the powers given to the PCC are very considerable, perhaps much greater than originally contemplated.

The potential and real power position of the PCC was to be highlighted by one PCC who was to note that the 'power of general competence' within the Police Reform and Social Responsibility Act [PRORA 2011] given to the PCC meant that the PCC could in effect 'do anything that was lawful'. It was this power of general competence that he believed Carmel Napier, former Chief Constable of Gwent, had identified when she referred to the 'unfettered powers of the PCC' in oral evidence to the Home Affairs Committee following her 'retirement' from the police force [Interview PCC Winchester OPCC,2013].

The very real power position of PCCs within this remit must mean that there should be effective and transparent mechanisms in place to bring them fully to account. This requirement is in fact only reinforced by the direction of travel taken by a number of PCCs from the outset where the PCC was intent on establishing a 'principal and agent' arrangement where the 'agent' the chief constable would be made immediately accountable and answerable to the PCC, acting as 'principal'.

Ironically the concerns that in the past used to surround the powers exercised by chief constables who were seen as using the defence of police operational independence to elude any local accountability to the police authority could have now been replaced by equal concern as to how the PCC exercises his/her authority. It is evident that over the last 2 years the turn-over of chief constables has been very high-perhaps higher than at any time in recent police history. While this might be entirely appropriate the exercise of the power of dismissal by the PCC needs to be effectively monitored.

As will be argued later this may have an immediate application where the chief officer hope to renew/extend his contract of employment [Watts 2014]. There must be danger that over time the PCC could make use of the threat of non-renewal of his contract as an accepted way of conducting business. This could have a significant impact on his police

pension while also offering the potential of influencing the chief officer's professional judgement.

Currently the accountability mechanism for the PCC remains rather limited in its application. Thus currently the PCC is accountable to his local electorate but the electoral mechanism operates only once every 4 years and may or may not be contemporaneous with other local elections. Other than this the PCC is made weakly accountable to the Police and Crime Panel. However the powers of the PCP, as will be identified later, are very limited. It is also clear that there are structural weaknesses which only serve to further limit the role and influence of the PCP in its relationship with the PCC.

**ii] What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?**

The primary method of increasing accountability to the public is most likely to be based on ensuring that there is plentiful media coverage of their activities not least to help ensure that the public know who they are what the role of the PCC is. To date while there has been some publicity this has proved to be extremely negative involving what appeared to be never ending scandals arising from claims for expenses.

It might be useful at this point to note what was originally intended for PCCs. Thus at a meeting at the Reform Think Tank [September 2011], a senior Home Office Official was to note that a major weakness of the police authorities was that they were 'weak and invisible' and that indirect election was not useful in terms of accountability. The original aim was to be to select 'big heavy weight figures' who would be on the public's side but it is clear that high levels of publicity were expected to generate greater accountability.

It is however evident that neither heavy-weight figures nor the expected level of publicity have, in fact, materialised [other than the recent case of the South Yorkshire PCC]. Apart from a handful of former national politicians [most notably Labour politicians] the majority of PCCs proved to be relatively unknown outside of their local bailiwicks. Thus, much has depended on how PCCs have proved able to widen public knowledge of their role. This was clearly grasped by a number of PCCs. In interview one PCC was to note that 'he was committed to expanding the publicity function of the PCCs office and links with the media' and that his 'main objective was for the PCC to increase public engagement' [Winchester OPCC 2013].

Despite this explicit commitment and the full use of social media and websites it would appear that the public profile of the PCC is not much higher than when he/she came into



office. Indeed members of the PCP were to challenge the PCC specifically in relation to the lack of communication and ineffective communication exercised by the PCC. It was felt that 'leaflet and radio news slots were not thought to be enough' [Interview PCP member Portsmouth 2014].

Nor it would appear are PCP meetings at all well attended. The local community appear to have as little interest in PCP meetings as they once had in the Police Community Consultation Committee meetings established under PACE 1984. Here dismal attendance often led to police officers themselves determining what they believed the public would want in their absence. As a result there is a need to generate greater media engagement by way of public forums where local media attendance might begin to generate a greater level of interest in the work of the PCC while also making them publicly accountable between elections. It is also evident that along with these types of initiative the role and powers of the PCP will need to be reviewed giving them a more intrusive function in relation to both the PCC and the chief constable.

### **iii] How are PCCs ensuring transparency in their decision making?**

Given the nature of the relationship established within the PRSRA [2011] between the PCC and chief constable it was recognised early on eg by senior officials in the Home Office that potential dangers could arise. Thus one official was to note that such a risk was that that the PCC could fall out or get too cosy with the chief officer' – and where as in these situations the 'role of the local PCP was very clear'. There were risks with candidates 'in terms of who would apply' and also some concern about whether there were sufficient 'checks and balances' in relation to the PCC and whether PCP would prove to be sufficient in itself as it had a scrutiny role over the PCC but 'not the police or chief officer' [Reform 2011].

These risk assessments made by senior officials prior to the introduction of the PRSRA have proven to be in some cases entirely justified. It is evident that there is a level of opacity rather than transparency which can characterise the OPCC. This lack of transparency appears to be highlighted in the appointment of staff to the OPCC in many force areas. Thus in one the PCP was to challenge the decision of the PCC to employ a number of Deputy Directors 'at what was seen as considerable expense'. The collective concern of the PCP was however not to be shared by the PCC who informed the PCP that while the PCC was accountable to them for policing he was not accountable to them 'for the internal arrangements of his office' [Interview Portsmouth 2014]. It was also to be noted that the members of the PCP 'did not know the details of how the PCC spent his money'. As a result it was felt that it was 'up to each local council in the force area to

make the PCC locally financially accountable'. More significant members of the PCP felt that it was difficult for the PCP to know what was going on 'as the openness and transparency' required was not in evidence' [Interview Portsmouth 2014]. It would appear therefore that even in those areas where the PCC might have a good working relationship with the PCP the latter can, nevertheless be expected to left in the dark in relation to finance and OPCC appointments. It is also clear that pay rates and pay rises for Deputies and chief executives can be expected to be determined unilaterally by the PCC without reference to the PCP. This must be a matter of concern as the PCC can have several million pounds at his or her disposal. Moreover outside of the OPCC there is no clear evidence of how effective audits of spending have proved to be.

The absence of inspection or independent oversight might be thought a worrying feature given the numerous examples of corrupt practice which have unfortunately marred public life in recent years. It might also be considered odd that while police forces and chief officers are subject to ever greater scrutiny from HMIC ,as for example recently identified by the PCC for Gwent no similar inspection procedure is provided for either the PCC or the OPCC [Weinfass 2014]. Currently chief executives can receive unscrutinised pay increases where the OPCC appears to be publicly answerable to no one. It would appear that increased expenditure on an expanding OPCC may not be subject to scrutiny and neither are PCC gifts and hospitality. This situation, it might be thought, could provide an open invitation to potential abuse by office holders. But this in turn raises issues around the calibre and competence of PCCs elected to this office.

While a good number of PCCs have a strong background in criminal justice, police governance or policing it is evident that in some areas what were to be referred to by Home Officials as the risk of election of 'extremists or mavericks' in some force areas has indeed come to pass. While it would be invidious to provide examples a brief evaluation of PCC websites provides plentiful evidence of this. It is also clear that in exercising the 'principal –agent' relationship between PCC and chief officer some PCCs have proved to be little more than martinets in their relationship with the chief officer. Ironically while chief officers will have been carefully selected and highly trained by being required to pass the Strategic Command Course and thereafter be selected, no similar quality control mechanism is applied to the selection of PCCs or their chief executives. This issue needs to be addressed in order to ensure that the best calibre candidates are identified and all applicants are subject to public scrutiny.

**iv] What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?**

It is evident that many PCCs are making wide and good use of social media and the internet. How well informed the public are as a result of this may be contested. Large amounts of information concerning PCC events and meeting are universally presented but to date little appears to have engaged with the public. It is fair to suggest that to date the evidence would appear to be that the local public are no more aware of police performance than they were with police authorities. Indeed it is interesting to note that external HMIC Reports on police performance have had a greater public impact as the popular press and media generally have picked up on most recently the claim made by CHMIC that almost half of police forces in England and Wales were not investigating crime properly. It must be recognised that PCCs are going to be judged on how they react to such HMIC reports. Currently they appear to have made very little comment on them.

HMIC has concluded that under the new police effectiveness efficiency and legitimacy [PEEL] regime 18 forces were judged to be 'poor performers' [Weinfass 2014]. Not surprisingly HMIC's conclusions have received wide publicity which could be expected to form the basis of local community assessment of their police force and which may have overwhelmed the limited public profile of the PCC in relation to the local police force. It would appear that for local forces, judgements made by HMIC continue to have a much higher salience than those emanating from the PCC. In Durham the chief constable has for example recently claimed to be 'basking in his pride for his staff' after receiving two outstanding and two good assessments by HMIC [McDermott 2014].

Yet it is also the case that the PCC may on occasion make good use of HMIC. Thus in Kent the PCC was to commission HMIC to conduct an inspection into the force's crime figures. Its report was to identify the target driven culture that dominated the organisational culture which led officers to 'pursue crimes based on how easy they were to solve rather than on their seriousness or their impact on the victim'. One result has been a move away from 'the target culture' which previously existed [Hickey 2014].

Thus the decision on the part of the Kent PCC to engage with HMIC appears to have provided a major breakthrough in terms of reining in, at least in Kent, the target culture which has characterised contemporary policing for several decades. This example might suggest that given the limited public profile which PCCs currently experience, one useful potential alliance could be with HMIC particularly in relation to internal management of the local police force. It may also provide a counterbalance to local police crime statistics which appear to be too easily accepted by [some] PCCs and where claimed reductions in crime can be very simplistically paraded as a measure of success when in fact the

value of this data has been openly contested for some time [ Patrick 2011a 2011b, Lewis2013; Travis 2014].

One further matter arising from this is that for those PCCs who do not have a background in criminal justice and policing there has proved to be a questionable knowledge base upon which they have been required to make detailed decisions in relation to the local police and crime plan and other matters. This problem has quite evidently been compounded by the complete absence of any initial training programme for incoming PCCs many of whom had no immediate background in or knowledge of criminal justice or policing. It might be relevant here to note that prior to the introduction of the PRSRA senior officials in the Home Office were very much aware of the problems that might be expected to arise as a result of this. Thus one senior official was to note that given the workload and responsibilities that would fall to the PCC 'there would have to be induction and training programmes for all PCCs' [Reform 2011]. In the event, no such training or induction was to be forthcoming on the part of the Home Office and it might be thought that thereby another opportunity to improve the profile of PCCs was to be lost as a consequence of either political inertia, official indifference or the absence of resources.

Finally it might be noted that with regard to public engagement chief officers have with the support of the PCC proved able to encourage greater engagement. Thus in one local force the introduction of a new initiative has demonstrated significant potential in encouraging engagement between the public and the police force. This initiative entitled 'Rate Your Police' provides an on-line link to the force website which asks the public to rate the police on a range of activities and tasks. Started in October 2014 it would appear that this has proved to be highly successful in encouraging public engagement with the local police. A similar shared system involving both police and PCC might provide a further avenue for local PCC engagement.

#### **v] What has worked best for PCCs in engaging with the public and local communities?**

Given the patchy record of public engagement to date and possibly various local initiatives by PCCs this question is difficult to answer. It is also the case that just 2 years in to the new governance it is rather too early to make a clear judgement. It is certain that PCCs have undertaken a range of initiatives but to what extent any of them can be said to have fully engaged with local communities is at this point difficult to ascertain. It is the case however that the Local Government Association has very actively sought to provide support to PCCs. It could be that local opinion surveys may provide at some

future date concrete evidence of the extent of such engagement –which might be something that PCCs are required to undertake in future.

### **vi] How well are Police and Crime Panels able to hold a PCC to account between elections?**

It might be noted as a preliminary observation on PCPs that there was originally no intention of creating such bodies and that PCPs came into being as a result of Coalition pressure –from the Lib Dems. It was never the plan of the then Policing Minister [now retired] to create such a body which might challenge the concept of direct election and also lead to the possible recreation of the old police authority. Because of the decision to ensure that the PCPs did not seek emulate former police authorities their powers were clearly circumscribed. This was made immediately apparent with the decision that PCPs could hold the PCC to account but not the Chief Constable. Thus the police remit, a central feature of the police authority was denied to the PCP quite deliberately. Moreover the power of the PCP was to be further circumscribed by the fact that while they may scrutinise the exercise of the PCCs statutory functions the PCC is not bound by any subsequent report from the PCP but must merely ‘have regard for the reports’ from the Panel [Bailey 2014].

Recent research suggests that as a result of this PCPs rely solely on the arguments it puts to the PCC or powers of persuasion which might be thought insufficient for its scrutiny role [Bailey op cit 2014]. Moreover the additional responsibility placed on the PCP within Section 28[2] of the PRSRA [2011] requires Panels to be ‘supportive’ of their PCCs in the effective exercise of their functions. This in itself creates an inherent role conflict where the PCP is required to act, in effect, as critical friend. Role ambiguity was identified by the Centre for Public Scrutiny in 2013 which has called on the Home Office to provide much greater clarity to both PCPs and PCCs on their mutual responsibility to ensure accountability, transparency and good governance [CfPS 2013 cited by Bailey 2014].

Recent research evidence indicates that there is a very clear need to revisit the PCP role with a view to significantly expanding it role while also looking to revise its composition. Thus a member of a local PCP was to note in relation to her own experience of the PCP that ‘it did not have any real powers to make the PCC accountable but that it could exercise a ‘moral power’ .They were also able to question the police budget and the local Crime and Policing Plan. The primary issue for the PCP was to determine that the priorities identified in the Plan were appropriate to each area in the county.

However while the PCP could do this it could not hold the Chief Officer to account and was only able to question the PCC. It was within the PCP thought appropriate for the police force to be within the vista of the PCP and not just the PCC. It was also felt that as the primary driver of policing was now community policing it would be entirely right for the PCP to have clear engagement with the local police which currently they do not have [Interview PCP member Portsmouth 2014].

One further issue was to be identified in terms of the relationship between PCP and PCC. Thus in one force area both the PCC and Chief Officer were seen in a positive light by members of the PCP and that the PCP was favourably disposed towards the PCC 'as he was fully committed to restorative justice and knew what he was about in relation to this' having been previously the chair of the police authority and head of Crime Stoppers' [Interview Portsmouth 2014]. However the same PCP member was to note that the positive relationship between PCP and PCC reflected a degree of 'luck' in the choice of both the PCC and chief officer. In the view of the PCP member 'too much depended on the personality of the office –holders. They had been lucky but the question was what would happen if the holders of the office of PCC or Chief Constable did not exhibit a positive profile?' [Interview PCP member 2014].

Some evidence of what can happen where no such positive relationship obtains between the PCC and the PCP has been identified in recent research. Thus in a recent case study of Surrey where it was to be discovered that the Conservative controlled PCP had to deal with an Independent PCC. Here the PCP had found itself 'powerless to exercise effective sanctions on its PCC'. It was to be learned that in the same county there were concerns raised by the PCP about key decisions made by the PCC 'when he had changed his mind without reference to the Panel' [Bailey 2014 forthcoming].

### **a] Does the role of the PCP need any further clarification?**

Given the evidence presented above it is very clear that the role of the PCP does require further clarification. Indeed further reform of the PCP could be seen as a vital measure to ensure that the PCC is brought to close public account between elections. Currently the most effective way to achieve this would be by enhancing the powers of PCPs and extending their role to include oversight of both PCC and the police force. It is also evident that the current contradictory roles assigned to PCPs can also raise problems. This, on the one hand, may severely limit the function of PCP as an independent and critical monitor of the PCC, while on the other where a single party controls both PCC and PCP it may only strengthen the power of the PCC. This situation could raise challenges to the operational independence of the chief officer who would be confronted

by the potential power –position of the PCC where local party loyalties were seen as paramount. It would appear that strength of the decision to ensure that PCPs did not mark the return of police authorities has meant that PCPs are quite toothless and require a radical review to enhance their role and responsibilities. Such a review might be perhaps be undertaken by HMIC or a member of the judiciary who could bring an open and objective mind to the problem.

**b] How well are the current balanced membership arrangements ensuring effective scrutiny and support of PCCs?**

Previous experience of ‘balanced membership arrangements’ particularly on the Police Joint Boards in the metropolitan areas suggests that this system can significantly dilute the effectiveness of those public bodies which are required to undertake his process. It may also undermine commitment among members selected to sit on these bodies [Loveday 1987]. What is needed it might be thought for the future role of the PCP is a degree of knowledge and expertise that members could bring to its membership which might be of much greater value than the perennial search for political balance. However it is fair to say that a much bigger problem now pertains in a number of PCPs and this relates to the very high turnover of members.

As was to be noted recently- by a PCP member, ‘many members were not re-elected or were replaced and this had created a high degree of instability within the PCP. It had also limited its ability to develop policy and to develop a body of knowledge over time or to present a consistency of purpose and a level of coherence required to effectively monitor the PCC’ [PCP member 2014]. If in addition to the demands of political balance in terms of selection is added high turnover of membership then this only serves to further undermine its effectiveness. However there is room for further thought on this issue as in the past independent members of police authorities were able to often bring an element of expertise that would otherwise have been absent. It has also been suggested that politics at this level can play a very significant role and a ‘forceful PCP Chair can stifle rigorous debate’ and also raises questions about the management of panel meetings [Bailey 2014].

**c] Are the current membership thresholds requiring a two thirds majority to veto a PCCs level of precept and appointment of a chief constable proving practicable?**

One response to this question might be that in relation to setting or increase in the police precept central controls concerning any such precept increase are so tight as to eliminate any local discretionary decision on the part of the PCC to raise the precept. Thus currently the PCC power to raise the precept is extremely limited and is in effect

one that enables the PCC to increase precept by a maximum of 2%. This raises some questions as to the commitment to local democracy by the centre and in effect makes the issue of PCP majorities almost redundant. In a situation where the position of Chief Officers can be already quite tenuous it might be considered less than helpful to subject the same officer to the vagaries of dismissal by reducing the two third majority which currently applies.

**d] Should PCPs have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?**

For the purpose of transparency and public accountability it would be entirely appropriate to extend the PCP function to oversight of these appointments. This should be a role that lies alongside their current responsibility to confirm [or not] the appointment of the chief officer. Currently the PCP has no real knowledge of the criteria used by the PCC to fill deputy PCC functions. Nor will the PCP have any information to judge the suitability of chief executive [and other OPCC] appointments unless this is volunteered to them by the PCC. This once again raises concern about the opacity of current arrangements where decisions about appointments – however fair and proper- are taken behind closed doors. This is the very opposite of what police reform originally sought to achieve.

**e] How should PCCs be held to account for their standards of personal conduct? What role should PCPs have in this?**

This is without doubt a crucial issue and it has been argued that where a PCC has acted in a discreditable manner-rather like the police discipline code- he or she should be subject to a formal hearing by the PCP which should have the power to reprimand the PCC. In more serious cases the PCP should have the power of referral to the Home Secretary for possible dismissal [Bailey 2014].

**vii] Are the boundaries between the local roles and responsibilities of the PCC and the Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?**

Given the very real power position of the PCC a response to this question must take into account the fact that 43 PCCs or their equivalents now exercise their discretion in relation to the chief officer. It is evident that a number of PCCs have been highly intrusive in their relationship with the chief officer. One PCC [Sussex] has publicly stated that the turnover of chief constables was anyway ‘ not an unhealthy thing’ as it gave others opportunities to come forward’ [Brunetti 2014]. However the sudden demise of so



many chief officers suggests that they will, perhaps for reasons of self –survival, wish to work extremely closely with the PCC and seek to establish a good working and personal relationship with the PCC [ Watts 2014].

But the danger must be that this can lead to the creation of the very problem foreseen by Home Office officials prior to the introduction of the PRSRA. Thus relations between PCC and chief officer may become 'very cosy' where the chief officer deliberately seeks to sustain a good working relationship. The immediate question here becomes the extent to which the chief officer compromises an independent professional judgement in order to support the relationship.

However it is also evident that a number of chief constables are experiencing a situation where it has proved to be extremely difficult to sustain a working relationship given the personality or personal disposition of the PCC. It is the case that in some police force areas chief officers have been the subject of often quite arbitrary decisions taken unilaterally by the PCC. This problem is compounded by the problem confronting chief officers who need to secure a further employment contract in order to achieve their pensionable service age which can easily place the chief officer in a potentially compromising situation. It would appear to be the case that some PCCs have sought to exploit this situation in their every- day dealing with the chief officer [Watts 2014].

All of this raises again the real problem surrounding the calibre of PCCs. The fact that the problem alluded to above does pertain in a number of force areas suggests that in future much closer engagement will be required by local political parties in the selection of PCC candidates. As has been argued the current situation suggests that 'the background experience education competence and personal skills are of the utmost importance in the future identification of PCC candidates and the fact that a PCC has been democratically elected does not lessen the needs for the maintenance of the highest professional standards [Bailey 2014]. It might be thought that criteria for future selection of PCC candidates might for example, have some working knowledge of the criminal justice system and policing. It is acknowledged however that this might be difficult to introduce as no such criteria applies to candidates for MP or MEPs.

**viii] According to the Financial Management Code, Audit Committees should advise the PCC and chief constable according to good governance principles and to adopt appropriate risk management arrangements ' . How well is this working in practice?**

In response to this it could be argued that given the limited oversight powers to which PCCs are currently subject there is every reason to hope that such Audit Committees

are in effective operation. There is a clear need to establish the extent to which this pertains. However this submission is unable to provide any immediate information with regard to this.

## **Conclusion**

The evidence presented to the Committee provides a response to the questions raised which are clearly relevant and which raise significant ethical and other issues surrounding the current arrangements for the reformed police governance. However it should be noted that while a number of PCCs have exhibited a style of governance which might be thought unwelcome it is also clear that many PCCs have demonstrated a very positive approach and have recognised and abided by an ethical code which has refrained them from unwarranted interference in operational policing and where a positive and effective relationship has been established between PCC and the chief officer.

Evidence of this has been presented within a recent publication from Policy Exchange which serves to highlight just how effective the role of the PCC has in many areas proved to be [Policy Exchange 2013]. However it is also clear that the operation of the new governance since November 2012 has identified a number of issues that require further clarification. This primarily relates to the relationship between PCC and the chief officer in some PCC areas. Here it would appear to be the case that there is a need for much greater transparency. This has been identified by PCP members who have noted for example that under current arrangements the PCP might know about the police and crime plan and priorities of the PCC but would not know anything about the PCC and his dealing with the chief constable. There would appear to be a good case for expanding the role of the PCP to enable light to be thrown onto what currently remains a dark corner of current police governance.

With regard to the second set of questions relating to the key responsibilities of PCCs as ethical leaders it is argued here that it might be too early to come to a clear conclusion about this and also it is difficult to generalise given the number of PCCs exercising their responsibilities across 43 force areas. Localism means that in each PCC area there may be somewhat different approaches to how PCC responsibilities and powers are used. However it is argued here that the public good would be served and some problems solved by a commitment to greater openness. It might be argued that PCCs should be expected to work as if they were subject to Freedom of Information Act where every document was available to the public. This would extend to making the PCC diaries open to public perusal. PCCs should always act in a way so that they are above

suspicion. If they act unethically then they cannot expect but the police for which they have oversight to act in a similar way. This suggests that openness and personal integrity clearly demonstrated at all times by PCCs, are crucial elements to the future success of the new police governance.

END

**Evidence submitted by:**

**Barry Loveday, Reader in Criminal Justice, Portsmouth University;**

**Chris Lewis OBE, Visiting Professor in Criminal Justice, Portsmouth University;**

**Roy Bailey, Professional Doctorate Student ,University of Portsmouth;**

**Steve Watts, Professional Doctorate Student, University of Portsmouth.**

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## Committee on Standards in Public Life

# Local Policing – accountability, leadership and ethics

## Response Form

### Consultation Questions

The Committee has commenced an inquiry on the public accountability structures of the police. We are looking at the structures in place for ensuring ethical standards in the conduct and performance of Police and Crime Panels, Police and Crime Commissioners, and Chief Constables.

The Committee would like to hear your views. Please use this form to answer some or all of the questions in the Issues and Questions paper available at: [https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment\\_data/file/360941/Police\\_Accountability\\_Structures\\_-\\_Issues\\_and\\_Questions\\_Paper.pdf](https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment_data/file/360941/Police_Accountability_Structures_-_Issues_and_Questions_Paper.pdf)

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**Postcode:** MK44 1SA

**Contact Telephone:** [REDACTED]

**E-mail:** [REDACTED]

## **Freedom of Information**

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Please tick the appropriate response:

- Are you responding:
- *as a member of the public*
  - *as a member of the police*
  - *on behalf of another organisation*

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

If you are responding on behalf of an organisation, please tell us your area of work, e.g police constabulary, regulator, trade union, think tank etc

<p><b>Independent Lay Member and Vice Chair of Bedfordshire Police and Crime Panel.</b></p>
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# Local Policing – accountability, leadership and ethics

## Current Accountability Structures

### Consultation Questions

Question 1:

Are there any gaps in the existing mechanisms for holding PCCs to account?

#### Comments

**Yes. PCPs need more powers to ensure PCC carries his duties out in an acceptable way. Although PCC are elected the pitiful turnout will make public believe they do not have a mandate, yet they cannot be removed even by highest authority. S Yorks has demonstrated this. Test of criminal offence with 2yr plus sentence is not a good level. Any criminal offence should be grounds for removal.**

Question 2:

What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?

#### Comments

**Use there PCP in a much more proactive manner and not hope that they are insignificant with no powers and will go away.**

Question 3:

How are PCCs ensuring transparency in their decision making?

#### Comments

**They are not. Many are not even achieving the criteria laid down for PCCs . eg Beds PCC has not issued any info on decisions for 6 mths.**

Question 4:

What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?

**Comments**

**Just review CoPaCC reports to see how many PCCs are short on publishing the required information. Plus the vast majority of the public have no interest in what their PCC is doing until it affects them! The PCPs should be the voice and scrutiny of the public.**

Question 5:

What has worked best for PCCs in engaging with the public and local communities?

**Comments**

**There ability to make a decision and not have to gain approval of a committee or authority. Much faster decision making.**

Question 6:

How well are Police and Crime Panels able to hold a PCC to account between elections?

**Comments**

**Most PCPs are getting much better now after 2 yrs experience. It is a huge task to scrutinise all PCC areas and has to have a focussed approach. The initial view that PCPs could meet 4 times a year is an absolute joke, and many councillors on PCPs are finding it a bigger role than their council work and meeting. I have personally attended 50 meetings in 2 years.**

Question 6a:

Does the role of the Police and Crime Panel need any further clarification?

### Comments

**Much more. The initial guidelines and estimates were pitifully short of the need. The PCP need more teeth if they are really to hold PCC to account and to gain any respect from certain PCCs who frankly hold the PCP in contempt.**

Question 6b:

How well are the current “balanced”<sup>1</sup> membership arrangements ensuring effective scrutiny and support of PCCs?

### Comments

**In Beds – its worked fine as we have a real broad spread of parties. But in certain areas where a party commissioner is being scrutinised by a heavily same party panel there appears to be a distinct lack of scrutiny. Indeed I know of one such panel where they don't even get a quorum turn up to the PCP meetings.**

Question 6c:

Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?

Yes the threshold is fine, but no-one has given any thought to the after

---

<sup>1</sup> Schedule 6 paragraph 31 PRSRA sets out the duty to provide a balanced panel. The “balanced appointment objective” referred to in this paragraph is the objective that local authority members of a police and crime panel (when taken together)—

(a) represent all parts of the relevant police area;

(b) represent the political make-up of—

(i) the relevant local authority, or

(ii) the relevant local authorities (when taken together);

(c) have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.

effects. If you veto a CC and the PCC has already announced publically his preferred choice the veto could ruin a career! Surely there has to be an embargo until the panel have had a confirmation meeting. Ref CC if panel does veto the PCC can then appoint whoever with no veto!

Also we unanimously voted to recommend our PCC did not appoint an OPCC chief of staff (Chief Exec) and he appointed anyway!!

### Comments

Question 6d:

Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?

### Comments

**YES see above comments.**

Question 6e:

How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?

### Comments

**YES. We have had a long saga with our PCC being investigated by IPCC and the whole process was appalling. As a panel we had virtually no powers to do anything and public saw us as a joke.**

Question 7:

Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?

**Comments**

**No.**

**Even some panel members still ask pure operational questions and don't understand the differing roles. Public, Councils and partners have virtually no idea of the varying roles.**

Question 8:

According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?

**Comments**

**Beds has a joint CFO and it works fine. We have both Audit committee and PCP reviewing their finances so plenty of checks. To split role will only add cost.**

## Ethical Leadership

### Consultation Questions

Question 9:

What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?

**Comments**

**They are doing their best but in an environment where costs are being severely cut it will be impossible to keep all plates spinning.**

Question 10:

What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?

**Comments**

**Problem is that there are now so many HMIC inspections, they will continually have ever changing priorities and some areas will and are inevitably slipping.**

**Question 11:**

Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?

**Comments**

**No.**

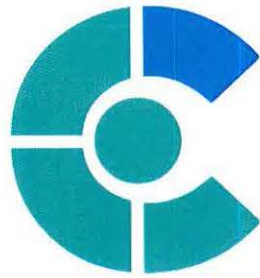
**Many never update this info on their web sites, but what powers does PCP have to ensure they do?**

**Question 12:**

What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?

**Comments**

**Yes.**



Cambridgeshire  
Police & Crime  
Commissioner

Lord Paul Bew  
Chairman  
Committee on Standards in Public Life  
Room GC.05  
1 Horse Guards Road  
London  
SW1A 2HQ

By email: [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk)

26<sup>th</sup> November 2014

Dear Lord Bew

I refer to your letter of the 7<sup>th</sup> October 2014 regarding the Committee on Standards in Public Life Inquiry on Local Policing – accountability, leadership and ethics.

Firstly, I would like to thank the Committee for the opportunity to comment, which I do on the Commissioner's behalf. Whilst I note that there are a number of questions for which individual responses are sought, I have chosen to respond to the questions under the four key themes that the Committee's 'Issues and Questions' paper addresses. I hope you find this acceptable.

*The Role of Police and Crime Commissioners*

The Oath sets out that accountability, transparency, and integrity, amongst other things, are fundamental principles for Commissioners. Codes, guidance and protocols are just part of the leadership; continually working to advocate these in practice through transparency, openness, impartiality and integrity are where standards of behaviour and conduct in policing become real and effective. As an example, we have created a governance board across the three force collaborated professional standards which supports and challenges the complaints process and is alive to emerging themes arising from complaints handling.



A monthly Board meeting with the Chief Constable and other senior officers of the Constabulary, the Commissioner, his office and myself, provides a forum to discuss current and future business, focussing on issues relating to strategy, governance, business and holding the Chief Constable to account. As these papers and the minutes of the meeting are published on the Commissioner's website, it enables the public to scrutinise the Constabulary and how the Commissioner is holding the Chief Constable to account. The monthly Board meeting is also the forum in which the Commissioner can make decisions which are then published on our website and shared with the Police and Crime Panel. The Commissioner has a decision making policy which is published on our website which sets out the parameters, approach and principles for decision making together with the processes for recording and publishing them.

Other papers of relevance to accountability are the operational and strategic risk register, which are also published. Minutes and papers from the Commissioner's and Cambridgeshire Constabulary's Joint Audit Committee are also published on our website.

The Commissioners diary, expenses, gifts and hospitality are published on our website, again demonstrating transparency and integrity.

The Commissioner holds monthly surgeries around the county where he offers one to one appointments with members of the public where they can share their concerns or challenge his or the Constabulary's performance. In addition, the Commissioner holds regular street surgeries along with officers from the Constabulary in towns and cities across the county where we are able to meet members of the public. The Commissioner also has an Outreach Worker, who extends his ability to engage with local groups, gathering opinions and feeding the intelligence back to him. He also finds meetings with councillors, in addition to those who sit on the Police and Crime Panel, and MPs are useful to hear about the concerns of their communities and constituents.

#### *The relationship between the PCC and Chief Constable*

I would suggest that no further guidance is required in respect of the roles and relationships between Commissioners and Chief Constables. The Policing Protocol is very clear as to the functions of Commissioners and Chief Constables and is an enabler to shape and enshrine the relationship between operational and strategic matters.

What is equally important is how this relationship is communicated to the public and this is a shared responsibility of both Commissioner's and Chief Constables. For instance, all correspondence that the Commissioner receives gets answered. If the matter is operational the correspondent is informed that whilst such matters are important to us, we are unable to respond and their concerns are forwarded to the Constabulary. Through engagement at local level, the Outreach Worker, also

provides this clarity around the understanding of the Commissioner's role and that of the Chief Constable.

#### *Audit Committees*

Both the Commissioner and the Chief Constable share an independent Audit Committee. In practice this is working well in providing the requisite scrutiny of financial and non-financial assurance, and ensuring the appropriate and adequate controls are in place across the Constabulary and the Commissioner's office. The Committee has five members, meets four times a year and calls for a range of papers, one of which is an Annual Report on Integrity. An Integrity sub-Committee is also in place. As mentioned above, the Committee's papers are published on our website.

#### *Police and Crime Panels*

The legislation clearly provides for the role and remit of Police and Crime Panels. However, I am conscious of the Home Affairs Select Committee's inquiry earlier this year into Police and Crime Commissioners whereby they took evidence and made recommendations, amongst other things, on the work of Commissioners and Police and Crime Panels.

Nonetheless, I believe the forum to hold Police and Crime Commissioners to account is a Police and Crime Panel. Having one Panel, as opposed to other forums across a force area at either county, unitary or district level, to scrutinise Commissioners ensures a focussed and coherent forum for both Commissioners and the public. A Panel that reflects an appropriate political make-up from across the county, with the added value of independent membership, should facilitate a constructive relationship between Panel and Commissioner.

The work of a Panel should be that of a 'critical friend' in both their scrutiny and support of a Commissioner's work. In performing this role, Panels must be clear that the basis of scrutiny of Commissioners is on strategic matters and not operational ones. For Commissioners to become involved in operational matters goes against the legislative spirit held within the Policing Protocol and consequently Panels must recognise this.

Whilst it is for Panels to decide on how they scrutinise, I have welcomed the fact that the Cambridgeshire Police and Crime Panel have called for papers on how the Commissioner is delivering his Police and Crime Plan. Through these papers and the questions arising from Panel members and the public, he is able to demonstrate accountability as to how he is delivering his objectives and pledges in his Police and Crime Plan. This ensures that there is not only public confidence in the standards to which both the Constabulary and the Commissioner are delivering but also that the county is a safe place.

I strongly believe that Commissioners should uphold the highest standards of personal conduct and should be held to account for this both through the Panel's remit as the appropriate authority to deal with complaints against Commissioners and in turn the public through the ballot box.

I hope you find my response useful.

Yours sincerely,



Brian Ashton

**Cambridgeshire Deputy Police and Crime Commissioner**

## Committee on Standards in Public Life

# Local Policing – accountability, leadership and ethics

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The Committee would like to hear your views. Please use this form to answer some or all of the questions in the Issues and Questions paper available at: [https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment\\_data/file/360941/Police\\_Accountability\\_Structures - Issues and Questions Paper.pdf](https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment_data/file/360941/Police_Accountability_Structures_-_Issues_and_Questions_Paper.pdf)

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Name: Edward Leigh  
Contact address: 42 Devonshire Road, Cambridge  
  
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E-mail: [pcp@edwardleigh.co.uk](mailto:pcp@edwardleigh.co.uk)

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Please tick the appropriate response:

Are you responding:     - *as a member of the public*  
                                  - *as a member of the police*  
                                  - *on behalf of another organisation*

X

If you are responding on behalf of an organisation, please tell us your area of work, e.g police constabulary, regulator, trade union, think tank etc

**Independent Member of Cambridgeshire Police & Crime Panel (but these responses are personal and not necessarily representative of the rest of the Panel).**

# Local Policing – accountability, leadership and ethics

## Current Accountability Structures

### Consultation Questions

Question 1:

Are there any gaps in the existing mechanisms for holding PCCs to account?

#### Comments

**There is potentially a problem on issues where police forces agree to collaborate: whose Police and Crime Plan and which PCC prevails?**

**To take a simplistic example: three constabularies share a 101 call centre. One PCC is under pressure to reduce call waiting times, which requires more staff; another wants to reduce time to operational response, which requires investment in a new IT system; the third PCC prefers to invest resource into something unrelated. These objectives are all in their respective Plans. Who arbitrates?**

Question 2:

What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?

#### Comments

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Question 3:

How are PCCs ensuring transparency in their decision making?

### Comments

Question 4:

What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?

### Comments

**The Cambridgeshire PCC's office publishes on its website frequent press releases, minutes of all Business Coordination Board and Joint Audit Committee meetings, and a summary of significant decisions; it also maintains a Twitter feed with 1,277 followers (as at 25/11/14), though the content of that is less consistent or comprehensive. There is also an email newsletter, the content and frequency of which is unknown; it is unlikely to have many members of the general public subscribing. What is missing is an easily accessible narrative that highlights issues of particular importance or interest to the general public, and analyses police performance.**

Question 5:

What has worked best for PCCs in engaging with the public and local communities?

### Comments

Question 6:

How well are Police and Crime Panels able to hold a PCC to account between elections?



## Comments

**In all probability, with greatly varying degrees of success. I am conscious that elected councillors on panels have many calls on their time and attention and meet relatively infrequently (and rarely informally because they work for different councils in different offices around the county). Hence they may not be scheduling sufficient time to read and digest all the paperwork, discuss it informally with other panel members to identify all the important issues and formulate and timetable questions or other responses.**

Question 6a:

Does the role of the Police and Crime Panel need any further clarification?

## Comments

**It is perhaps unclear to what extent the PCP should solicit and represent opinions from the general public. Procedures for handling specific complaints are clearly spelt out (though not widely understood), but it is less clear how the public should supply more general feedback, critical or constructive, of the Constabulary or the PCC. Should the PCP be a voice or champion of local views, as its 'balanced' membership might imply it should be? If however that falls entirely to the PCC, should the PCP be made aware of all public representations to the PCC in order to ensure that they are given due consideration?**

**It is also perhaps not clear where HMIC fits into the framework.**

Question 6b:

How well are the current “balanced”<sup>1</sup> membership arrangements ensuring effective scrutiny and support of PCCs?

## Comments

**See first part of answer to Q6a.**

---

<sup>1</sup> Schedule 6 paragraph 31 PRSRA sets out the duty to provide a balanced panel. The “balanced appointment objective” referred to in this paragraph is the objective that local authority members of a police and crime panel (when taken together)—

(a) represent all parts of the relevant police area;

(b) represent the political make-up of—

(i) the relevant local authority, or

(ii) the relevant local authorities (when taken together);

(c) have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.

Question 6c:

Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?

### Comments

**The current veto rules should be revised because they are open to being gamed: the PCC only has to propose a level of precept or nominate a candidate who s/he is certain will be unacceptable to the Panel in the first round to be guaranteed of getting his/her true preference through in the second.**

**To avoid stalemate, if the Panel votes to exercise its veto a second or subsequent time, the case should be referred for judicial review: the PCP would submit to the PCC and appointed judge a written report detailing its reasons for vetoing; the PCC would submit a written defence to the PCP and judge, who may convene a meeting to question the PCC and a representative of the PCP. The judge would then make a binding decision on whether to allow or deny the veto.**

Question 6d:

Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?

### Comments

**Yes. The Panel's role in scrutinising appointments is ineffectual if the PCC only has to 'have regard' for the Panel's recommendations. The PCC, unlike the PCP, has a PR machine by which it may counter any negative media coverage of its decision.**

Question 6e:

How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?

### Comments

Question 7:

Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?

**Comments**

**This appears in general to be poorly understood. It's also difficult to determine in practice where the line lies between, on the one hand, strategy and budgets, and on the other, operational matters. The key seems to be in drawing up a comprehensive Police and Crime Plan, and updating it regularly as holes are discovered.**

**The PCC receives complaints that are solely the concern of the IPCC. It also receives complaints about the Chief Constable's operational decisions (e.g. on whether an incident is a civil not criminal matter), which the PCC has no right to intervene in, but for which there is no alternative route of appeal.**

Question 8:

According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?

**Comments**

--

# Ethical Leadership

## Consultation Questions

Question 9:

What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?

**Comments**

Question 10:

What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?

**Comments**

Question 11:

Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?

**Comments**

--

**Question 12:**

What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?

**Comments**

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## Committee on Standards in Public Life

# Local Policing – accountability, leadership and ethics

## Response Form

### Consultation Questions

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Completed response forms should be sent by email to [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk) or by post to the Secretary to the Committee on Standards in Public Life GC05 1 Horse Guards Road, London SW1A 2HQ.

**Name:** Ed Hammond

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## **Freedom of Information**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. The relevant legislation in this context is the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Committee.

The Committee will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties. However, it is important for the evidence considered by the Committee to be open and transparent. All responses will be published along with the identity of the person or organisation making the submission, unless the Committee is satisfied both that there is a compelling reason for an exemption to be granted and that the integrity of the process will not be undermined.

Please tick the appropriate response:

Are you responding:     - *as a member of the public*  
                                  - *as a member of the police*  
                                  - *on behalf of another organisation*

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

If you are responding on behalf of an organisation, please tell us your area of work, e.g police constabulary, regulator, trade union, think tank etc

**National charity focusing on governance issues in public services – particularly relating to accountability, transparency and the involvement of members of the public.**

**Drafted, with the LGA, unofficial guidance to Police and Crime Panels in advance of November 2012; drafted research, “Police and Crime Panels: one year on” published early 2014**



# Local Policing – accountability, leadership and ethics

## Current Accountability Structures

### Consultation Questions

Question 1:

Are there any gaps in the existing mechanisms for holding PCCs to account?

#### Comments

There is an argument that there is a gap around the ability of the public, or councillors on Panels, to “recall” PCCs or exercise clear sanctions against them (see below). There are also particular concerns about the ability of Panels to effectively fulfil their responsibilities to resolve non-criminal complaints, and the ability of Panels to sanction PCCs in cases of misconduct. The Home Affairs Select Committee investigated this issue and published a draft Recall Bill for PCCs, which we consider in more detail below.

There are also gaps relating to rights of information, and the expectations around when and how official information will be published by the OPCC (see below).

Question 2:

What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?

#### Comments

PCCs can release information about their decisions and their wider work. We have found that PCCs’ ability and willingness to do this has been extremely variable. Research carried out by CoPACC indicated that very few PCCs even comply with the statutory requirements around information publication. There has been no substantive change in this position. Panels have on occasion had real difficulty obtaining accurate and timely information about decision-making. This is because, firstly, there is no nationally-agreed definition of what a decision of “significant public interest” is (ie, where PCCs are required to publish formal notification that such a decision has been made). Secondly, there is no consistent approach to the publication of the background information which should provide the justification in policy for those decisions. In the absence of this critical information, Panels find it very difficult to

**effectively scrutinise PCCs' decision-making arrangements, to say nothing of the public's ability to carry out this role.**

**Police and Crime Plans are of variable quality in different parts of the country. Where a Plan contains little information about the ongoing monitoring of performance against strategic priorities, it will be difficult for Panels (and by, extension, the public) to use official information to hold PCCs to account. PCCs may need to revisit the systems they have in place for developing, revising and publicising their Plans, and those Plans' outcomes, in order to ensure that those mechanisms work effectively in the interests of accountability.**

**Some PCCs have sought to establish consultation and engagement systems for securing the feedback of the public. We have not gathered detailed evidence on these practices, but many appear to be traditional and limited in nature, sitting on top of or apart from existing police community consultative arrangements. There is no real evidence of how this feeds in to Police and Crime Plans, if at all.**

Question 3:

How are PCCs ensuring transparency in their decision making?

#### **Comments**

**See above**

**PCCs should seek to publish information about their work in a more consistent format, and more regularly.**

Question 4:

What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?

#### **Comments**

**As a matter of law, PCCs and Panels publish information on their respective work programmes regularly. The act of scrutiny, as carried out by the Panel, should provide the public with a level of assurance that the PCC is being held to account. The information that Panels make available about their work conforms with prevailing practice in local government on committee meetings, which is highly prescribed by legislation and generally considered as one of the most transparent approaches to decision-making in the public sector.**

Question 5:

What has worked best for PCCs in engaging with the public and local communities?

### Comments

**We have not gathered detailed information on PCCs' efforts to engage with the public and local communities. Anecdotally, we consider that Panels cannot often easily discern how public input influences either decision-making or the content of Police and Crime Plans.**

Question 6:

How well are Police and Crime Panels able to hold a PCC to account between elections?

### Comments

**Panels have struggled to effectively hold PCCs to account between elections.**

#### **Disagreements relating to role and function**

**Partly this is due to disagreements between the PCC, OPCC and Panel about the Panel's role. In some areas Panels have focused their scrutiny on PCC decision-making, looking at decisions after they have been made. In other areas, they have sought to engage more with the PCC's policy development work by carrying out more proactive scrutiny into issues and trends affecting local people. Panels have faced challenges whichever kind of work they have engaged on. In particular, some PCCs/OPCCs suggested that Panels should not attempt to "scrutinise" PCCs, as their role is to "support" the PCC and to "hold them to account". Those PCCs/OPCCs have not clarified how "holding to account" is functionally distinct to "scrutiny", but the fact that this disagreement has existed is in our view symptomatic of a lack of willingness to engage with Panels from the outset. Significant disagreements have lessened in recent months.**

**There is still a concern in some quarters that Panels have sought to overreach themselves in their role. It is true that the assumption made by the Government that the Panel's scrutiny role would be "light touch" has not held up in practice, but this was predicted by a number of stakeholders at the time (including by ourselves). In order to fulfil their statutory duties, Panels have needed to be briefed on, and to scrutinise, a wider range of issues and topics than just the core, statutory documents (the annual report, the precept/budget, and the Police and Crime Plan). The limited resourcing made available to Panels (see below) has made their work challenging. Panels seeking to access information to exercise their role have also been subject to challenge by OPCCs/PCCs, who have sought to restrict such access to official information, particularly where it might be seen to relate to "operational"**

matters. Panels need access to operational information in order to effectively carry out their strategic role (by lending context to such strategic scrutiny). Again, difficulties in gaining access to such information has made Panels' job more challenging than it has needed to be.

#### Defining "significant public interest"

Some Panels have been successful in reaching agreements with PCCs about when and how decisions made by the PCC will be scrutinised. However, in many cases such agreements have proved difficult to reach. The lack of a definition for what is a decision of "significant public interest" has meant that there is huge variation in the number and nature of PCC decisions being published. There is, furthermore, variation in the volume and nature of background papers made available to support each decision. This variation means that in some areas, Panels have no real sense of the way in which a judgment is made by the PCC as to what constitutes a decision of "significant public interest". This raises the risk that transparent and robust criteria for this judgment do not exist in some areas. In governance terms this is worrying, and it also causes concern for the ability of Panels in those areas to transact their scrutiny role effectively. Either Government should seek to clarify this issue through Regulations, or the Association of Police and Crime Commissioners should – with key national stakeholders – seek to develop a working definition which will be adhered to by its members.

Question 6a:

Does the role of the Police and Crime Panel need any further clarification?

#### **Comments**

We consider that the Panel role could be clarified to make it clear that the Panel has a role of constructive challenge and scrutiny of all aspects of the PCC role. Unintentionally ambiguous words and phrases in the legislation (see above) have been taken by those who seek to unreasonably restrict and limit Panels' remit to assist them in this task. We recognise that legal clarification might require changes to primary legislation in order to have proper force. Clarification from the Government about the policy outcomes which Panels should aim to achieve, in partnership with PCCs, would however be helpful in developing a sense of common purpose amongst the key stakeholders.

**Question 6b:**

How well are the current “balanced”<sup>1</sup> membership arrangements ensuring effective scrutiny and support of PCCs?

**Comments**

**The “balanced” objective for membership represents an enhancement of the existing requirements for local government committees to be politically proportionate. This gives them the credibility and legitimacy they need to be able to effectively carry out the scrutiny of an elected office-holder.**

**Question 6c:**

Are the current membership thresholds requiring a two thirds majority to veto a PCC’s level of precept and appointment of a Chief Constable proving practicable?

**Comments**

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<sup>1</sup> Schedule 6 paragraph 31 PRSRA sets out the duty to provide a balanced panel. The “balanced appointment objective” referred to in this paragraph is the objective that local authority members of a police and crime panel (when taken together)—

- (a) represent all parts of the relevant police area;
- (b) represent the political make-up of—
  - (i) the relevant local authority, or
  - (ii) the relevant local authorities (when taken together);
- (c) have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.

**To our knowledge the veto has been used exceedingly sparingly. There have been a number of instances where the veto has been threatened and/or where Panels have seriously considered exercising it (with some of these discussions having occurred in public). Panels seem, by and large, to have operated in a fairly collegiate manner. We are aware of isolated instances where vetos have been pursued but the two-thirds majority of members has not been reached, but if the Government's policy objective was to limit the use of Panels' powers in this area for reasons of business certainty (as appears to be the case) then this must be seen as fulfilling the intention of the legislation.**

**On the appointment of the Chief Constable, the situation is different. Here, we consider that the veto has not been exercised by any Panel because of the serious consequences – for the candidate, for the PCC, and for the Panel itself. The exercise of the veto on a Chief Constable appointment would be essentially career-ending for the candidate and would suggest not only that the PCC's application process for the role was fundamentally flawed but also that the national arrangements in place for tests and examinations for those seeking to apply for senior positions in the police service were fundamentally flawed. We can consider no likely circumstances in which this would happen.**

**Question 6d:**

**Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?**

### **Comments**

**We have always had difficulty with the notion of confirmation hearings for senior staff. It is the responsibility of the OPCC to ensure that employment law is complied with, and the responsibility of the OPCC and the PCC together to ensure that the recruitment process is carried out according to law and best practice. The Monitoring Officer at the OPCC, along with senior HR staff, will have a duty to ensure that criteria for suitability are appropriate. A similar duty sits with the Monitoring Officer and HR staff of local authorities, but confirmation hearings by an entirely separate legal entity for senior staff is not considered to be necessary in those circumstances.**

**As long as these basic legal principles are adhered to, there will be little value for the Panel to add. We have heard that some Panels have found it difficult to get full and accurate information about the application process for new chief executives or chief finance officers. We have also heard that many Panels have failed to access even the most basic biographical information about proposed deputy PCCs, and that job descriptions for such deputies have not been made available either. In these instances the Panel's role will be practically impossible to fulfil. We are also aware of instances where people have been appointed as**

**“assistant PCCs” to circumvent the requirement to hold confirmation hearings.**

Question 6e:

How should PCCs be held to account for their standards of personal conduct?  
What role should Police and Crime Panels have in this?

## **Comments**

### **Complaints**

**Recent examples of PCCs being subject to public opprobrium because of their actions in post, or in previous public positions, has highlighted the importance of there being some mechanism in place for sanctions to be exerted against PCCs between elections. There are procedures for “non-criminal” complaints against PCCs to be “resolved” by Panels but the scope of Panels’ powers here has always been unclear. The Home Office has always been of the view that further powers of sanction are unnecessary but we disagree.**

**The primary problem with the existing powers is the uncertainty of their application. We know of at least one instance where a Panel has sought to refer a complaint to the IPCC – based on the fact that it related to a serious, potentially criminal, matter, only to have that reference refused without a reason being given. This has highlighted the difficult distinction between criminal and non-criminal complaints, where a complaint may have elements of both characteristics.**

**Panels have also been confused by the requirement that they work to “resolve” complaints, but are specifically prevented from “investigating” them. The words “investigation” and “investigating” could use some clarification. This is a real and urgent problem for Panels, who are being asked to seek to resolve complaints within an uncertain legal frameworks, and where the risk of getting it wrong may well involve an impact on future criminal or civil action.**

**In our view Panels should not have any powers to consider or resolve non-criminal complaints. The Panel should have oversight over the local elements of a system which would see the OPCC responsibility for triage over non-criminal complaints (using a transparent process) with serious matters being escalated to the IPCC directly. The IPCC could then investigate, and if the complaint was upheld, could either impose a sanction directly or empower the Panel to impose such a sanction (see below)**

**If the Panel itself has concerns about the PCC’s conduct, it should have**

the power to make a reference directly to the IPCC, in a manner similar to the “super-complaint” provisions applying to certain consumer watchdogs in s11(1) of the Enterprise Act 2002.

We do not consider it practical or desirable to enhance the Panel’s powers to give it a right to carry out investigations into the PCC’s conduct.

### Recall

The Home Affairs Select Committee has published a Draft Bill on PCC recall. The Draft Bill would require that a Panel pass a vote of no confidence in the PCC, or that local authorities in the area representing at least half of the total area’s population pass such a motion. This would trigger the issue of a notice by the Minister and the opening of a public petition for a period of eight weeks, which would need to be signed by at least 10% of the population to be valid. Voting by post and proxy would be permitted.

It is difficult to see how this approach would be practically workable. Turnout in PCC elections has been very low; although a recall petition would result in some local interest, the recent SYPCC by-election doesn’t suggest that this necessarily translates into an increase in turnout. The geographical size of many police areas may make arrangements unworkable – it might prove difficult for people to travel to the place where the petition was available for signing, and although postal voting would be permitted, there would be a large number of people who might wish to sign by post but who would not wish to be postal voters for other elections – presumably requiring that local authorities have in place supplementary arrangements for voting by post exclusively for these petitions. The same issues would apply for proxy signing.

Although such a petition would be permitted by statute, there is the risk that it could be subject to legal challenge. A PCC so removed might claim that the recall process defies natural justice in not following due process of law (*McInnes v Onslow-Fane* [1978] 1 WLR 1520). It could also be argued that such a power would contravene a person’s rights under Article 6 of the ECHR. In preparing statutory provisions, we think it is likely that Government would need to consider an initial evidential hearing to rule on the extent to which it would be appropriate for a public vote on the recall of a PCC to be brought.

It is impossible to know if this is the case without it being tested in the courts.

### Sanctions

It might be more appropriate to consider a range of sanctions, instead of recall as the only option. The Panel, for example, might be given the right through a qualified majority to suspend the PCC (with or without pay) for a set period (legally, this might need to be done with the consent of the Home Secretary). Recall, instead of being petition-based,



**could use a Panel or local authority vote as a trigger for an investigation into the issue concerned, to be led by a judge, the IPCC or another independent person, to make a judgment as to whether a PCC had performed so far below the standards expected of the post (in a personal or professional capacity) that he or she should be removed. This process could take evidence from the public.**

Question 7:

Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?

**Comments**

**No comment.**

Question 8:

According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?

**Comments**

**No comment**

## Ethical Leadership

### Consultation Questions

Question 9:

What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?

**Comments**

**No comment**

Question 10:

What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?

**Comments**

**No comment**

**Question 11:**

Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?

**Comments**

**Information on these matters should be published on PCCs' websites as a matter of course, and an annual digest produced to accompany the PCC's annual report. The Panel would have a role of oversight, as it does for other aspects of the PCC role. In the event of perceived wrongdoing an investigation could be carried out by the IPCC further to a Panel "super-complaint" (see above).**

**Question 12:**

What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?

**Comments**

**No comment**



November 2014

**COMMITTEE ON STANDARDS IN PUBLIC LIFE  
POLICE ACCOUNTABILITY STRUCTURES CONSULTATION**

***i. Are there any gaps in the existing mechanisms for holding PCCs to account?***

In the aftermath of the publication of the Independent Inquiry into Child Sexual Exploitation in Rotherham (The Jay Report) it has become clear that there is public concern at the mechanisms for holding Commissioners to account. Sean Wright, Police and Crime Commissioner for South Yorkshire had committed no criminal act, and as such the South Yorkshire Police and Crime Panel had no powers to suspend him. Despite calls for Mr Wright to resign from the Home Secretary, the Prime Minister, and his own party, and his resignation of the Labour whip, had he not chosen to resign there would have been no right of recall until the PCC elections in May 2016.

***ii. What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?***

In Cheshire a strong governance framework has been developed which enables both the Commissioner and Chief Constable to ensure they are doing the right things, in the right way, for the right people in a timely inclusive, open and accountable manner. The governance framework clearly sets out those functions which the Commissioner lawfully consents to the Chief Constable and his statutory officers to enable him to effectively discharge his statutory functions.

The Commissioner is also publicly accountable through his engagement with the public. The Commissioner has held roadshows, surgeries and is currently undertaking a series of joint community engagement events with the Chief

Constable. All these events provide the public with an opportunity to hold the Commissioner to account. In addition, an Annual Report is sent to every household in Cheshire to keep all residents apprised of delivery against the objectives set out in the Police and Crime Plan.

The Commissioner undertakes face to face and online consultation with the public about subjects as diverse as policing priorities, the police precept, Community Resolution outcomes and young peoples' concerns. Focus Groups are held with representatives of diverse communities in order to understand their specific policing needs and to determine how effectively they are being met. Consultation takes place to inform commissioning decisions e.g. with victims of all crime and specific consultation with survivors of domestic abuse, rape & sexual violence.

The Commissioner engages with volunteers to assist him in his assessment of police services. Volunteers carry out audits of service levels at police station front desks, survey the public on their policing priorities and listen to 101 calls.

The Commissioner attends all formal meetings of the Police and Crime Panel which are webcast for greater transparency and the public are able to attend the Commissioner's Scrutiny Board and Management Board meetings, with papers available.

The Specified Information Order, in combination with the Publication Scheme means that the Commissioner publishes an unprecedented amount of information and is far more transparent than the Police Authority he replaced.

The Commissioner has an advocacy role and 1,195 people have contacted him since the election. This is a huge increase in correspondence when compared to the previous Police Authority.

### ***iii. How are PCCs ensuring transparency in their decision making?***

In Cheshire, the Commissioner and Chief Constable hold joint Management Board meetings and make strategic decisions in the public domain. Reports are structured so that the public is aware of links to the Police and Crime Plan, together with any financial, legal and equality implications. Agenda papers are available on the Commissioner's website in advance of meetings and the Commissioner's decisions are also posted on the website following meetings, including a rationale for the decisions, and agendas, reports and minutes are published.

As many decisions as possible are made as "part 1" decisions, which has resulted in over 201 decisions being taken in the public domain since the Commissioner came into office. However, it may be of use to have a definition of what as a minimum constitutes a decision of significant public interest, as it is clear that different Commissioners are interpreting the legislation in different ways.

The Commissioner is already subject to extensive transparency measures, in addition to the scrutiny of the Police and Crime Panel.

**iv. What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?**

In Cheshire, performance data which is linked to the Police and Crime Plan objectives is easily accessible on the Commissioner's website. A summary of the most recent performance data is provided in an easily understandable format and the public can also access the more detailed performance information which the Commissioner utilises to hold the Chief Constable to account.

The Annual report provides a summary of performance and in 2014 it generated over 70 pieces of correspondence from the public, much of which was positive about the police service in Cheshire.

The Commissioner has a positive relationship with the local print, online and radio media who regularly cover stories about policing performance.

The Commissioner's responses to HMIC reports are all published, as are the Constabulary's action plans relating to recommendations contained within the reports.

In terms of financial and governance information, the medium term strategy, annual budget and accounts are published on the Commissioner's website. Internal and external audit plans and annual reports are also published. The Commissioner and Chief Constable have set up a joint Audit and Ethics Committee to further demonstrate accountability.

Under a combination of the Police Reform and Social Responsibility Act 2011 and the Information Commissioner's Publication Scheme, the Commissioner is required to publish a huge amount of data, and is subject to regular Home Office Information Audits. The Commissioner strives to ensure this information is easily accessible, understandable and accurate, and is presented with context when required.

As a public body, the Office of the Police and Crime Commissioner is also subject to the Freedom of Information Act 2000 and as such members of the public can request additional information.

**v. What has worked best for PCCs in engaging with the public and local communities?**

The Commissioner has found that a combination of engagement channels must be used in order to ensure that individuals' preferences are met. Some people prefer to

engage online using social media whilst others require face to face dialogue. The Commissioner offers a combination of channels such as focus groups, one to one meeting, surgeries, roadshows, public meetings and correspondence by letter, e-mail and telephone. There is no one method which 'works best' for all people and the Commissioner strives to be accessible to all.

**vi. How well are Police and Crime Panels able to hold a PCC to account between elections?**

**a. Does the role of the Police and Crime Panel need any further clarification?**

There is room for confusion over the lines of accountability within the current police governance model. There is a potential risk of mission creep with Police and Crime Panels seeking to undertake the role of the Commissioner in holding the Chief Constable to account for operational performance.

It must be made clear that the role of the Police and Crime Panels is limited to holding the Police and Crime Commissioner to account. On the whole, this issue is not one of definition, but rather one of understanding of Members of the Police and Crime Panel.

**b. How well are the current "balanced" membership arrangements ensuring effective scrutiny and support of PCCs?**

In Cheshire the Panel has a mixture of political parties, however it should not be assumed that because the majority of Members of a Panel share a political allegiance with the Commissioner that this will automatically lead to a "cosy" relationship. It is therefore a matter less of the Panel's political balance and more of the personality of the Panel members.

**Comment [SLP1]:** This response still needs reviewing.

It is worth noting that Panels are frequently more focussed on scrutiny of a Commissioner than on support of them. **(Do we want to mention our experiences in Cheshire)**

**c. Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?**

It would be of concern if this threshold were to be lowered. The veto is the strongest tool the Panel wields and it should only be used in rare circumstances. The current requirement for a two thirds majority of the whole Panel goes some way to providing a safeguard to ensure a veto is only imposed when it is in the public interest and is not misused to frustrate the Commissioner in setting an adequate budget to deliver effective policing. It also ensures that such major decisions are made by a quorate Panel.



***d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?***

The Panel already has the power to hold confirmation hearings regarding the appointment of a Deputy Commissioner and the PCC's statutory officers (the Chief Executive and the Chief Finance Officer) and to make recommendations to the Commissioner in relation to these appointments. This arrangement already provides the Panel with a significant role in these appointment processes. To provide the Panel with a further power of veto over these appointments would fetter PCC's discretion to appoint their own senior team and is considered inappropriate.

The clear intent of the Police Reform and Social Responsibility Act 2011 is that the appointment of a Deputy Commissioner is a personal appointment. Schedule 1 of the 2011 Act contains a provision stating that section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the Deputy Commissioner. As such, providing the Police and Crime Panel with a power of veto over this appointment would not be in keeping with the spirit of the legislation.

***e. How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?***

The Commissioner is already bound by the Ethical Framework and Code of Conduct, and the Panel already has a role in considering complaints, and in making referrals to the IPCC.

***vii. Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?***

The boundaries between the two roles are being communicated, but it is difficult to gauge whether the public fully understand the different roles and responsibilities of the two corporations sole. This is not altogether surprising, as it is only 2 years since the inception of this new model of police governance and accountability. However, it is clear that public awareness of Commissioners after 2 years is higher than public awareness of Police Authorities was after 17 years.

***viii. According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts***

***of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?***

There are some minor difficulties with the operation of Audit Committees. Unlike Audit Committees in other parts of the public sector, the Committees only acts in an advisory capacity and as such has a limited role. As the Independent Members who comprise the Audit Committees are not involved in policing on a day to day basis it can also be difficult to ensure they have the required levels of corporate knowledge.

There have been no conflicts of interests arising in Cheshire from the Commissioner and Chief Constable having a joint Audit Committee. The Commissioner and the Chief Constable do not share a Chief Financial Officer in Cheshire.

***ix. What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?***

The Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership are all key responsibilities of the Commissioner as an ethical leader.

In Cheshire, the Commissioner has a good track record of publicly leading the force, he has been involved in embedding the Code of Ethics, and has engaged with both staff and public. All decisions of public interest made by the Commissioner are taken at public meetings and reports and rationales then published.

The Commissioner regularly meets with Area Commanders and holds focus groups to ensure that he understands the concerns of frontline officers and staff and will raise their issues with the Chief Officers as appropriate. This ensures that Commissioner is an available, visible leader to the force.

***x. What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?***

The Commissioner and Chief Constable have introduced a joint Audit and Ethics Committee to advise them on the effectiveness of the embedding of the Code of Ethics and its ongoing influence on the service.

The Commissioner requires his Chief Finance Officer to undertake an ACPO Officers integrity review on an annual basis to ensure all Chief Officers are demonstrating the

highest levels of integrity at all times. In addition to this, the Chief Finance Officer attends the Constabulary's Integrity Group.

The Deputy Commissioner regularly conducts dip sampling of complaints files, and a full report on handling of complaints is brought to the Commissioner's Scrutiny Board. The Deputy Commissioner also regularly meets with the Head of the Professional Standards to discuss complaint and conduct matters.

The Constabulary is committed to using the Code of Ethics as its core values.

***xi. Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?***

Police and Crime Commissioners are required to adhere to a higher level of information transparency than many other public bodies. We are confident that, when properly adhered to, the combination of the Specified Information Order and the Information Commissioner's Publication Scheme ensure the highest levels of transparency are being demonstrated.

***xii. What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?***

In Cheshire, the Commissioner has agreed to abide by a local *Ethical Framework and Code of Conduct for the Police and Crime Commissioner* which includes provisions in relation to managing conflicts of interest. The Commissioner's Monitoring Officer has a crucial role to play in highlighting any potential conflicts of interest at the earliest opportunity and advising the Commissioner accordingly.

In Cheshire, all reports which are submitted to the Management Board are reviewed by the Commissioner's Monitoring Officer and Deputy Monitoring Officer as well as the Force Solicitor, who acts as the Constabulary's Monitoring Officer. This helps to ensure that all conflicts of interest are identified and managed appropriately.

## Committee on Standards in Public Life

# Local Policing – accountability, leadership and ethics

## Response Form

### Consultation Questions

The Committee has commenced an inquiry on the public accountability structures of the police. We are looking at the structures in place for ensuring ethical standards in the conduct and performance of Police and Crime Panels, Police and Crime Commissioners, and Chief Constables.

The Committee would like to hear your views. Please use this form to answer some or all of the questions in the Issues and Questions paper available at: [https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment\\_data/file/360941/Police\\_Accountability\\_Structures\\_-\\_Issues\\_and\\_Questions\\_Paper.pdf](https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment_data/file/360941/Police_Accountability_Structures_-_Issues_and_Questions_Paper.pdf)

### How to respond

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Please tick the appropriate response:

- Are you responding:
- *as a member of the public*
  - *as a member of the police*
  - *on behalf of another organisation* ✓

**If you are responding on behalf of an organisation, please tell us your area of work, e.g police constabulary, regulator, trade union, think tank etc**

This response is made on behalf of the Cheshire Police and Crime Panel. Warrington Borough Council is the host authority for the Panel.

# **Local Policing – accountability, leadership and ethics**

## **Current Accountability Structures**

### **Consultation Questions**

Question 1:
Are there any gaps in the existing mechanisms for holding PCCs to account?

**Comments**

There is a lack of clarity about what information the PCC is required to provide to PCPs to enable them to carry out their scrutiny role effectively. S13(1) of PSRA 2011 states that 'An elected local policing body must provide the relevant police and crime panel with any information which the panel may reasonably require in order to carry out its functions'. However, a PCC who has a firm view that the PCP's role is only to scrutinise him can effectively limit the amount of both general detail and operational detail within that information. We would argue that sufficient general detail and operational detail are required to enable to Panel to understand the context of any decisions taken by the Commissioner.

Information in general which may not be operational can also be limited by the PCC, as shown recently when asking for a response on HMIC crime reporting. If the HMIC gives full information on the recommendations needed, the Panel will need full information on whether the PCC has scrutinised the Chief Constable sufficiently and to ensure that the recommendations have been responded to properly.

There is no requirement on the Commissioner to produce or publish a Forward Plan of decisions, which would help the public and PCP to plan its scrutiny of the PCC's effectiveness.

Lack of understanding, or a reluctance by PCCs, to acknowledge the role of PCPs in 'holding them to account'. The Act refers to the PCP's role to 'review or scrutinise decisions made' and to 'supporting' the PCC. This language could lead to a failure by PCCs to accept that the PCP has a wider role in relation to ethical standards and in being a weathervane of public opinion.

In terms of complaints handling, there appears to be a lack of teeth for PCPs. The route for complaints is either high level, ie. referral to the IPCC for criminal matter, or low level, ie. informal resolution without any recourse to sanctions. Notwithstanding this, there are some parallels to be drawn here with the current standards regime for elected councillors, which allows only criminal sanctions or low level interventions.

Question 2:

What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?



### **Comments**

PCCs should produce and publish a Forward Plan of decisions.

PCCs should actively engage with PCPs at informal meetings to help cement a strong working relationship, without compromising the independence of the Panel and its ability to provide effective challenge.

PCCs should adopt an approach not unlike the NHS 'duty of candour' and should be open and transparent to the public, including self-reporting issues to the PCP.

PCCs should provide an Annual Governance Statement within their Annual Report. This should include:

- a statement as to how they have complied with the terms of their Oath of Office within the last 12 months; and
- a statement that they have recently reviewed and updated their publication scheme and are fully compliant with the publication requirements under the Elected Local Policing Bodies (Specified Information) Order 2011.

Question 3:

How are PCCs ensuring transparency in their decision making?

### **Comments**

In our experience the PCCs website is generally good at providing information about governance arrangements and decision making.

Where perhaps there is less clarity, is around the publication of Part II (confidential) matters. Decision notes only include a summary of the decisions made, but much of the detail is omitted. It would be helpful to see an approach which is not dissimilar to the public interest test applied by local authorities, so that the maximum amount of non-exempt information should be disclosed.

Question 4:

What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?

### **Comments**

A wide range of information is available on-line to the public on both local and national crime statistics. In addition, IPCC, HMIC publish information about complaints and performance in the force area. The PCC receives regular performance information from the Chief Constable against the Objectives in the Police and Crime Plan and about other matters. This information is made available to the public at the PCC's own Public Scrutiny meetings. The information is easily accessible and clear, although some degree of prior understanding might be required by the reader. One criticism might be that information is scattered over a variety of official bodies whose existence and roles may not be readily apparent to the wider public.

Question 5:

What has worked best for PCCs in engaging with the public and local communities?

### **Comments**

We are of the view that the PCC is very effective as the face of policing when meeting the public at events, when promoting initiatives in the media and when engaging with partners at the strategic level. A strong communications team in the OPCC has been influential in providing a useful website, and in making the most of social media opportunities and press involvement.

Question 6:

How well are Police and Crime Panels able to hold a PCC to account between elections?

## **Comments**

The experience here is mixed. On the one hand, the PCC is happy to attend and engage with the PCP at its regular meetings and to report on crime statistics, performance against the Objectives in the Police and Crime Plan and 'good news' stories. On the other hand, it has been difficult for the Panel to gain access to any information over and above what the PCC utilises to hold the Chief Constable to account in the public arena. In particular, there is a need for a regular and more substantive dialogue between the PCC and PCP. This will help the PCP to increase its knowledge base, which in turn will enable Members to better understand context of decisions taken by the PCC. The PCP could also begin to make better use of local authority intelligence about community safety to triangulate information about the PCC's performance.

Question 6a:

Does the role of the Police and Crime Panel need any further clarification?

## **Comments**

Overall, the PCP's role does not need further clarification. It is our view that PCPs are very clear about their remit to hold the PCC, not the Chief Constable, to account.

In the eyes of the public, the role of the PCP may be less clear. Recent events nationally have demonstrated that PCPs have been criticised for not acting in circumstances where, in fact, they have no powers to act.

In relation to the PCP's complaints role, a significant number of complaints locally about the PCC are in fact complaints that the PCC has failed to intervene in a complaint about an operational policing matter. In many of these cases a complaint has already been received by the Police and the PCC and complaints are then escalated to the PCP by the complainant in the mistaken belief that it can operate as an appeal body for the original complaint. The process of handling and responding to these complaints takes up a significant amount of time.

Greater clarification of the Panel's role in relation to the appointment of an Acting PCC in the event of death, resignation, or disqualification of an existing PCC might prove useful. For example, a model concordat between the PCP, PCC and OPCC, to be signed at the time of election of the PCC, could be drawn up to clearly identify a preferred candidate for appointment as Acting PCC in the event of a vacancy. Ideally this would be the Deputy PCC. The PCP would not be bound to follow concordat, but should give strong weight to it. The PCC could prepare for this unfortunate eventuality by including appropriate clauses in the Scheme of Delegation and in the terms and conditions of appointment of the Deputy PCC.

Question 6b:

How well are the current "balanced" membership arrangements ensuring effective scrutiny and support of PCCs?

**Comments**

The 'balanced' membership of the PCP presents no significant issues in terms of effective scrutiny and support of the PCC. In the light of an initial 50/50 political split of its membership, Members of the Cheshire PCP quickly sought the appointment of three independent members, so as to make up an odd number of members of the PCP overall. Members of the PCP have an informal agreement to rotate the Chair between the political groups and for the Deputy Chair to be from a different party from the Chair.

Panel members fully understand their scrutiny role and undertake their responsibilities in a way which is evidence based and largely apolitical. There is no evidence of councillors from the same party as the PCC and opposition councillors treating the PCC any differently. PCP members are well aware of the four principles of good scrutiny (see CfPS website), namely that scrutiny:-

- provides a constructive 'critical friend'
- challenge amplifies the voices and concerns of the public
- is led by independent people who take responsibility for their role
- drives improvement in public services.

Question 6c:

Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?

### **Comments**

There have been no issues in operating a two thirds majority for the exercise of the veto and there is precedent in local government for decisions with a significant impact having a higher level of agreement beyond a simple majority, eg changes to the Constitution. However, on balance, the PCP would prefer a simple majority vote for all its decisions.

Question 6d:

Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?

### **Comments**

The rationale for providing the power of veto only in the case of the appointment of a Chief Constable is not fully understood. The Chief Executive of the OPCC and its Chief Finance Officer are significant roles and should be subject to the same rigorous scrutiny as the Chief Constable. The current powers to report and make recommendations about a candidate's appointment are insufficient. A power of veto requiring a simple majority would be more appropriate.

The case of a Deputy PCC may be fundamentally different, given that this post is not subject to Schedule 7 of the Local Government and Housing Act 1989 (appointment of staff on merit). The question of whether this presents an ethical risk is understood, but the role seems designed to allow for a political appointee. It would be improper for the Panel to have the power of veto over such a political appointment. The mechanism for accountability would instead be by holding the Deputy PCC to similar standards of conduct as the PCC. A suggestion is that the Deputy PCC should be required to sign a similar Oath of Office to the PCC.

The power of veto would be supported if the Deputy PCC post was subject to the Schedule 7 of LGHA 1989.

Question 6e:

How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?

### **Comments**

The role of the IPCC to investigate potential criminal conduct is welcomed. The PCP's power to suspend a PCC in the event of the PCC being charged with an offence which is imprisonable for more than two years is appropriate. Automatic disqualification of the PCC in the case of debt or conviction of an imprisonable offence appears to be consistent with other legislation about public office.

The PCP's powers regarding informal resolution are sufficient, and to some extent mirror the Localism Act 2012 changes to the standards regime in local government.

Where there may be a gap, is in the area of conduct by the PCC which is not criminal, but may be seen to be so serious as to bring the office of the PCC into disrepute, or circumstances or information which comes to light surrounding a PCC, which has the effect of creating a loss of public confidence which is significant enough for the position of the officeholder to be untenable. In those circumstances, an additional power for the PCP, upon receipt of a complaint, to conduct a no-confidence hearing would be welcomed. The proposed power of 'recall', as described in the draft bill provided by the Home Affairs Select Committee, is not supported, as this appears to fly in the face of the fundamental principle being democratically elected for a set term of office. However, a power of referral by the PCP, on a simple majority, to the Home Secretary for intervention or suspension of the PCC's powers might be useful.

The PCP is not an appeal body for complaints about operational policing. A clear statement should be inserted at Regulation 15(3) of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012, that a complaint about the PCC's limited response in relation to a complaint about an operational policing matter, is a matter which falls within the disapplication criteria and may be dealt with by the PCP as it sees fit, ie. no action taken.

Question 7:

Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?

### **Comments**

The PCP has no evidence that the roles and responsibilities of the PCC and Chief Constable are not being communicated effectively.

### **Question 8:**

According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?

### **Comments**

The PCC and Chief Constable have established a Joint Audit and Ethics Committee, which is responsible for considering internal and external audit reports and providing an independent assurance function. The PCP has no evidence to suggest that this arrangement is ineffective.

The Chief Finance Officer of the OPCC and Constabulary are not the same person. The Panel would have concerns about potential conflict of interest if the posts were both held by the same person. In that instance, a clear procedure for delegating decision making to another officer and for recording those decisions should be established to avoid any transparency issues.

To date, the reporting of financial and audit matters to the PCP has been limited, which may compromise its power to veto the precept. Much more information needs to be given. For example, the PCP does not even get the Auditors' unqualified value for money opinion reported to the PCC prior to consideration of the precept.



## **Ethical Leadership**

### **Consultation Questions**

Question 9:

What do you see are the key responsibilities of PCCs as ethical leaders?  
Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?

**Comments**

The key responsibilities of the PCC are included within the Oath of Office, namely:

“I will serve all the people of XXXXX in the office of Police and Crime Commissioner. I will act with integrity and diligence in my role and, to the best of my ability, will execute the duties of my office to ensure that the police are able to cut crime and protect the public. I will give a voice to the public, especially victims of crime, and work with other services to ensure the safety of the community and effective criminal justice....”

The PCC has produced and published an Ethical Framework and Code of Conduct for the role, which includes information on the Oath of Office; general obligations; use of resources; register of disclosable interests; conflicts of interests; disclosure of information; transparency; and complaints.

Question 10:

What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?

### **Comments**

On 2 July 2014 the PCC agreed a change to the terms of reference of the Audit Committee to establish a Joint Audit and Ethics Committee, specifically to take on board embedding the Policing Code of Ethics and providing additional assurance on the handling of complaints and conduct matters.

The PCP is satisfied that the PCC and Chief Constable are committed to promoting the core values of policing in the face of budgetary and other pressures. As with all other public sector bodies, this is being achieved through a combination of more efficient systems of working, improvements in technology, effective prioritisation and improved partnership working.

Question 11:

Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?

**Comments**

The PCP's website includes easy access to information on registers of interest and gifts and hospitality.

Question 12:

What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?

**Comments**

The published Code of Conduct for the PCC and Deputy PCC makes clear the procedure for declaring and considering interests and, if necessary, delegating a decision where there may be a conflict of interest. Appropriate advice can be obtained from the OPCC's Monitoring Officer.

Dear Chairman

I refer to your letter of 7 October 2014 addressed to Barry Coppinger, Police & Crime Commissioner for Cleveland. The Commissioner is grateful for the opportunity to contribute to the Committee's inquiry – although in line with your covering guidance, he does not propose to offer views or evidence on every question - and has asked me to submit his responses to the questions as follows:

Questions (i) and (ii)

The Commissioner is aware that the Association of Police & Crime Commissioners ('APCC') will shortly submit its report on *Tenure of Office of Police and Crime Commissioners* to the Home Secretary. The Commissioner is satisfied that the APCC's report is a thorough review of the issues and of the range of PCC views on them and would commend the paper to the Committee. The APCC will not doubt include it in its consolidated response to the Committee. It follows, for that reason he is not among the PCCs who have expressed a wish to submit distinct and separate reports on any particular aspect, to the Home Office.

Question (iii) (iv) and (v)

The OPCC for Cleveland has achieved compliance with the transparency standards set out in the Specified Information Order, save in respect of the one regulatory provision requiring publication of contracts above the statutory threshold. In that latter respect, whilst work continues to achieve full compliance the PCC's online publication pages contain a holding invitation to make hard copies available to interested individuals by appointment at Cleveland Police premises. The Commissioner's understanding is that few, if any, OPCCs have achieved full compliance with the requirement to publish full text contracts.

The OPCC publishes Decision Records in respect of all decisions of significant public interest in line with the Specified Information Order. In addition, minutes and supporting documentation in respect of the PCC's Scrutiny Meeting programme are published on the PCC's website. OPCC officers meet regularly to review website access statistics. The Commissioner makes extensive and successful use of social media and has adopted a Social Media and Digital Communications Policy published at <http://www.cleveland.pcc.police.uk/Document-Library/Social-Media-Policy/Cleveland-PCC---Social-Media-Policy-V1-FINAL-260814.pdf>

The PCC's Consultation & Engagement Strategy is published at <http://www.cleveland.pcc.police.uk/Document-Library/Consultation/Consultation-Strategy---PCC-and-Force.pdf> Of particular note is the programme of *Your Force Your Voice* community meetings by the PCC, over 200 of which have been held since the PCC took office. Issues raised at those meetings and the Commissioner's feedback, are published on the Commissioner's website.

Question (vi)

The relationship between the Commissioner and the Police & Crime Panel is constructive but – as is appropriate - challenging. Its meetings are effective and it has been possible, without significant issue of principle, to meet the Panel's desire to have the Deputy Chief Constable present to address relevant police operational matters directly. The Commissioner is supportive of the Panel's approach to its remit, which includes an annual programme of Task & Finish scrutiny, gathering evidence both from the OPCC and other relevant contributors in respect of matters germane to the PCC's functions. The programme for this current year, for example, consists of examination of Overall Budget Strategy, Shared Services, Commissioner Priorities and Victims' Services.

Complaints against the Commissioner have been few in number, but the Panel has robustly exercised its remit to hold the Commissioner to account in this regard notwithstanding the legal constraints under which it performs this function.

Question (vii)

There are no specific issues arising from Cleveland's experience which the Commissioner would highlight.

Question (viii)

The Joint Audit Committee arrangements in Cleveland work well. Accordingly, there are no specific issues arising from Cleveland's experience which the Commissioner would highlight.

The Commissioner has not adopted the model of sharing a Chief Finance Officer with the Chief Constable, but has entered into a collaboration arrangement with the Police & Crime Commissioner for North Yorkshire in respect of the services of the PCC Chief Finance Officer. The arrangement is working well and has given rise to no significant conflict of interest issues; where they might notionally arise, as an experienced statutory officer aware of the need to act in the public interest, the CFO has indicated that he would consider how best the public interest might be served by particular actions or advice and would advise each Commissioner accordingly.

Question (ix) and (x)

The Commissioner's Police & Crime Plan contains a clear commitment to *Emphasise the Importance of Integrity and Openness* as part of his key objective of *Valuing those who deliver community safety services and encouraging good community and industrial relations*. The Commissioner continues to support the Chief Constable in her role as national lead chief officer in respect of professional ethics.

The Commissioner's Chief of Staff (Chief Executive) is a member of the Cleveland Police internal Ethics Committee and of the strategic Transparency, Integrity, Values and Ethics Committee in the capacity both of the Commissioner's representative and as Monitoring Officer.

The Commissioner and officers of the OPCC have taken part in internal events to embed the Code of Ethics.

Question (xi)

The Commissioner considers the Specified Information Order requirements in respect of expenses, interests, gifts and hospitality and meetings to be appropriate – and complies with them - in addition to which the expenses and expenditure of statutory officers are also published.

Question (xii)

No significant conflict of interest issues have arisen. As a matter of routine good practice, the Commissioner seeks professional guidance (from within the OPCC, including the statutory officers) on matters of good financial corporate governance as they arise.

Office of the Police and Crime Commissioner for Cleveland

The Commissioner hopes that the above responses and evidence are of use and interest to the Committee. If the Commissioner can be of further assistance to the Committee's work, please do not hesitate to contact me.

Yours sincerely

Simon Dennis



**Simon Dennis**  
**Chief of Staff (Chief Executive & Monitoring Officer)**  
Office of the Police & Crime Commissioner for Cleveland  
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## Committee on Standards in Public Life

# Local Policing – accountability, leadership and ethics

## Response Form

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Please tick the appropriate response:

- Are you responding:
- *as a member of the public*
  - *As a member of the police*
  - *On behalf of another organisation*

If you are responding on behalf of an organisation, please tell us your area of work, e.g. police constabulary, regulator, trade union, think tank etc

<p>Police academic</p>
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# Local Policing – accountability, leadership and ethics

## Current Accountability Structures

### Consultation Questions

Question 1:

Are there any gaps in the existing mechanisms for holding PCCs to account?

#### Comments

**Yes. The role of the policing panel is an incomplete one. It cannot truly hold PCCs to serious accountability in its current form as it is unable to provide any serious sanctions. For example, the precept request as it currently stands means the Panel can only reject once, but cannot reject on a second application. Further, there have been instances where PCCs have made executive decisions regarding dismissal of Chief Constables without proper recourse to or any consultation with the policing panels.**

**In terms of the Home Secretary, there should be a more robust link regarding accountability. The current procedure for removal of a PCC is far too complex and needs reconsideration.**

Question 2:

What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?

#### Comments

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Question 3:

How are PCCs ensuring transparency in their decision making?

**Comments**

**PCCs currently utilise websites etc to 'advertise' their work.**

**Unfortunately most of this approach revolves around attempting to engage the public, but in a 'vote for me' approach rather than serious dissemination of all necessary information.**

**Publication of annual plans including targets and objectives exists but these follow a fairly similar and historical approach to dissemination and do not necessarily reach ordinary people at street level.**

**In terms of scrutiny by the policing panel, I am unconvinced that the meetings, which are public, are not advertised widely enough, nor are minutes widely available and subject to comment and scrutiny.**

Question 4:

What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?

**Comments**

**Please see comment in question 3 above. Access for ordinary members of communities may be difficult in the current format of information dissemination.**

**Annual plans tend to ignore issues that matter to local people, whilst a league table mentality of producing figures moves away from issues of quality of service provision from police organisations.**

Question 5:

What has worked best for PCCs in engaging with the public and local communities?

**Comments**

**Unfortunately, high profile cases and other crisis have thrown the PCCs into the media limelight. Regular commentary in local newspapers would assist at a local level to inform communities, whilst the introduction of greater IT such as the use of APPs for community engagement would be of benefit.**

**A higher degree of prominence and publicity regarding the policing panel, plus changes in their ability to ensure the role of the PCC as being accountable, would I believe allow for greater engagement with the public and local communities.**

**Question 6:**

**How well are Police and Crime Panels able to hold a PCC to account between elections?**

**Comments**

**Please see question 1 for general answer.**

**In addition, I feel that the political make up of the panel can be a disadvantage. In cases where the PCC is a politician (former) and of the same political party as the leader of the policing panel, there is an obvious problem of accusations of collusion regarding decision making- especially where this decision is seen to political. It also calls into question the independence of the chair of the policing panel, who is an obviously important and influential person and who can guide lesser experienced members of the panel.**

**Question 6a:**

Does the role of the Police and Crime Panel need any further clarification?

#### **Comments**

**Yes, definitely for reasons discussed above. At present they appear to have very limited power in terms of holding PCCs to account. Many of the current members may not be aware of the limited powers they actually have nor do they hold any feedback sessions for the public following meetings with the PCC.**

Question 6b:

How well are the current “balanced”<sup>1</sup> membership arrangements ensuring effective scrutiny and support of PCCs?

#### **Comments**

**My belief is that they are too heavily dependent upon locally elected officials who have no concept or grasp of what policing is about and are too ready to agree with what they are told at their meetings with the PCC. A more critical investigation into the decision making by PCCs is required. I feel that the makeup of the policing panels needs to be reassessed to have a more diverse selection of members of the community included rather than elected officials in the main.**

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<sup>1</sup> Schedule 6 paragraph 31 PRSRA sets out the duty to provide a balanced panel. The “balanced appointment objective” referred to in this paragraph is the objective that local authority members of a police and crime panel (when taken together)—

(a) represent all parts of the relevant police area;

(b) represent the political make-up of—

(i) the relevant local authority, or

(ii) the relevant local authorities (when taken together);

(c) have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.

Question 6c:

Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?

**Comments**

**I have utilised this as an answer to a previous question. The problem regarding the veto is that once vetoed the PCC can return with a second request which cannot be vetoed by the panel then. Therefore as it stands it does not matter if is vetoed by a majority or two thirds when the PCC can simply return with another figure and automatically have it agreed.**

Question 6d:

Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?

**Comments**

**Absolutly yes. This would help to negate accusations of corrupt practice and inappropriate appointments.**

Question 6e:

How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?

**Comments**

**My belief is that the powers of the Policing Panel should be enhanced to include some form of accountability to the policing panel. They should have the power to hold the PCC to account for his/her personal conduct and also to suspend if needs be.**

**However, there is also a role to be played here by the Home Secretary who is, after all, the ultimate accountability for the policing arrangements in this country.**

**Question 7:**

**Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?**

### **Comments**

**I believe that there is very little understanding in general of the role that the PCC takes on behalf of communities. Witness the incident at Gwent Police where the Chief Constable resigned and it became very clear that people within the communities knew very little about the PCC or his/her powers.**

**I still believe this has a long way to go.**

**Question 8:**

**According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?**

### **Comments**

**I am not aware of any such conflicts. My information would lead me to believe that, especially in terms of economic arrangements; risk management activities are in place.**

## **Ethical Leadership Consultation Questions**

### **Question 9:**

**What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?**

### **Comments**

**PCCs should be exemplars of ethical leadership.  
They should be accountable for the actions of the police they oversee.  
Ethically, they should be willing to admit when the police make**



**mistakes, but this can be seen by some as a weakness and 'not a vote winner'. The problem with such elected positions is that ethical behaviour may adversely influence the next election round. This is not being cynical, just realistic.**

**Question 10:**

**What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?**

**Comments**

**Each of these has different roles and positions within the police service. Operationally, the Chief Constable has a duty to promote core values etc through supervisory officers during day to day policing activities. A common core values document produced by both would set out the values and beliefs of the particular PCC and Chief Constable. However, the occupational police sub-culture is a difficult one to introduce change into.**

**Question 11:**

**Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?**

**Comments**

**In general no. This should be made compulsory in an annual declaration.**

Question 12:

What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?

**Comments**

**I believe that an enhanced role of the Policing panel would ensure that conflicts of interest could be resolved robustly and with clarity.**



**Committee on Standards in Public  
Life: Local Policing – accountability,  
leadership and ethics**

30 November 2014

College of Policing Response

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## **The role of the College of Policing**

The College of Policing is the professional body for everyone working in policing. Our vision is to be a world class professional body, equipping our members with the skills and knowledge to prevent crime, protect the public and inspire public trust.

The College of Policing sets standards of professional practice. We identify, develop and promote good practice based on evidence. We work to support the professional development of those working in policing. We support police forces and other organisations to work together to protect the public and prevent crime; and we identify, develop and promote ethics, values and standards of integrity.

In setting standards, the College works in partnership with a range of bodies, including chief constables, who provide operational leadership and direction to police forces; and police and crime commissioners (PCCs) who are elected by the public. PCCs hold their chief constable to account, set the police and crime plan for the area, set the police force budget and have the power to appoint or dismiss the chief constable.

### **Identifying, developing and promoting values and standards of integrity**

The College of Policing has responsibility for supporting its members to make ethical decisions and promote integrity in policing. We have published a Code of Ethics for police professionals in England and Wales. The Code provides principles to guide people working in policing when exercising discretion in the difficult decisions they face each day. It also sets out the standards and behaviour expected from everyone who works in policing.

As a code of practice, the legal status of the Code of Ethics applies to the police forces maintained for the police areas of England and Wales and relates specifically to chief officers in the discharge of their functions. The expectation of the public and the professional body is that every person working in policing will adopt the Code of Ethics. This includes all those engaged on a permanent, temporary, full-time, part-time, casual, consultancy, contracted or voluntary basis. It also includes all force not funded by the Home Office and any other policing organisations outside the remit of the Code as a code of practice. PCCs may decide to adopt the Code of Ethics and some have indicated they intend to do so.

Given that the role of the College of Policing is to set standards and provide guidance for the police service the College has, for the most part, restricted its responses to those areas of the consultation that directly impact upon the role of chief constable and only some aspects of the role of PCCs.

While the democratic and accountability mechanisms for policing are for others to determine the College has a general responsibility to identify, develop and promote ethics, values and standards of integrity. For this reason the College has also responded to questions which relate to the role of PCCs in supporting this work.

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## Responses to questions

*32. The Committee are concerned to understand generally the steps all parties to the Policing Protocol are taking to ensure they are abiding by the Seven Principles of Public Life. The Committee also wishes to consider specifically the extent to which PCCs are providing ethical leadership in embedding the Policing Code of Ethics, and are themselves acting within that framework as elected officials. The Committee invites views generally and on the following questions:*

*ix. What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?*

PCCs are already expected to act in accordance with the seven principles of public life, upon which the nine policing principles which feature in the Code of Ethics have been based (with the additional expectations of fairness and respect). It would not be expected that PCCs would comply with the police-specific elements of the standards of professional behaviour set out in Police Regulations and the Code of Ethics but most of the standards can be reasonably expected to apply to PCCs, police staff and others in policing.

There is a need to provide transparency in terms of PCC salaries and rewards, expenses, gifts and hospitality receipts and their business interests (see xi below) as a demonstration of their own openness and accountability to their staff and the public.

Although it is the Chief Constable that has responsibility for delivering an effective and efficient policing service the PCC has a legitimate role in holding the Chief Constable to account for creating the organisational conditions within a force that are necessary to promote ethical behaviour. The College does not have specific examples of PCCs managing their responsibilities as ethical leaders. However ethical leadership and fair and transparent organisational processes have been shown to provide the conditions within which staff are most likely to perform effectively, ethically and in the public interest.

PCCs may have a role in the oversight of the force's management of misconduct, grievances and complaints to ensure that behaviour that is unethical is recognised and that fair and proportionate organisational responses/sanctions are in place.

It should be noted however, that the PCC should not have a role in the management or determination of individual cases. There would otherwise be a danger that decisions could be perceived as political rather than based on objective fairness. There are some landmark cases (e.g. Harwood) where the PCC would have a legitimate interest in the outcome given the potential impact on public confidence but, as a principle, PCCs should not be able to influence the outcome of individual misconduct cases.

Clearly PCCs would be involved in cases directly affecting Chief Constables in line with the PCC's responsibility for appointing and dismissing Chief Constables.

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PCCs could take a personal interest in any of the forces' recognition and reward mechanisms that specifically acknowledge and encourage ethical behaviours to ensure that these are publicised and communicated within the organisation and to the public.

In some forces the PCC or Deputy PCC acts as chair of an Ethics Committee. The model is different in each force but the focus is on ensuring that misconduct cases, complaints and concerns from staff or the public are subject to appropriate investigation and oversight thereby upholding the ethical values and behavioural standards of the PCC and the force in line with the Code of Ethics (see x below).

PCCs could have a role in ensuring that the Code of Ethics is used appropriately in procurement as a guide to the manner in which contracts are awarded and to apply as a requirement to the staff of contractors who are successful in bidding for work that the PCC signs off.

The use of vetting as part of the checking processes for those employed in policing is important in reducing the risk of misconduct and corruption. Whilst it is recognised that such checks may not be appropriate for those who are elected to positions of responsibility it is still important that staff employed within the office of the PCC are subjected to the same vetting safeguards as those performing equivalent roles under the employment of the Chief Constable.

*x. What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?*

The College of Policing is working with the national policing lead for Professional Standards and Ethics to support Chief Constables with the materials and guidance they need to embed the Code of Ethics within their forces.

This work includes pilots for ethics committees within a number of forces. The model varies for each force and the purpose of the pilots is to establish the principles which support the effective oversight of force processes that are in place to encourage the highest standards of ethical behaviour.

In most of the pilots the PCC or a member of their office sits on the committee. In some forces the focus is on the organisation and its internal processes such as grievance and misconduct and in others the focus is on the quality of external service delivery through the consideration of complaints and other examples of service failures. In most the committee considers any management information that is available on the total types of incident in question whilst drawing a number of examples for closer scrutiny.

It is too early for any guidance to be developed on the most effective and efficient means to scrutinise the processes that deal with behaviour that falls below ethical and behavioural standards but it can be argued that there is a role

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for the PCC or their office in this sort of activity as it is clearly in the public interest.

Beyond involvement in the scrutiny processes set out above the College is not aware of any emerging good practice in respect of the role of the PCC in holding the Chief Constable to account for creating an organisational climate that encourages and supports ethical behaviour.

The College is supporting forces in coming to an understanding of the operational demands placed upon them and how best to ensure that the force can respond to threat, harm and risk posed to the citizens and communities it polices. It is however, unable to provide any information on the role of PCCs in maintaining the core values of policing.

*xi. Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?*

To demonstrate an equivalent level of transparency and accountability to the Chief Constables that they oversee PCCs would be required to publish at least as much information in respect of pay and rewards, gifts and hospitality and outside business interests.

PCCs are responsible for the authorisation of contracts for their force so an additional area of transparency in terms of their meetings with commercial organisations could be considered.

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Lord Bew  
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15 December 2014

*Dear Lord Bew,*

**Committee for Standards in Public Life - inquiry into local police accountability, leadership and ethics.**

Thank you for our recent meeting and the opportunity to respond to your Committee's inquiry into local police accountability, leadership and ethics. When we spoke I welcomed your focus on the whole system; and that you are looking at all facets of local policing governance.

I agreed to provide a narrative on reform to date and its impact on police accountability, integrity and culture – this is attached. We also discussed the programme of work that is underway on police integrity, which I will not restate in great detail here other than to say that public confidence in the integrity of the police underpins our model of policing by consent. It is what gives rank and file officers the legitimacy to do their jobs effectively.

My team have separately provided material on the Home Secretary's backstop powers as well as our response to the National Audit Office Landscape Review. We will also share our full response to the recent HASC inquiry into PCCs, which may provide you with further useful evidence.

I look forward to the Committee's findings on the actions being taken by PCCs and chief constables to maintain the highest ethical standards and embed the Code of Ethics in their forces.

Yours sincerely

**Mary Calam**  
Director General, Crime and Policing Group



## **Police Reform - Submission to the Committee on Standards in Public Life**

### ***Reforming the system***

The Government's police reforms are 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 Police and Crime Commissioners (PCCs). From the start, the vision and purpose of PCCs was clear. They would be elected, visible, and accountable to their local electorate. They would provide an impetus to reform, innovate and deliver policing more effectively. They would bring – for the first time – real local accountability for how their forces perform.

In judging the success of this radical reform to the governance of policing in England and Wales, it is important to remember its historical back-drop. Within its October 2010 thematic report into the effectiveness of police governance – 'Police Governance in Austerity'<sup>1</sup>, HMIC found that, critically, only four of the 22 police authorities inspected were judged to have performed well in two of their primary functions; setting strategic direction and ensuring value for money. We have replaced these committees with democratically accountable PCCs, who have the power to ensure that their local communities have a stronger voice in policing.

Since the first elections in November 2012, public awareness of police and crime commissioners has increased greatly, and their visibility, in public polling and research terms, is in stark contrast to that of the police authorities they replaced. Previously, only seven per cent of the public knew to go to their police authority if they had a problem with policing in the local area. According to the independent Crime Survey for England and Wales, seven out of ten members of the public are aware of PCCs. More recently, the Home Affairs Select Committee recognised that PCCs have provided greater clarity of leadership for policing within their areas; they are increasingly recognised by the public as accountable for the strategic direction of their police forces. In a similar vein, the NAO in its policing landscape review (January 2014), found that the sector itself recognised that PCCs offer a real opportunity to drive improvements and value for money in a way that unelected police authorities could not.

### ***Holding PCCs to account***

Following the recent and deeply disturbing events in South Yorkshire there have been calls for the Government to review the current system of accountability for PCCs. It is important to emphasise that PCCs are held to account through a range of means. They operate in the full gaze of the media, as we have seen recently. They are scrutinised by Police and Crime Panels in public meetings. Panels also hold power over a number of their executive decisions. Indeed, in South Yorkshire we have witnessed the clear power such scrutiny can bring to bear on elected officials.

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<sup>1</sup> <http://www.hmic.gov.uk/media/police-governance-in-austerity-20101025.pdf>

The rules on the dismissal of a PCC are stronger than those for similar directly elected roles, such as MPs. Police and Crime Panels hold the power to suspend a PCC charged with an offence which carries a maximum sentence above two years' imprisonment. Any PCC found guilty of an imprisonable offence (whether or not a custodial sentence is handed down) is immediately disqualified from holding office.

However, while the Government believes that the current system of accountability for PCCs is effective, we agree that there is a debate to be had regarding whether PCCs should be subject to recall. The Recall of MPs Bill is currently before Parliament, and we have heard the views of the Home Affairs Select Committee on the issue of PCC recall, and note that these were echoed by the South Yorkshire Police and Crime Panel. The Government will reflect carefully on these suggestions and recommendations, and those of Parliament, and the public more generally.

The local Police and Crime Panel (PCP), in turn, has a wide remit to review or scrutinise decisions made, or other actions taken, by the relevant PCC in connection with the discharge of the commissioner's functions. PCPs have significant powers which need to be used appropriately. Home Office officials are working with the LGA, PCCs and PCPs to ensure that PCPs are fully aware of their role and powers.

#### ***Holding chief constables to account***

PCCs have provided greater clarity of leadership for policing within their areas, and are increasingly recognised by the public as accountable for the strategic direction of their police force. We should look for continuous improvement within the model but the leadership provided by PCCs to their force areas has been a consistent strength. The Policing Protocol provides the statutory foundation on which the relationship between chief constables and PCCs is based.

The process for the removal of a chief constable is set out very clearly in the Police Reform and Social Responsibility Act, and the Government has made clear that there are appropriate safeguards in place regarding the removal and suspension of chief constables. The Government does not wish to prescribe in legislation the circumstances in which a PCC can suspend, or call on a chief constable to resign or retire (there is a separate disciplinary procedure under the Police (Conduct) Regulations 2012 that must be used where there is an allegation of misconduct). However, this does not mean that a PCC can suspend or call on the chief constable to retire or resign on any pretext. The PCC must act reasonably and fairly, and any action must lie within the range of responses open to a reasonable person in the PCC's position.

PCPs have significant powers of scrutiny should a PCC look to remove the chief constable. There are several minimum steps to pass through before a chief constable can be removed, including a scrutiny hearing of the PCP where the PCC and chief constable are both entitled to attend to make representations, regardless of whether the PCP wishes to call them. The panel may also opt to seek the views of HMIC. The PCC must consider the panel's recommendation and notify the panel whether or not they accept the recommendation. The Government will work with Panel chairs and the LGA to ensure that PCPs are fully aware of their role.

## Committee on Standards in Public Life

# Local Policing – accountability, leadership and ethics

## Response Form

### Consultation Questions

The Committee has commenced an inquiry on the public accountability structures of the police. We are looking at the structures in place for ensuring ethical standards in the conduct and performance of Police and Crime Panels, Police and Crime Commissioners, and Chief Constables.

The Committee would like to hear your views. Please use this form to answer some or all of the questions in the Issues and Questions paper available at: [https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment\\_data/file/360941/Police\\_Accountability\\_Structures\\_-\\_Issues\\_and\\_Questions\\_Paper.pdf](https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment_data/file/360941/Police_Accountability_Structures_-_Issues_and_Questions_Paper.pdf)

### How to respond

Completed response forms should be sent by email to [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk) or by post to the Secretary to the Committee on Standards in Public Life GC05 1 Horse Guards Road, London SW1A 2HQ.

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**Freedom of Information**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. The relevant legislation in this context is the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Committee.

The Committee will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties. However, it is important for the evidence considered by the Committee to be open and transparent. All responses will be published along with the identity of the person or organisation making the submission, unless the Committee is satisfied both that there is a compelling reason for an exemption to be granted and that the integrity of the process will not be undermined.

Please tick the appropriate response:

- Are you responding:**
- *as a member of the public*
  - *as a member of the police*
  - *on behalf of another organisation*

**If you are responding on behalf of an organisation, please tell us your area of work, e.g police constabulary, regulator, trade union, think tank etc**

# Local Policing – accountability, leadership and ethics

## Current Accountability Structures

### Consultation Questions

#### Question 10:

What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?

#### Comments

My direct answer to question 10 is that I do not know. I offer the following because I think this is one of the most important questions that may be asked in relation to the evolution of effective PCC governance.

I have concerns about the way in which 'ethics' is understood throughout the policing estate. This affects PCCs as much as all others involved in the application of Criminal Justice. For me, as a former police officer, the discussions are simply not sufficiently developed, disseminated and understood as individual and whole-system commitments. There is a world of difference between having a good policy document and living by it.

Basically, what I am trying to say is there is a rich literature concerning the practical issues that policing has had - and continues - to face, that has not been sufficiently explored and incorporated into a pragmatic and deeply understanding approach to the issues of police integrity. We have missed some vital work that could illuminate the path greatly:

- Policing first requires 'sensitivity to moral issues' – unless we all understand what moral issues are and how ethical action is required to address them (an area for potential PCC leadership) we cannot enable the baseline conceptual responses.
- Muir (1977), noted the fundamental paradox that the police are constantly striving to balance the tension between achieving just ends by coercive means. Acknowledgement of the tension and potential for confusion that exists perennially in policing is an essential starting point. It is dangerous to try and over-simplify, just as it is dangerous to try and control by over-regulation.
- The concept of 'moral intensity' and the way in which emotions and feelings shape decision-making. It is not good enough to hold to the mantra of 'impartiality and fairness, lack of bias, prejudice or discrimination'. Where there are people applying complex and sometimes contradictory rules, there will be difficulty.
- Professional moral courage is a concept that would relate pragmatically to police staff, if it were shaped as a meaningful construct that enabled reflection upon praxis, even in an operational context.

Tentatively, I offer the following extract from my 2013 research thesis, which examined the nature of discretionary decision-making. I believe this relatively short extract to be relevant, because it addresses the police statement of

mission and values and the National Decision Model - although I apologise for its length.

If this submission is found to be of any interest, I would welcome the opportunity to expand upon my research and findings.

### **Current police guidance – The new Statement of Mission and Values for the Police Service (SOMAV) 2012**

It is interesting to note that only one officer made a passing reference to the previous Statement of Common Purpose and Values (CPV) that had existed as ‘national moral guidance’ on ‘policing values’ for some years via their force’s own interpretation of the document. The CPV had wide circulation and was incorporated into every police force in England and Wales<sup>1</sup>. Despite its ubiquity (and I personally published it in various training documents) it was not recognised by respondents in this research as a ready reference or ‘handy guide’ to shaping actions on the front line of policing. In 2012, Chief Constable Adrian Lee and colleagues introduced a successor to the CPV, intended to mark ‘a sea change away from a performance and target driven culture, focusing more upon the Police Officer’s most important tool: the use of discretion and professional judgement’.<sup>2</sup> This development, the SOMAV, lies at the core of the new NDM, which is the overarching guidance on how officers will formulate their decisions. It incorporates all the principal historical ‘aspirational’ lists, from Peel’s principles to the oath, to human rights and the previous CPV in full and its stated intention is to ‘drive this change in culture by the implementation’ of the NDM, which has been ratified and adopted nationally. For reference, the full text of the SOMAV is attached as Appendix 7 and the NDM at Appendix 8.

My interpretation of the evidence in this research would suggest that the NDM has some potential, drawing strands of guidance together, but overall is no more likely to succeed in influencing everyday decision-making than the previous iteration. This is because the inherent vagueness of the original CPV, now with additional material, remains embedded, presenting the same rhetorical, historical, complex devices in the core of the NDM/SOMAV. In this respect, it does not address the need (implicit in the data presented) for simplicity, accessibility and applicability. The NDM/SOMAV reiterates a catalogue of worthy aims about ‘what we will do and how we will try do it’. It says its intention is to enable the police officer’s ‘most important tool’, that of ‘discretion and professional judgement’, but it lists requirements and general aims without actually offering any enabling, simple, effective, memorable guidance that will ensure ‘right action’. In effect, it illustrates the problem as identified by the officers interviewed, which I characterise and paraphrase, as follows:

We are given much guidance, advice and instruction; we are laden with policies and procedures on top of conflicting legal principles and asked to sort them out on the street under pressure. Whatever we do, someone will judge to be incorrect. We are not routinely supported, we are expected to play the game, fend for ourselves and suffer the consequences when things go wrong. We exercise our professional judgement and discretion because it is what makes the job meaningful to us, but it nearly always involves risk, so we are also

<sup>1</sup> And other Crown Police services e.g. Royal Bermuda and Grenada police forces.

<sup>2</sup> <http://acpoprofessionaethics.org/default.aspx?page=somav> accessed 31/10/12.

circumspect and defensive as a matter of routine. We have feelings and emotions, we triumph and we suffer, yet we cannot express these. We want to be moral agents, but don't know what this means in reality.

In the light of the research findings and my long experience as a trainer and learning designer/researcher, the NDM acknowledges many of the issues that officers have raised. It accepts the need to address conflict and complexity; it accepts that decisions are difficult and that support is necessary; it implies that officers should be listened to. The question is whether it can deliver the changes that are required in the environment, to enable the ethos it proposes. This is the crucial and largely unaddressed issue.

**Potential NDM positives:**

- a) It acknowledges the complexity of policing decisions and understands the need to improve.
- b) It recommends learning from mistakes, after using reflection based upon the NDM structures to consider events.
- c) Supervisors are encouraged to 'recognise and acknowledge ... initiative or good decisions'.
- d) It places emphasis on 'discretion and professional judgement' as being at the heart of the police decision-making process.
- e) It sets out a clear process model for standard decision-making.
- f) It specifies personal qualities that will be valued in delivering the service, viz. integrity, compassion, courtesy and patience.
- g) It is said to be open, flexible and interpretable by individual officers.
- h) It appears to trust individual officers' processes, and iterates accountability, emphasising the requirement for rationale.

**Potential NDM negatives:**

- 1) It claims to be a simple model, but it is likely to be perceived as complex, as it proposes a multi-iteration process for decisions. Its flexibility is likely to be interpreted as meaning that you just carry on doing what you were doing anyway and only refer back to it if it is necessary to address something – the post hoc justification phenomenon that arose several times in the research. Thus, training the NDM and its consistent use, with understanding, in the workplace, will be an issue: surmountable, but requiring careful attention.
- 2) It lists a huge number of knowledge and technical requirements to be 'enacted' under a complex and multi-faceted, almost universal, set of mission and value considerations.
- 3) It is focused upon decision-making to support the 'mission and values' of the police service. Officers are not always clear how to use this or how compelling it is to their leadership, as their experience is that it stands as a remote and inaccessible aspiration. They know what it 'should be', but in reality, peer and cultural pressures may act to subvert compliance with the guidelines.
- 4) It re-states the aim of 'showing neither fear nor favour', yet it is unclear how this can be achieved. The personal psychosocial drive is to enact values that are intrinsic to the individual: the emotional feelings base is not catered for in this well intentioned but imprecise aim.
- 5) The mnemonic 'VIAPOAR' is recommended; the 'V' stands for 'values', but these do not acknowledge any place for personal values, only organisational and legal ones. How will officers interpret this? The data suggest that personal values, however well or poorly perceived, will lead.
- 6) Supervisors are encouraged to 'recognise and acknowledge ... initiative or good decisions' (also a potential positive), but how will these be identified?

As with much ‘guidance’, it is hard to fault the intention of the writers, or the content as far as it goes, but if clear instructions are intended, then they must be clear. The thrust of the model seems to be pointed at telling officers what and how to make decisions without indicating how those decisions will be resourced or supported by the leadership; or what ‘rights’ officers have to expect information and guidance. Point 3 above for instance relates to supporting the ‘mission and values’ of the police service, which is defined in part as being, ‘to make communities safer by upholding the law fairly and firmly; preventing crime and antisocial behaviour; keeping the peace; protecting and reassuring communities; investigating crime and bringing offenders to justice’. The data in this research may agree and it is hardly possible to argue with this mission statement, but the reality is that wide variance of interpretation is likely and the indications contained elsewhere in the guidance as to how this will be done may appear more aspirational than attainable. The danger lies in having excellent words that people’s experiences, internal and external, do not ratify.

Similarly with point 4: the ‘no fear or favour’ wording is imprecise. Discretion is the issue here, which is intrinsically a process of personal discrimination. It involves processing choices based upon some unknown and unknowable factors, for which officers, if questioned, will have to produce some form of justification. The evidence I adduce is that they will say what they think they are expected to say – rarely risking censure by challenging organisationally codified and expected norms. Fear is an intrinsic human emotion – just saying that one is ‘not to have’ it, is likely to increase the problem, not deal with it.

Point 6, though a positive development, poses questions. What is the standard for judging ‘good’ – does it include the officers’ deontological or teleological intent based upon their convictions? For instance is a decision good if its moral intent was positive, but the execution was poor or even unethical? Or is the happy outcome of a morally dubious decision to be rewarded? Does it mean good for the organisation, for the public, for society, for freedom, for human rights, for ‘decent folk’, for the oppressed? Or for the officer’s career? What if the officer’s good is not the supervisor’s? Where is the reference point?

Criticisms of the process of ‘policy making’, spoken by William and Dan and hinted at by others (see Campbell, 2005:54), hold true. The tendency is to subsume all the past material and add a new flavour to it by acknowledging changes related to current socio-political thinking, in the way that MacIntyre (1984:111) relates:

Modern moral utterance and practice can only be understood as a series of fragmented survivals from an older past and that the insoluble problems which they have generated ... will remain insoluble until this is well understood.

His point is clear and analogous to the aphorism ascribed to Einstein to the effect that ‘we can’t solve problems using the same kind of thinking that we used when we created them’. Or Dunne’s (1997:16) observation that, if ‘one accepts the ethos of an existing political order and the *phronimos* (person who possesses phronesis) as formed by and as having deeply internalised this ethos, is not one who can ever criticise or think beyond it’. No, for this we need to go ‘back to the rough ground’ and re-consider just what is required – as MacIntyre reminds us in his foreword to Dunne’s (1997:xiv) book of that name: asking the right questions is the most important criterion. No matter how detailed the answer, if the question is wrong, it matters little. Assuming that we know the right questions can be fatal to an endeavour.



If we ask the question, 'Does the NDM tell officers how to make process decisions and be moral agents?' we may answer 'Yes'. If we ask, 'Does the NDM enable officers to know and do what is right (as opposed to merely lawful) and thus be moral agents?' we may have to be more circumspect. The data suggest that officers want guidance that answers the latter; the NDM, though helpful as far as it goes, simply updates and codifies the former. The effectiveness of the NDM is likely to hinge on the sincerity and universality of its application throughout the whole of the police service and the way in which it is actually operationalised in the working environment. It has potential, but requires insightful development by detailed process, a point that relates to Davis (1969:92), as mentioned earlier.

I reference my reservations back to Nyberg's (2008) research concerning why call-centre staff would 'do the right thing' even when this was at variance with organisational rules, and noted that it 'was not surprising, since ethical codes or rules cannot deal with the ethical complexity and ambiguity of many situations' (p588). Nyberg also notes an interesting paradox in 'being forced to comply with ethical codes or rules and claiming to act ethically'. This comment resonates strongly with the research data when officers – particularly Allan – commented on their frustration and concerns about being asked to use discretion, professionalism and 'common sense' and then being given legislation, policy and other rules to obey. Nyberg (2008:596) noted that Aristotle concluded that actions need to be voluntary to be ethical and points out the depth of the problem, adding, 'rules or principles will not get us there, since we cannot expect people to act ethically if [there] they are given no opportunity to exercise practical ethical judgement'. Thus, if there is no choice, merely compliance, one has not acted ethically: rules are only useful if one is allowed to question them. Damon (2004:114-5) illustrates the interaction of ethics and a purposeful life through active questioning of 'the rules' and the way others behave.



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**Police and Crime Commissioner for Derbyshire**

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Paul Bew  
Chair - Committee on Standards in Public Life

BY EMAIL [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk)

26/11/14

Dear Mr Bew,

I am writing to you further to your letter of 7<sup>th</sup> October in which you raised a number of questions about local policing – accountability, leadership and ethics. The following are my responses and views on the issues you raised.

*i Are there any gaps in the existing mechanisms for holding PCCs to account?*

I believe that the current system of support and challenge through the Police and Crime Panel (PCP) offers a robust mechanism locally for holding me to account, I am unable to comment on their effectiveness elsewhere.

*ii What else can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?*

Having served on the Derbyshire Police Authority prior to my election as PCC I can honestly say that the level of visibility my role has, and the number of public engagement events and meeting I attend has increased significantly. I have also developed a strategic governance meeting that I hold monthly, which is open to the public, at which I have a half an hour slot where the public can ask any questions of me or the Chief Constable. The questions do not have to be pre-submitted and can be asked in person, via Twitter or by writing/emailing to my Chief Executive between meetings. I am pleased to be able to report that we do regularly receive questions and have seen an increase over the past 12 months of people attending the meeting in person. Feedback from those who have attended has always been positive.

*iii How are PCCs ensuring transparency in their decision making?*

As I have explained, I have a strategic governance meeting once a month, except in August, at which I take the vast majority of my decisions. Any decisions taken between meetings are reported as a standing agenda item at the meeting. I publish all decisions on my website and all decisions are accompanied by a supporting report, except where information is commercially sensitive or relates to covert or sensitive policing tactics. In all cases there is an Executive Summary outlining the context of the decision on the formal decision record. I believe that this approach ensures that the public are aware not only of what decisions are being made but also the context surrounding those decisions.

*iv What information is being made available to the public to enable them to scrutinise performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?*

At each of my strategic governance board meetings I receive a report on overall police performance as well as detailed reports on specific areas of business. I publish an annual plan of what reports I am requesting from the Force so that the public can understand when a particular area of work will be looked at. I am acutely aware that the work of the Force can be very technical and that jargon and acronyms can often be peppered throughout report, for this reason I always ensure that reports are in as plain English as possible before they are published to ensure that they are accessible to lay readers. I have taken significant assurance from a recent HMIC report on data integrity and recording standards that we have a highly efficient and ethical force in Derbyshire Constabulary and that performance data can be considered reliable.

*v What has worked best for PCCs in engaging with the public and communities?*

In all honesty I have to say that 'going to them' rather than expecting people to come to you has been the most effective. I have held a number of public meetings and have seen small numbers of people attending, yet when I am able to attend a pre-existing public meeting I am met by large audiences who are keen to ask questions. A great example of this is the Over 50s clubs I have been invited to speak to, often to audiences approaching 100 people. This year we have also taken our community consultation work into some of the major employers within Derbyshire. This has allowed me to engage with a demographic who might not otherwise be heard.

*vi How well are Police and Crime Panel able to hold a PCC to account between elections?*

I believe I have a good working relationship with my local panel and feel that they are suitably robust in their challenge of me and my work. We have recently worked with the panel to develop a performance framework so that they have an annual calendar of work. This means that my office is in a good position to be able to meet the requests for information that come from the panel.

*a) Does the role of the Police and Crime Panel need any further clarification?*

I believe that the role and functions of the panel are well described within the Police Reform and Social Responsibility Act 2011 and the Policing Protocol Order 2011 and so further clarification is not necessary. I am aware that in one of its reports the Home Affairs Select Committee suggested that there could be more training for the panel and locally we have ensured that the panel have had access into the force to understand the challenges and complexity of modern day policing in order to give some context to the work I undertake.

*b) How well are the current 'balanced' membership arrangements ensuring scrutiny and support of PCCs?*

I would suggest this is probably better answered by the PCP themselves (I understand they are intending to send a response to you separately) but from my perspective the arrangements ensure that there is a representative from each of the 10 local authorities covering Derbyshire.

*c) Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of Chief Constable proving practicable?*

To date we have only worked through my suggested precept levels as I have not appointed a Chief. So far the system appears to have worked well, without any difficulties, but again an answer from the PCP themselves would feel more appropriate.

*d) Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?*

On the basis of not meeting suitability criteria there might be a case as this would suggest that any recruitment process was flawed. So far I have only taken my Deputy and Chief Executive through an appointments panel as the Chief Finance Officer was in post from the former Police Authority. The panel unanimously approved of both appointments and they appeared to weather the storm unscathed!

*e) How should PCCs be held account for their standards of personal conduct? What role should Police and Crime Panels have in this?*

Obviously there are powers and a role for the PCP to hold a PCC to account, fortunately it has not been an issue for me locally. I can understand that the PCP may feel somewhat limited in what they can do, but until there is a change in legislation their powers will remain limited. I understand that there is talk of developing a system for recall of PCC, which may mirror that being discussed for MPs. If this were to become a reality I would imagine that a local PCP would need to have a role within this.

vii *Are the boundaries between local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?*

There are challenges with the levels of public understanding of the scope of the PCC role. I receive letters from the public asking me to intervene in matters that are clearly operational and therefore within the purview of the Chief Constable. However my team go to great lengths to try and explain the differences and will always try to ensure that an issue raised by a member of the public to me is dealt with by the appropriate person within the Force. The vast majority of people understand and accept the different roles, though there are some who see this as a failing on my behalf to act and question the point of the PCC role.

viii *According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?*

The Chief Constable and I share a JARAC (Joint Audit Risk & Assurance Committee) in Derbyshire. We both feel that the approach works well and the committee adds value to the work of both parties. We do not share a Chief Financial Officer (CFO) as we believe that this could easily lead to conflicts of interest. Both CFOs work closely with the JARAC.

ix *What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or if not, suggest what can be improved?*

As the PCC I believe that I, along with the Chief Constable, set the tone for policing in Derbyshire. I have published on my website an Ethical Framework document that outlines how I intend to operate as an ethical leader and where I have published the evidence to back this up. (This can be found at <http://www.derbyshire-pcc.gov.uk/Document-Library/Your-PCC/Ethical-Framework.pdf>)

x *What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are obstacles being overcome?*

Derbyshire Constabulary have 5 guiding principles, or core values, that inform everything they do. These are: Integrity, Respect, Performance, Responsibility and Innovation. Following HMIC inspections we have external validation that these underpin everything from how officers present themselves to decision making. We have supported the force in a number of 'Just Think...' campaigns that challenge officers and staff to think about the impact of their behaviour. Both the Chief Constable and I believe that our values show a great deal of synergy with the Code of Ethics, and as they are deeply rooted in everything that happens in Derbyshire, we are confident that the Code of Ethics is being delivered too.

*xi Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?*

The Elected Local Policing Bodies (Specified Information Order) 2011 (as amended in 2012) clearly states what information regarding PCC expenses, registers of interest, gifts and hospitality etc. We have sought to ensure that our website makes it as simple as possible to find information and feedback we have received would suggest that the approach we have taken has been welcomed by those trying to access information.

*xii What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?*

To date we have not encountered situations in which a conflict of interest has been an issue. As a former County Councillor with 20 years experience I have gained significant understanding of when an interest needs to be declared and will always ensure that this happens. Similarly my Deputy, who is still a serving City Councillor, has experience in this area and ensures any relevant interests are declared. I believe that this approach is supported by the Ethical Framework we have adopted in Derbyshire, as discussed in my answer to question ix. Additionally my Chief Executive is acutely aware of the need for relevant disclosure of interests and is empowered to offer robust challenge if he considers a potential conflict might exist.

I hope this answers the questions you have raised. Should you require additional information or clarification, please do not hesitate to get back in touch with me.

Yours sincerely,

A handwritten signature in blue ink that reads "Alan Charles". The signature is written in a cursive, flowing style.

Alan Charles  
Police & Crime Commissioner for Derbyshire

**Committee on  
Standards in  
Public Life**

# **Local Policing – accountability, leadership and ethics**

## **Response Form**

### **Consultation Questions**

The Committee has commenced an inquiry on the public accountability structures of the police. We are looking at the structures in place for ensuring ethical standards in the conduct and performance of Police and Crime Panels, Police and Crime Commissioners, and Chief Constables.

The Committee would like to hear your views. Please use this form to answer some or all of the questions in the Issues and Questions paper available at:

[https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment\\_data/file/360941/Police\\_Accountability\\_Structures\\_-\\_Issues\\_and\\_Questions\\_Paper.pdf](https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment_data/file/360941/Police_Accountability_Structures_-_Issues_and_Questions_Paper.pdf)

### **How to respond**

**Completed response forms should be sent by email to [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk) or by post to the Secretary to the Committee on Standards in Public Life GC05 1 Horse Guards Road, London SW1A 2HQ.**

**Name: David Rose**

**Contact address: Improvement and Scrutiny, Derbyshire County Council, County Hall, Matlock.**

**Postcode: DE4 3AG**

**Contact Telephone:** [REDACTED]

**E-mail:** [REDACTED]

## **Freedom of Information**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. The relevant legislation in this context is the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Committee.

The Committee will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties. However, it is important for the evidence considered by the Committee to be open and transparent. All responses will be published along with the identity of the person or organisation making the submission, unless the Committee is satisfied both that there is a compelling reason for an exemption to be granted and that the integrity of the process will not be undermined.



Please tick the appropriate response:

- Are you responding:
- *as a member of the public*
  - *as a member of the police*
  - *on behalf of another organisation*

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

If you are responding on behalf of an organisation, please tell us your area of work, e.g police constabulary, regulator, trade union, think tank etc

<b>Derbyshire Police and Crime Panel</b>
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# Local Policing – accountability, leadership and ethics

## Current Accountability Structures

### Consultation Questions

Question 1:

Are there any gaps in the existing mechanisms for holding PCCs to account?

**Comments**

n/a

Question 2:

What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?

**Comments**

n/a

Question 3:

How are PCCs ensuring transparency in their decision making?

**Comments**

n/a

Question 4:

What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?

**Comments**

n/a

Question 5:

What has worked best for PCCs in engaging with the public and local communities?

**Comments**

n/a

Question 6:

How well are Police and Crime Panels able to hold a PCC to account between elections?

**Comments**

The Panel has held meetings every 6 weeks with the PCC. This has included scrutinising the Police and Crime Plan and budget precept. Following debate and questioning the Commissioner through public meetings, the Panel approved the Plan and the precept, as well as his Annual Report. In addition to this, the Panel has regularly scrutinised the Commissioner's progress against each Police and Crime Plan objective.

For each Panel meeting, there is also an agenda item on questions relating to the role of the PCC. This enables the Panel to request information and progress relating to on going issues facing the PCC. For example, this has included responses to HMIC reports, collaborative work with other Forces and Home Affairs Select Committee reports. The Panel also receives copies of the PCC's Strategic Governance Board meetings with the Chief Constable.

The Panel has also recently approved a performance framework to ensure a robust and effective process of monitoring of performance takes place.

Question 6a:

Does the role of the Police and Crime Panel need any further clarification?

**Comments**

Bodies such as the APCCS and the LGA have provided comprehensive information for the procedures and protocols which the Panel need to adhere too.

Panel Members have requested further clarification at times as to the extent of their remit. For example, for the approval or veto of the annual budget precept. In response, the Panel arranged with the OPCC for Derbyshire to be provided with a briefing/training session to Members. This clarified for Members the elements of the process they can have influence over – ie the precept, but not the entire budget (for which the majority of the income comes from Central Government Grant).

Each Panel meeting there is officer support from Scrutiny and Legal Services, with additional financial support at the precept meeting.

Question 6b:

How well are the current “balanced” membership arrangements ensuring effective scrutiny and support of PCCs?

### Comments

The Panel have worked well together to offer challenge and support. Request for agenda items are sent in advance of Panel meetings and there is an agenda item which allows for any Panel Member to ask a question of the PCC.

A task and finish group developed a performance framework, in conjunction with the OPCC and was approved by the Panel.

Question 6c:

Are the current membership thresholds requiring a two thirds majority to veto a PCC’s level of precept and appointment of a Chief Constable proving practicable?

### Comments

The thresholds ensure the Panel reflects the ruling administrations in Derbyshire. The two thirds majority requirements has not caused any issues and is practicable.

Question 6d:

Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?

### Comments

The current system of confirmation hearings relies on the relationship between the PCC and the Panel, and the level of confidence the PCC has with the Panels recommendations on appointments. Therefore there is some degree of influence the Panel has over the suitability of a potential candidate.

### Question 6e:

How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?

### Comments

The Panel is able to monitor complaints made against the PCC. Furthermore, they are provided with information of complaints made to the PCC about their conduct and those of the Police Force. Panel Members can attend Strategic Governance Board meetings which are held monthly, and are open to the public. This forum allows for further opportunities to understand the public perception of standards of personal conduct.

### Question 7:

Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?

### Comments

n/a

### Question 8:

According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?

### Comments

n/a

# Ethical Leadership

## Consultation Questions

Question 9:

What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?

**Comments**

n/a

Question 10:

What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?

**Comments**

n/a

Question 11:

Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?

**Comments**

n/a

**Question 12:**

What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?

**Comments**

n/a

**Comments and evidence regarding Local Policing and Police & Crime Commissioners**

**The Secretary,  
Committee on Standards in Public Life, GC05, 1 Horse Guards  
Road, London SW1A 2HQ**

**FAO: [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk)**

**Re: Submissions by Solicitor Stuart Ritchie - sent direct to the committee.**

**I and Clare Anderson have given authority for his research and witness statements to be forwarded to the committee. He approached me, in a meeting in The House of Lords, on behalf of at least one of their Lordships in 2013 with a view I believe to investigating events surrounding my arrest on 13th December 2012. I instantly agreed and have given open access to any and all material involving and surrounding all actions.**

**Submission part 1**

**by Desmond Hughes & Clare Anderson (neither of us ever being members of any political party) - this will be followed by three further submissions - *reasons for delayed submission disclosed to James Anderson of the Standards in Public Life Committee.***

**I accept that much of that to be submitted by myself may be considered to be material that cannot be placed in the public domain, as it is from my Research as a Parliamentary Researcher & adviser principally on Electronics, Communications, Firearms both operational & administration by Police Officers, (major incidents such as Hungerford and Dunblane etc) which extended into miscarriages of Justice and generally "Police Performance Management, Gaming and Police Practice". I would therefore welcome any private meeting with any members or officials of the committee, under Chatham House rules if requested, at any time**



**to expand, further disclose, or provide copy of original evidence of a sensitive nature which the committee would wish to view. I carried out a major investigation into miscarriages of Justice and indepth into all forms of "Stitching", "fitting-up" of evidence against those being claimed to be innocent, an early observation was that it could not be solely accomplished by Police officers acting alone.**

**At all times those members or peers issuing the passes allowed my research and advising to be on a non-party basis, it being both technical from my background, training, education and qualifications in electronics, communications and, to a lesser degree, mechanical engineering. During my University Studies I was relieved of the computer element which was obtained during my ONC and HNC (prior to University) and attended those hours as a subsidiary in Law studies.**

In 1982 I was called to advise members of the transport committee following my thesis and further research, titled "The errors in electronic processing in equipment used by police forces in the UK for the purpose of prosecutions", the main thrust was all types of speed measuring equipment but in particular Radar speed measuring devices. I then was asked to assist Robin Corbett as an MP and later became one of his researchers and personal specialist for the events in the Hungerford shooting and at the time of Dunblane in his position as Chair of The Home Affairs Select Committee. That led to my being offered his full research pass in 2002 until his demise in 2012. I played a major part in advising on RIPA and Digital Economy legislation having worked on NASA, COMSAT & INMARSAT Satellite communication Electronic projects whilst with Post Office research and BT prior to my early (physical medical) retirement from BT in 1994.

I have always had the privilege to hold a full Parliamentary Pass as Research Advisor [First] to W. Ross MP 1982 to 1997, (Chief Whip of Ulster Unionists Party), [Second] The Lord Burton (Conservative) 1997 to 1999, transfer following the changes that incurred the loss of seats by hereditary peers to, [Third] The Lord Monson (cross-bench), 1999-2002 transferring in 2002 to the full pass of the Lord Corbett of CastleVale. Upon the demise in February 2012 of The late Lord Corbett my full pass transferred to The Lord Young of Norwood Green. (Interestingly the full pass was renewed in February 2012 for a further period until 2016).

On 13th December 2012 I was arrested in my house whilst in a meeting with the Chair of a local Citizens Advice Bureau (CAB). My Semi-detached house searched for CCTV digital recording equipment and listening devices on the Party Wall with the neighbours. Nothing was found in a thorough search covered by two officers, one with video camera and another with a still camera and an additional 10 Police Officers! I was

**then charged with other non violent Harassment claims by a neighbour on hearsay or perception only. My partner Clare Anderson received a phone call on her birthday on 8th February 2013 that she would receive an identical summons. We entered not guilty pleas at Cardiff Magistrates Court on 5th March 2013. In July 2013 I and my partner Clare Anderson were found guilty of harassment (non-violent) at Cardiff & Vale Magistrates Court, my pass was withdrawn and I was placed on, effectively, garden leave. Currently both our cases have been lodged with the Criminal Review Commission (CCRC) for investigation of the convictions**

I recently spoke to James Anderson explaining the difficulty in meeting the deadline of noon today. The reason being in the main twofold:

**1a)** waiting for the official and certified Court Transcript in respect of a final hearing at Cardiff Crown Court on 18th November 2014

**1b)** the necessary scrutiny of that documentation and the evidence in respect to the Court copy.

I and my Partner Clare Anderson welcome any professional investigation into the circumstances of my being charged and my partner receiving an identical summons of Harrassment, issued by South Wales Police.

I have been made aware of events in respect to investigations by the Independent Police Complaints Commission (IPCC) into it not being independent, an organisation which appears to use the force's own Police Federation members to, in effect, investigate their own fellow members.

**(2a)** In the Andrew Mitchell MP affair and the latest decision in the High Court in respect to the IPCC investigations carried out by officers in the three Midlands forces.

The decision by the High Court is one which from my past research into the IPCC would appear to confirm my investigations.

**(2b)** Lord Thomas was presiding over a judicial review application in Cardiff by the surviving three members of the original Cardiff Five into the Home Secretary's refusal to grant a public inquiry into the case. Reported in March 2014.

The judicial review case was adjourned pending the filing of further documents. In the first hearing, the court heard that Theresa May, the Home Secretary, refused a public inquiry on the grounds that the IPCC-led inquiry had already ruled out the possibility of a cover up.

Lord Thomas CJ is reported as saying he told the court he was "deeply troubled" by claims the IPCC had not carried out a thorough investigation.

When the body was described as a "professional organisation," he said: "We will come back to see if the IPCC can be so described in due course.

"This has gone on to be a part of our lives for more than 25 years and it must come to an end."

<http://www.walesonline.co.uk/news/wales-news/227-boxes-missing-lynette-white-6835791>

The statements by Lord Thomas CJ as reported, echo my research findings with regard to the operation/professionalism of the IPCC in Wales.

The words "Managed by the IPCC" or "supervised by the IPCC" in use by the IPCC appear to be purely semantics.

(2c) *It appears "Gaming" of crime reports in Cardiff East by local Police Officers, PCSOs, for Political advantage of others, or Officers protection or otherwise, involves County Councillors of one Political Party, by the use of "cuffing - disappearance of crime reports made by the public or false classification such as no criming or a false report",*

*"skewing - allocation to another area"*

*"nodding - use of TICs" see Sean Wall case LINKS below, or*

*"stitching or being 'fitted-up' - of an uninvolved vulnerable person by acquiring a means of procuring statements, it has appeared, from third parties who may wish to gain advantage over a person they name"*

*"Gaming" of National Home Office Crime Recording (NHCR) figures by South Wales Police in East Cardiff, a PACT study in the village of Old St Mellons, Cardiff. CF3 6XJ in which we live and in which Clare Anderson was elected Chair of Partnerships and Communities Together (PACT) and Des Hughes was seconded by residents to act as one of the assistant Secretary from December 2010 until July 2012. The PACT Committee soon established a number of failures of South Wales Police to deal with the village's reports of alleged crimes as well as exposing claimed 'preferential policing'.*

*(3a) Dwelling Burglary - remained number one in the list of village priorities,*

*Officers gave Sean Wall 4 litres of STRONGBOW LAGER in two bottles whilst he was suffering from ADHT and taking appropriate medication*

*Took him to see his Mother*

*Took him for a KFC meal*

*Drove him round the village. He then "Nodded" or accepted as "Taken into consideration"*

*TICs in the original BBC broadcast 60 such TICs, the information we were given stated 57 of such incidents occurred when he was in custody!*

*The Dwelling Burglary reports continued and remained a great concern to residents. It was obvious to all attending the Public PACT meetings that the person or persons committing the break-ins had not been detained.*

*Little credit is therefore given to the research compiled in the Sean Wall full IPCC Report that it has been claimed was compiled from the force records.*

<http://www.dailymail.co.uk/news/article-2087450/Police-plied-Sean-Wall-17-cider-bid-crime-confession.html>

<http://www.bbc.co.uk/news/uk-wales-16460642>

[http://news.bbc.co.uk/1/hi/wales/south\\_east/8551483.stm](http://news.bbc.co.uk/1/hi/wales/south_east/8551483.stm)

<https://www.ipcc.gov.uk/news/ipcc-has-now-decided-independently-investigate-sean-wall%E2%80%99s-allegations-against-swp>

<https://www.ipcc.gov.uk/news/ipcc-publishes-report-sean-wall-investigation-after-two-officers-face-gross-misconduct-hearing>

*But what is so interesting is the FIVE different versions of the information that appears in Wales as the article wording was changed !!!!!!!!!!*

*See News Sniffer <http://www.newsniffer.co.uk/articles/316295/diff/4/5>*

*The BBC reported first stated he admitted 60 break-ins and we believe that it was alleged 57 occurred when he was held in Park Prison, Bridgend. Sniffer above indicates five different versions listed with reporting differences. Who made the changes or requested them and when??*

*(3b) Unlawful Drug taking and open dealing, - led the PACT Group to issue a priority for a formal request to the Chief Constable to be expedited and declared as a requirement for the village to be a 'Drug Free Zone'.*

(3c) The large number of ARSONS led as a result of a fourth vehicle of either classic or high value being torched within two yards of each front door. This resulted in an enquiry to the Fire Service management team for them to report to the March 2012 PACT public meeting. The Chief Fire Officer Matt Jones of the Arson Reduction unit of South Wales Fire Crime Unit agreed with the findings of the Old St Mellons PACT that 5 arsons were in fact discovered by his Statistics/manager to be a figure of 18 within two hours of his investigation commencing.

That led to his calling an immediate Fire Action day in Old St Mellons for the Fire Service to take over of the March 'open' village PACT Public meeting and disclose publically that the village had been the subject of 47 Arsons.

During the public meeting, (a minute tape recording is on file and can be supplied on request) one of the County Councillors and a Justice of the Peace (JP) whilst seated next to the Neighbourhood Police Inspector (twice named on the Floor of the Lords Chamber. See Queens speech 2012 below and repeated 19th March 2013, the words used by his Lordship "Systemic Corruption" )

**Upon the Demise of The Lord Corbett of CastleVale in February 2012 I commenced a write up of the work to be completed and The Lord Laird met with some of the Retired ex Chief Superintendents and Chief inspectors of English Forces to review the work and they compiled some important parts by assisting in the production of reports to Peers and drafting a speech to be made as intended for The Home Affairs day following the Queens speech as the findings had been previously determined too serious to be neglected. All was based on evidence which had been gathered, tested against records. The Performance Management work was passed to the Cross Benchers and resulted in the work and its methods that had been completed by ex Chief Inspector (West Midlands Constabulary) Dr Rodger Patrick in submission for his Phd and subsequently updated being presented in a form to enable a call for an Oral debate which was held on 19th March 2013.**

Following the Local Police Harassment I appeared to be receiving throughout 2012 as a result of the Research that had performed. I worked with Dr Rodger Patrick to compile in two days the production on the 26th January 2013 the reports as an example of the Gaming activities from the RAW Home Office data supplied as shown in 4a and 4b and consequently the results appeared seismic. It should not be difficult for any person observing the trends as a result of the recording of Crime methods. (4b) is a clear indicator of the effects of the Sean Wall case on the South Wales use or abuse of TICs. as an example

See Attachments to this email

**(4a) Gwent Police Performance Profile**

**(4b) South Wales Police Recorded Crime and TIC Profile to 2013**

and the LINK

<http://www.publications.parliament.uk/pa/ld201213/ldhansrd/text/130319-gc0001.htm#13031986000214>

## EXTRACT

**Police: Performance Indicator Management, *Question for Short Debate, Asked By The Earl of Lytton 19 Mar 2013 : Column GC169***

**Lord Laird:**

I now turn to south Wales and a matter that I last raised on 15 May 2012 in a debate on the Queen's Speech. *It would appear that little attention was paid by the Home Office to my comments, nor did it take steps to use the powers it already has or, if necessary, to seek new regulations. South Wales, its police force and the independence and governance of its commissioner concern me. It seems that the chief constable, Peter Vaughan, was part of the selection panel for the deputy and assistant commissioners, the deputy being a political appointment. I do not feel comfortable with this, or with the appointment of his former ACC, David Francis, as assistant commissioner. Surely this process should have been free of cronyism? I thought that the idea was to introduce independence and new ideas.* What I previously called **systemic corruption** by a small number of that force's officers seems to have been endemic in the area for many decades, and now appears to **have been compounded**. I wrote to Assistant Chief Constable Matt Jukes on 17 July 2012 and in that letter I included a number of FOI requests, which he neither answered nor acknowledged receipt of in his reply of 10 September 2012. I therefore submitted a complaint to the Information Commissioner for him to pursue answers in full. **The answers to the FOI requests appear to have been blocked by the sector inspector for east Cardiff, Inspector Nicky Flower, whose actions and management they concern.**

and the LINK

<http://www.publications.parliament.uk/pa/ld201213/ldhansr/text/120515-0002.htm#12051599000144>

## EXTRACT

**Queen's Speech *Debate (4th Day) 15 May 2012 :***

**Lord Laird:** My Lords, I have noted the gracious Speech and hope that in this parliamentary year things can be changed that should be. For example, **I have become increasingly worried about a build-up of resentment over actual or perceived corruption among police forces the length of this country.** I am aware that my good friend, the noble Lord, Lord Maginnis of Drumglass, is also particularly concerned about this topic. I want to underline that corruption where it exists is only among a very small part of the overall police service. In this parliamentary year, the Home Office must take a firm grip of the methods it has to supervise existing forces and, if necessary, seek new regulations. ***The geographical area that I am concerned about today is south Wales, its police force and the independence and governance of its police authority until taken over by police commissioners. Because I am known for having an inquiring mind, I have for years received***

Desmond Hughes and Clare Anderson

15 May 2012 : Column 300

*amounts of information from many in the southern parts of the beautiful country of Wales.* It seems that **systemic corruption** by a section of the police has been going on in that area for many decades, at all levels and involving officers **in all types of crime and the operation of professional standards**. It has done much to damage the image of the police. **The force has failed to comply with Police and Criminal Evidence Act and there is an apparent non-adherence to the terms of the 2003 Clingham case standards of proof in evidence, judgment for which was heard in this House.**

**We will as fast as possible continue the supply of evidence in submission Part 2 to follow hopefully tomorrow.**

**Yours Sincerely**

**Desmond HUGHES & Clare ANDERSON**

From: Desmond Hughes [REDACTED]

Date: 30 November 2014 at 20:54

Subject: Comments and evidence regarding Local Policing and Police & Crime Commissioners

To: Public Enquiries - Cabinet Office <[public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk)>, Clare Anderson <[REDACTED]>

**Comments and evidence regarding Local Policing and Police & Crime Commissioners**

**The Secretary,**

**Committee on Standards in Public Life, GC05, 1 Horse Guards Road, London SW1A 2HQ**

**FAO: [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk)**

**Submission part 1**

**by Desmond Hughes & Clare Anderson (neither of us ever being members of any political party) - this will be followed by three further submissions - *reasons for delayed submission disclosed to James Anderson of the Standards in Public Life Committee.***

***Sorry but three attachmments were omitted from Submission Part 1 in the last 10 minutes. ALL five are included above.***

Desmond Hughes and Clare Anderson

**Also omitted was the IPCC Commissioners full report into the complaint against the two South Wales Police Officers in the Sean Wall case mentioned in our submission Part 1 section (3 a) Dwelling Burglary**

**The LINK**

**[https://www.ipcc.gov.uk/sites/default/files/Documents/investigation\\_commissioner\\_reports/Sean\\_Wall\\_Commissioners\\_Report.pdf](https://www.ipcc.gov.uk/sites/default/files/Documents/investigation_commissioner_reports/Sean_Wall_Commissioners_Report.pdf)**

**we are sorry for the IT failure we can all make an omission.**

**Yours Sincerely**

**DesH**

# Queen's Speech

## *Debate (4th Day)*

**15 May 2012 : Column 259**

**3.10 pm**

.....

**5.51 pm**

**Lord Laird:** My Lords, I have noted the gracious Speech and hope that in this parliamentary year things can be changed that should be. For example, I have become increasingly worried about a build-up of resentment over actual or perceived corruption among police forces the length of this country. I am aware that my good friend, the noble Lord, Lord Maginnis of Drumglass, is also particularly concerned about this topic. I want to underline that corruption where it exists is only among a very small part of the overall police service.

In this parliamentary year, the Home Office must take a firm grip of the methods it has to supervise existing forces and, if necessary, seek new regulations. The geographical area that I am concerned about today is south Wales, its police force and the independence and governance of its police authority until taken over by police commissioners. Because I am known for having an inquiring mind, I have for years received

**15 May 2012 : Column 300**

amounts of information from many in the southern parts of the beautiful country of Wales. It seems that systemic corruption by a section of the police has been going on in that area for many decades, at all levels and involving officers in all types of crime and the operation of professional standards. It has done much to damage the image of the police. The force has failed to comply with Police and Criminal Evidence Act and there is an apparent non-adherence to the terms of the 2003 Clingham case standards of proof in evidence, judgment for which was heard in this House.

I go as far back as 1987, with the murder of a Cardiff newsagent, a dreadful and tragic event, made all the worse when the men convicted served over 11 years in jail only to have their names cleared in court and be released. The 11 years in jail followed the first trial, in which the accused had their human rights violated by inappropriate methods of questioning and by not allowing them at appropriate times legal representation. Following the release of the unfortunate accused, no action was taken against the police known to have been involved in the frame-up, and no apology given. There was just the bitterness of having the accused back in the community, with their lives, and those of their families, ruined.

This case from the 1980s may be dreadful, but is only one of many. There are the cases of Hewins, Clarke and Sullivan, the Darvell brothers, Jonathan Jones and many more, in which people were jailed who subsequently had their convictions quashed and were released back into the community. In all cases, the names of most of the police officers who set up the evidence that caused the convictions are well known. Some 20 officers are involved, but the believed ringleader, an inspector, has never been arrested yet. Much has been written about



their actions, which gave them the opportunity for the named officers to sue the writers for libel—but, interestingly, they did not. Many journalists, including TV and radio programmes, have explored these cases, but no substantial official action appears to have been taken against them. Why?

As if all the pain and suffering were not enough, the cost to the taxpayers of investigations and trials was massive—funds that could have been spent in other areas of policing. I have examined myself the tops and bottoms of types of cases handled by South Wales Police. Now let us consider the police authority. As from 10 May, the current chairman, a magistrate and independent member, Mr John Littlechild, will have served continually since 1989. When complaints are made against the police, the authority, rather than acting independently to ensure that the force is monitored to keep it working efficiently and effectively and meeting all appropriate standards, seems to align with its friends against all comers. This includes Her Majesty's Inspector of Constabulary when it makes critical comments. For an example, see police authority minutes of 13 February. The authority in its standards and recording its business apparently fails to adhere to its own standing orders. For an example, see again the minutes of 13 February.

As recently as last night, at an Old St Mellons Partners and Communities Together group meeting, the sector inspector Nicky Flower withdrew her officers from taking part in the group meeting. She ignored

### **15 May 2012 : Column 301**

written requests made to her and copied to senior officials last May to meet with all the village PACT panel members. This group has to date had nine freedom of information requests to provide documentation regarding information requested by residents on crime and anti-social behaviour incidents in the area, and the action taken. The residents are concerned at the number of burglaries, arsons and other crimes in the area. At two public meetings, there have been unanimous shows of hands for the information, which is still not provided, but which is freely given out at other PACT meetings in the same area. The number of crimes in the area reported to the Home Office is only a small fraction of the actual number, as claimed by the residents. They attend because in many cases they have been directly affected and suffered loss and cost. The chairman wrote last July for a meeting of the full panel, with the chief constable or the assistant chief constable responsible for PACT in person, due to dissatisfaction. The deputy chief constable stated to the panel members at force headquarters on 13 February that she had no knowledge of the requests but would have a meeting. This meeting has still not taken place.

Following the collapse of the £10 million Lynette White murder trial before Christmas, the chief constable, Peter Vaughan, claimed the loss of the IPCC evidence documents, saying that they had been shredded. He then went on to admit, on 17 January, to the Director of Public Prosecutions, that they had been found. Drastic action must be taken; the only way forward is for the Home Affairs Select Committee in another place to be requested to carry out an investigation into south Wales constabulary and its police authority.

**5.59 pm**

## **Police: Performance Indicator Management**

### *Question for Short Debate*

**19 Mar 2013 : Column GC158**

**5.11 pm**

*Asked By The Earl of Lytton*

To ask Her Majesty's Government what is their assessment of the response of United Kingdom police forces to performance indicator management with particular reference to the reliability of published United Kingdom crime figures.

.....

**5.59 pm**

**Lord Laird:** My Lords, I, too, thank the noble Earl, Lord Lytton, for securing today's debate. It is a good opportunity to express some opinions that a lot of us feel strongly about.

I have become increasingly worried about the build-up of resentment over actual or perceived corruption among police forces the length of this country. Corruption, where it exists, affects only a tiny part of the police service. Thankfully, this point has already been made. The majority of police are honest and decent, and it is for that majority that I would like to know from the Minister if he will set up a whistleblowing scheme for officers, preferably independent from the police service.

I have been made aware that some South Wales Police officers have contacted non-Welsh Members in the other place with their concerns over the improper actions of supervising officers or undue pressure to undertake actions that conflict with their oath to Her Majesty the Queen or their professional judgment. These actions have done much to damage the image of the police.

**19 Mar 2013 : Column GC169**

I am told that the police nationally now adopt a process of informal cautions. This apparently allows them to hold a database of information as a local criminal record. Does this enable them to circumvent the DNA issue and to hold such material indefinitely? Such local data are not accessible via the police national computer and do not necessarily show up on a standard

Criminal Records Bureau check or on enhanced disclosure or subject access requests. Persons entered on these databases usually have no idea what is logged or why, and cannot challenge the accuracy of something that could easily affect their personal finances, employment or later be dragged up in court proceedings or other activities.

This practice has apparently been going on since 1997 and was raised in correspondence in early 2007 between Ken Jones, ACPO's president, and Richard Thomas, the Information Commissioner. I gather that even a fixed penalty notice or a police warning letter is sufficient to trigger a "non-sanction detection" and resultant entry on a computer. Needless to say, the Information Commissioner was most concerned and I would like to know if this issue has been addressed. Does the Home Office know how many such databases are operated by police forces or associates, what they are used for and how they are authorised, and will it ensure from today that all data are disclosed to those whose names are so held? Further, is it going to regulate the activity and insist on a formal register?

I now turn to south Wales and a matter that I last raised on 15 May 2012 in a debate on the Queen's Speech. It would appear that little attention was paid by the Home Office to my comments, nor did it take steps to use the powers it already has or, if necessary, to seek new regulations. South Wales, its police force and the independence and governance of its commissioner concern me. It seems that the chief constable, Peter Vaughan, was part of the selection panel for the deputy and assistant commissioners, the deputy being a political appointment. I do not feel comfortable with this, or with the appointment of his former ACC, David Francis, as assistant commissioner. Surely this process should have been free of cronyism? I thought that the idea was to introduce independence and new ideas.

What I previously called systemic corruption by a small number of that force's officers seems to have been endemic in the area for many decades, and now appears to have been compounded. I wrote to Assistant Chief Constable Matt Jukes on 17 July 2012 and in that letter I included a number of FOI requests, which he neither answered nor acknowledged receipt of in his reply of 10 September 2012. I therefore submitted a complaint to the Information Commissioner for him to pursue answers in full. The answers to the FOI requests appear to have been blocked by the sector inspector for east Cardiff, Inspector Nicky Flower, whose actions and management they concern.

An appalling case happened in south Wales that was very similar to the type of case that the noble Lord, Lord Condon, was referring to in Kent. A young person was taken out of the prison in Bridgend and treated in the sort of way mentioned by the noble Lord, Lord Condon, except that he was plied with

### **19 Mar 2013 : Column GC170**

four cans of cider and then asked to agree to a considerable number of "taken into consideration" dwelling burglaries that he had not committed. Unfortunately for the police officers doing the questioning, the young chap was actually in police custody on the days concerned. The two detectives received written warnings only as a result of the IPCC investigation; the chief constable would have exposed himself if he had committed the officers to trial. Why am I not surprised? How long do we have to wait for a criminal judge or judges to be appointed by the Home Office to carry out a root-and-branch investigation of that force?

**6.05  $\mu\text{m}$**

## South Wales Police Recorded Crime and TIC Profile to 2013

**Comment:** The seismic fluctuations in the sanctioned detection data appear significant; however it is prudent to question the validity of the data. To a lesser extent the same applies to the recorded crime data. The data sets I relied upon for my original research are now provided by the ONS in a different format which is difficult to navigate. So the first question to those with responsibility must be “is this data correct”.

I have examined the sanctioned detections for Burglary Dwelling House and Theft from Motor Vehicle as these are the most vulnerable to ‘gaming’ behaviours in the form of ‘nodding’ i.e. the abuse of TIC procedures.

Whilst I am always amazed at the scale of the fluctuations when presented in this way they are not unique, Forces known to have had issues with the abuse of TICs i.e. Cleveland, West Midlands, Nottinghamshire, Merseyside, and Bedfordshire all exhibited similar patterns. Likewise changes to the recording standard are linked to similar shifts in the recorded crime profile.

If the data is correct then seeking an explanation from the Police and Crime Commissioner is a legitimate approach to take.

Fig 1: Examination of number of offences of Theft from Motor vehicle (Home Office Offense category 45) detected as TICs.



Fig. 1

Fig. 2: Examination of number of offences of Burglary Dwelling House (Home Office Offence categories 28, 28A, 28B, 28C, 28D & 29) detected as TICs.

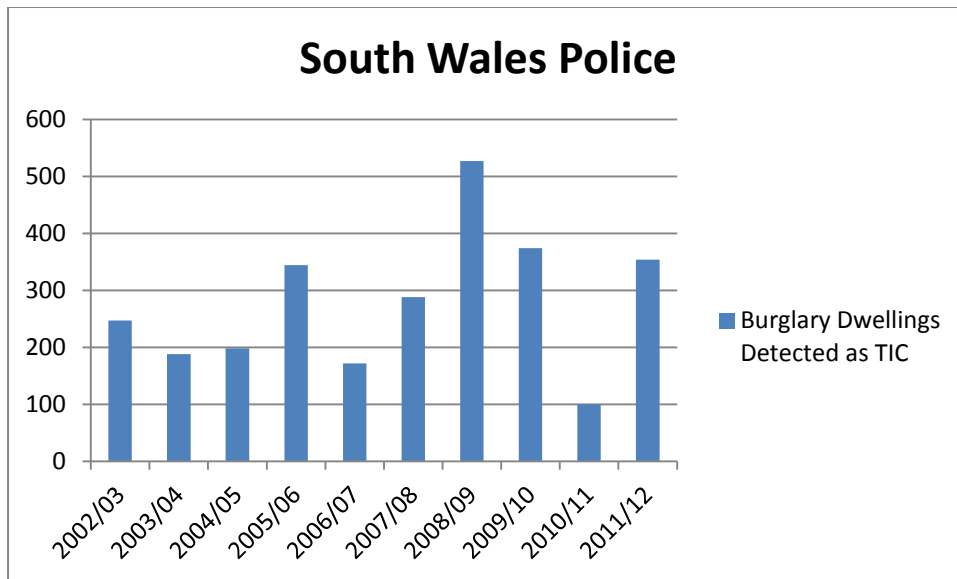
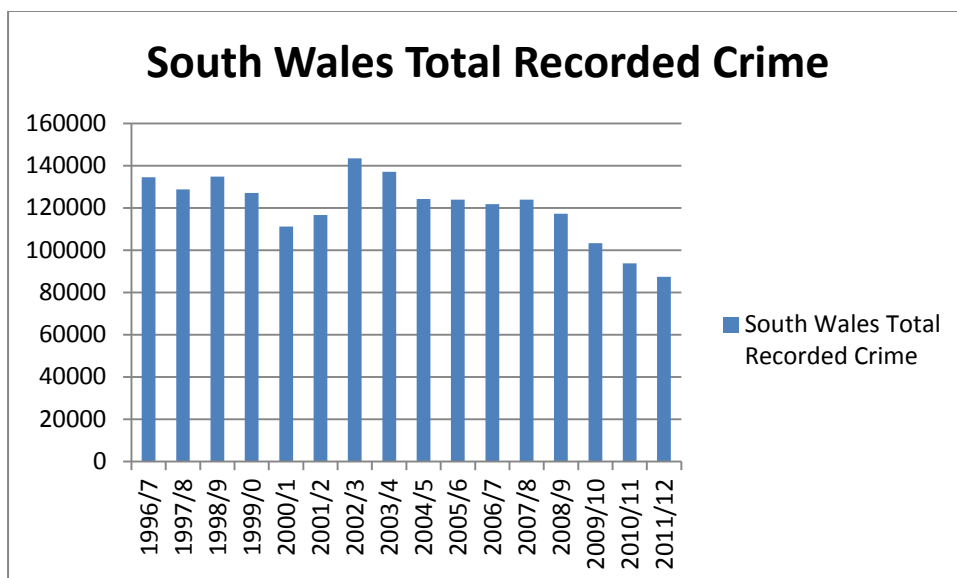


Fig. 2

Fig. 3: South Wales Police Total Recorded Crime from 1996 – 2012 (Source Home Office Crime Bulletins) Please note the National Crime Recording Standard was introduced in April 2002.



## Gwent Police Performance Profile

**Comment:** The seismic fluctuations in the sanctioned detection data are so severe that it is prudent to question the validity of the data. To a lesser extent the same applies to the recorded crime data. The data sets I relied upon for my original research are now provided by the ONS in a different format which is difficult to navigate. So the first question to those with responsibility must be “is this data correct”.

I have examined the sanctioned detections for Burglary Dwelling House, Theft from Motor Vehicle and Unauthorised Taking of a Motor Vehicle (UTMV) as these are the most vulnerable to ‘gaming’ behaviours in the form of ‘nodding’ i.e. the abuse of TIC procedures.

Whilst I am always amazed at the scale of the fluctuations when presented in this way they are not unique, Forces known to have had issues with the abuse of TICs i.e. Cleveland, West Midlands, Nottinghamshire, Merseyside, and Bedfordshire all exhibited similar patterns. Likewise changes to the recording standard are linked to similar shifts in the recorded crime profile.

If the data is correct then seeking an explanation from the Police and Crime Commissioner is a legitimate approach to take. Something appears to have happened to change the approach to TICs in 2005/6.

Fig 1: Examination of Gwent Police Burglary Dwelling House (HO Offence categories 28, 28a, 28b ,28c, 28d & 29) Total sanctioned detections (including TICs) and TICs

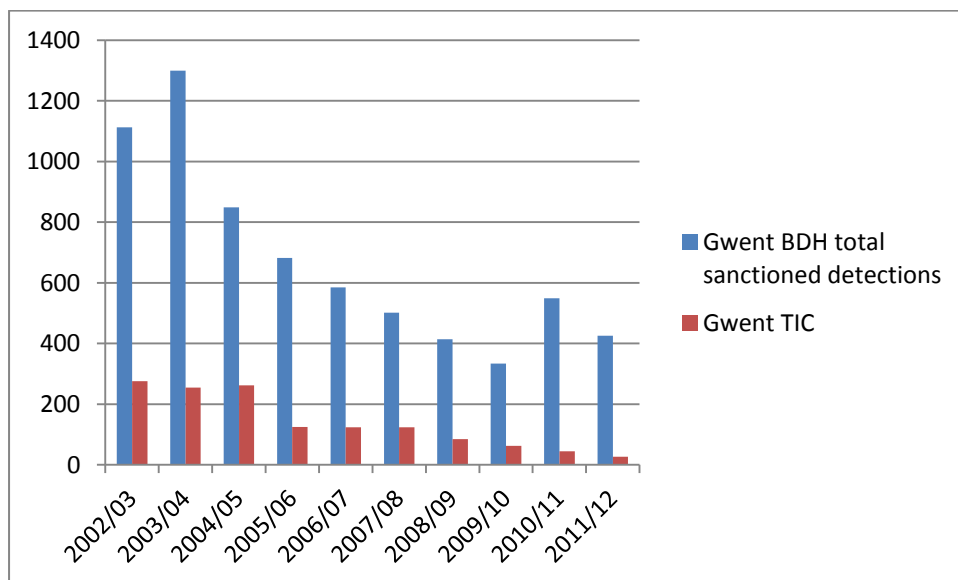


Fig. 1

Fig 2: Examination of Gwent Police Theft from Motor Vehicle (HO Offence Category 45) Total sanctioned detections (including TICs) and TICs.

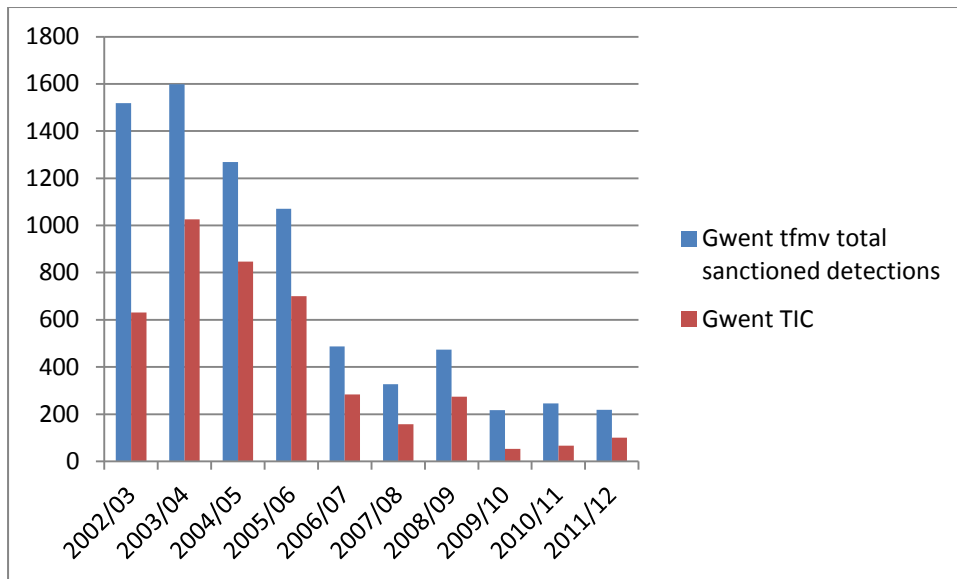


Fig. 2

Fig 3: : Examination of Gwent Police Unauthorised Take of Motor Vehicle (HO Offence Category 48) Total sanctioned detections (including TICs) and TICs.

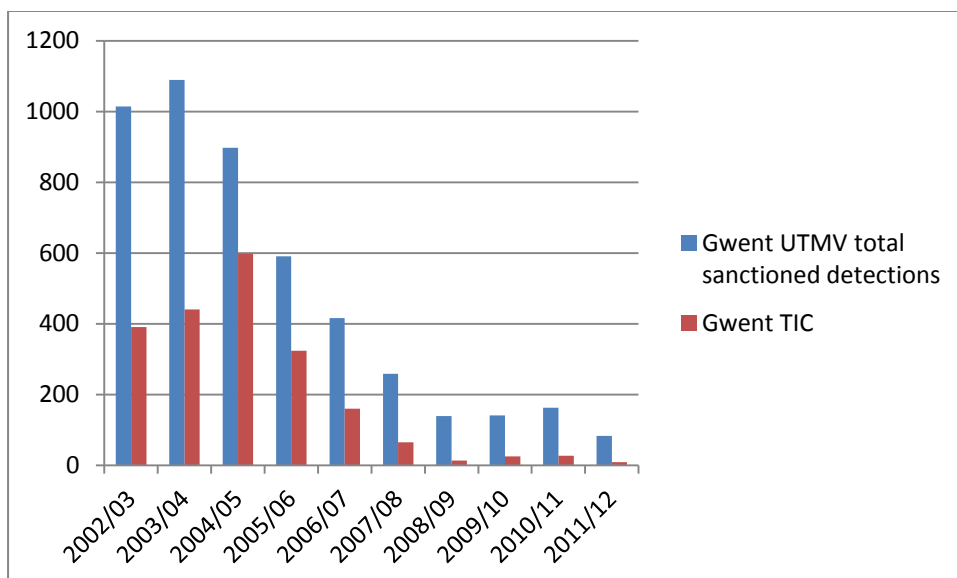


Fig. 3



Fig. 4: Gwent police total recorded crime 1996/97 to 1011/12. (Source Home Office Crime Bulletins). Please note the National Crime Recording Standard was introduced in April 2002.

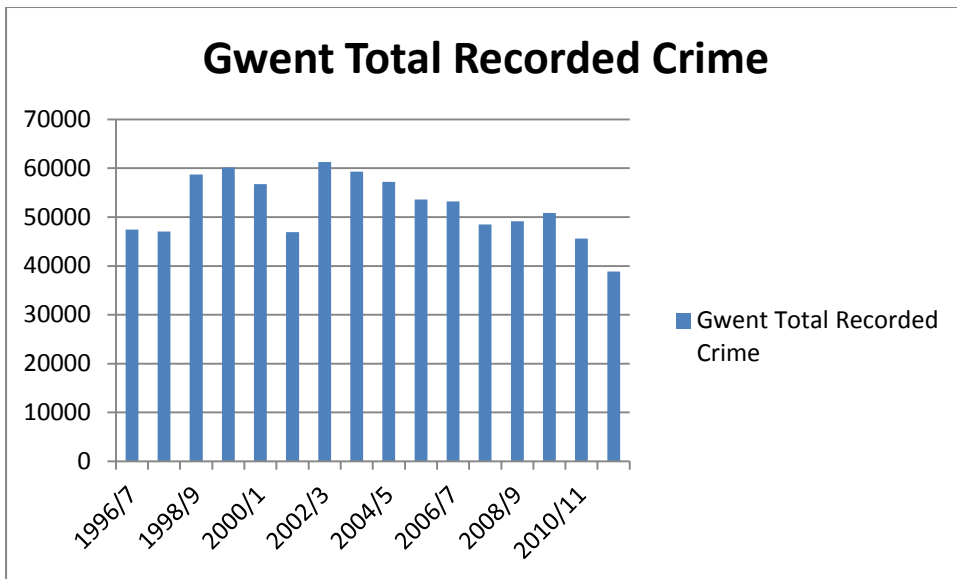


Fig. 4

26th January 2013

## **INQUIRY INTO ACCOUNTABILITY STRUCTURES OF THE POLICE**

### **THE COMMITTEE ON STANDARDS IN PUBLIC LIFE**

#### **RESPONSE BY THE OFFICE OF THE POLICE AND CRIME COMMISSIONER**

#### **FOR DEVON, CORNWALL AND THE ISLES OF SCILLY**

The Committee is interested in your views on how effective the police accountability structures are, what works well, what can be improved and what can provide the public with the necessary assurance that ethical standards are being maintained. The Committee welcomes any general comments but in particular invites responses to the following questions:

*i. Are there any gaps in the existing mechanisms for holding PCCs to account?*

At present the only formal mechanism for ensuring that PCCs are held to account, (other than at PCC election time) is by the Police & Crime Panel.

It is desirable that the PCC is publically accountable and is seen to be as such. There are currently no requirements on a PCC to present himself to answer public questions – either in a public forum or through the receipt of correspondence. We believe it would enhance the accountability process if the public were aware of the opportunities available to them to put questions to the PCC. Whilst we do not support any prescription, PCCs should be obliged to publish a schedule of opportunities the public have to put questions (and therefore seek answers) to the PCC. The Police and Crime Panel would then be free to question the PCC on the adequacy of the arrangements in place.

*ii. What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?*

We believe it is important that PCCs embrace openness and put themselves and their senior staff forward for scrutiny and accountability particularly at key decision-points and for issues reflecting a high level of public interest.

We advocate the following activities which we consider promote accountability to the public between elections:

- The OPCC has clear, published customer service standards which comply with the transparency regulations laid by Parliament.
- The PCC submits himself to a wide range of public scrutiny, in addition to the Police & Crime Panel. These include Overview and Scrutiny Committees, local authority task groups, meetings of County, District, Town and Parish councils, meetings of community associations, business forums and groups convened by local communities and neighbourhoods.. The PCC responds regularly to a wide range of public questions by accepting invitations to appear on local and regional radio and TV broadcasts.

A number of additional enhancements to aid transparency could be made. It is not this OPCC's position to support these without further consultation. They are offered in order to promote discussion and contribute to the debate.

- The OPCC embraces scrutiny and advocates the benefits of effective challenge in a demonstrable way.

*ii. How are PCCs ensuring transparency in their decision making?*

A wide-range of information is publically accessible from the OPCC website, including minutes and notes from OPCC meetings.

*iv. What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?*

- A limited range of police crime and incident data available from the police website
- A range of performance and crime data available from Police.uk
- HMIC reports
- IPCC reports
- Data and documents in compliance with the Elected Local Policing Body (Specified Information Order)

*v. What has worked best for PCCs in engaging with the public and local communities?*

The OPCC has delivered a range of engagement activities to meet the differing needs of a large geographic area covering rural, coastal and urban communities. Devon, Cornwall and the Isles of Scilly has a population of 1,668,218 (Census 2011). The age range of residents is relatively even although approximately 56% of the population is aged 40 years and over. This shows a slightly ageing population with 205,830 more people aged 40 and over than those aged 0 – 39 years.

Devon, Cornwall and the Isles of Scilly homes 93 different ethnic groups. The largest of these groups is white British, 94.9% of the population. 20.5% of the population are considered to have a long term health problem or disability. Such figures provide a challenge for the OPCC to ensure engagement with diverse groups is effective.

Since the commencement of the PCC's term of office, 122 physical events have been delivered with over 7600 people directly engaged. This has been achieved through delivering a variety of activities including:

Hotseat Live                      A "Question Time" event where public audiences raise questions to the Police and Crime Commissioner and Chief Constable. Audience size is approximately 50. However, the events are held in partnership with BBC radio Devon and Cornwall - allowing listeners

to call in, tweet or email their questions. The partnership ensures a broad range of people have the opportunity to engage with the PCC. The reach of people engaged through this medium moves exposure of the PCC in to tens of thousands of people.

- Public Surgeries** Held on a monthly basis these are personal meetings which rotate around the policing area. Up to 8 individuals can have their concerns heard by the PCC. Issues discussed by participants are linked to community safety, policing, local issues and complaints. Public surgeries allow the Commissioner to engage directly with the electorate, provide a personal response and where possible a resolution to their individual issue.
- Talks** Providing a bespoke offering to community groups. The Police and Crime Commissioner or OPCC officers deliver talks to raise awareness of the role of PCC's along with talking on topics of local interest. Interested groups include Community Partnerships, Resident Associations, Neighbourhood Watch groups, Rotary and Women's Institute.
- Shows** Largely a summer activity with events beginning in May and finishing in October. Attendance at shows supports awareness raising to the general population. Shows are held across Devon and Cornwall. Shows also cater for different demography of Devon and Cornwall through county, rural, Pride and Respects events.
- Newsletters** Tony Hogg issues a quarterly newsletter to an e-mail distribution list of 2,500+. This is also available in a hard copy version if requested. This highlights updates, stories and issues that have been raised in the previous months. This is particularly useful for those who do not access social media, or the OPCC website, on a regular basis.
- Consultations** Consultations and focus groups provide a simple standard approach to understanding and sense checking ONS and crime survey data. The undertaking of consultation in the work of the OPCC allows strategies to be developed with the knowledge that local communities and partners have had the opportunity to help shape policy.
- In addition to consultations, engagement and education projects are developed to interact with target audiences. These activities help to provide awareness raising and seek to incorporate early intervention and prevention techniques in to the work of the OPCC.
- Online** The challenges faced by Devon and Cornwall PCC to engage with communities is always changing. In an effort to be more inclusive, reach wider audiences and engage in policing and community safety discussions Devon and Cornwall PCC developing its online engagement. A research project is being undertaken to understand who the influential people are in Devon and Cornwall using social media. This may be local residents, professionals working in the

public or voluntary sector or elected officials. This work will also allow the PCC to understand which platforms are most suitable to engage with the wide range of people living in Devon and Cornwall. This is an exciting new development and will see the PCC engage directly with important issues and concerns. As with all engagement activities the information gathered through this format will be used to shape policy and decision making in the OPCC.

*vi. How well are Police and Crime Panels able to hold a PCC to account between elections?*

We support the findings from the Centre for Public Scrutiny's review of the first year of operation of Police and Crime Panels published in January 2014. This found that

The success or failure of Police and Crime Panels owes itself, in every area, to the quality of the relationship between the Police and Crime Panel, the Police and Crime Commissioner and the Office of the Police and Crime Commissioner.

Shortcomings in the relationship between Panels, Commissioners and PCCs' offices often seem to stem from mutual misunderstandings about the Panel's role.

Resourcing is a further constraint, but only where Panels are seeking to be more ambitious about their role. Authorities should give serious thought to making more money available to provide additional support to Panels where there are particular concerns, and to reduce the pressure on lead authorities, who are in many instances providing "in kind" support which exceeds the £53,000 provided centrally.

Panels should come together with PCCs, Community Safety Partnerships (CSPs), CSP scrutiny committees and Chief Constables to agree ways of working that go beyond the Policing Protocol.

Panels should consider how they can carry out their role with more proactive work, where proportionate and where such work relates directly to their statutory role.

Panels should consider how they can better engage the public.

*a. Does the role of the Police and Crime Panel need any further clarification?*

The legislation regarding Police and Crime Panel (PCP) is perceived as weak and in need of reinforcing.

We consider it would be helpful for the role of the PCP to be prescribed in more detail than is currently the case. We have noted two areas in particular with the potential to give rise to confusion:

- The requirement for the panel to be both supportive and to scrutinise

- Panel members themselves can tend to focus on very local operational policing matters (which lay outside of the PCC's remit) rather than focus on the actions and decisions which fall within the remit of the PCC..

*b. How well are the current "balanced" membership arrangements ensuring effective scrutiny and support of PCCs?*

It will be difficult for Panels in areas comprising a large number of appointing authorities to seek a 'balanced' membership. The 18 councillors on Devon and Cornwall's 20-strong Police and Crime Panel represent 13 different local authorities. It is unlikely therefore that a balanced political representation will be achieved when each appointing council will almost certainly choose to put forward a member of the controlling party

There is probably no perfect system for appointing to the Police and Crime Panel. As the current system mirrors the mechanism for appointing MPs to Parliament, we believe there is no pressing need for change.

*c. Are the current membership thresholds requiring a two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?*

We believe these are acceptable arrangements in these circumstances given the consequences that such a veto would have.

*d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?*

No. The PCC is a corporation sole who must maintain the freedom and flexibility for being able to appoint and dismiss their staff according to their wishes. The relationship between the PCC and his/ her Chief Executive and Chief Finance Officer is of critical importance for the effective and efficient operation of the Office of the PCC. The Panel has the duty to scrutinise the PCC on their preferred candidate for Chief Executive and Chief Finance Officer, this process allows for the review of the procedure for the appointment. To hold the power of veto of this decision would be un-justified extension of the Panel's role as it would effectively mean the second appointment process for a candidate. This may deter the quantity and calibre of applicants. The PCC should retain the decision on whom he/ she appoints to be their senior staff.

*e. How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?*

The Police and Crime Panel's role should be to scrutinise the PCC for their observation to regulations, codes and plans that have formally been laid down by Parliament or by the Police and Crime Commissioner. For example, if the PCC has pledged in their Police and Crime Plan that he/ she will adopt the principles of the College of Policing's Code of Ethics, then the PCC should be scrutinised upon their compliance.

The basis for the election of Police and Crime Commissioners by the public is primarily one of the introduction of democratic accountability and oversight into police governance. The principle that members of the public having the right to elect a representative to set the strategic direction for their policing, set a plan and hold the chief constable to account is a sound model that must be given time to develop and mature.

*vii. Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?*

Given the newness of the role and remit of PCCs it is unsurprising that the public have initially struggled on occasion to understand the difference in the role of the PCC and that of the Chief Constable. It is our experience that the remit of the two roles needs to be clarified for the public.

In particular, operational independence is a concept that is not defined nor fully understood by PCCs and Chief Constables across the country. A clearer definition of operational independence would support PCCs to better delineate the two different roles of PCC and Chief Constable.

It appears that the public are confused as to why the PCC cannot direct and impact on local policing when they are dissatisfied with local policing. Much correspondence to the PCC focuses on specific matters of local concern in an area rather than strategic issues affecting the future direction of policing. Whilst the PCC may well have a position on local affairs, it is unlikely a PCC will be able to respond to these matters without redirecting the enquiry or concern to the police force.

Further, as the delivery of initiatives and services by the OPCC is accelerated, for example, victims' services commissioning, it may further blur the lines between the role of Chief Constable as responsible for operational policing delivery, and the commissioning and provisioning services by the PCC.

*viii. According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?*

The role of the Joint Audit Committee in Devon and Cornwall is well defined by its terms of reference and has been highly effective in advising the PCC and Chief Constable on the application of good governance and effective risk management. The Chair holds regular meetings with the individuals both of whom have expressed their appreciation of the committee's independence and objectivity. This is regarded as a key strength. Conflict of interest is avoided through clear understanding of the committee's role and a workplan aligned to seeking and providing independent assurance on key governance issues.

The potential for conflict of interest in financial management is avoided by employing separate CFO's for the OPCC and Force.

32. The Committee are concerned to understand generally the steps all parties to the Policing Protocol are taking to ensure they are abiding by the Seven Principles of Public Life. The Committee also wishes to consider specifically the extent to which PCCs are providing ethical leadership in embedding the Policing Code of Ethics, and are themselves acting within that framework as elected officials. The Committee invites views generally and on the following questions:

*ix. What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?*

There should be a clearer role for PCCs in dealing with complaints against the police. We believe the public's confidence in PCCs (and the police service) would be enhanced if the PCC played an active role in handling police complaints. The PCC considers that it is one of his core responsibilities, and of all PCCs, to hold the Chief Constable to account for maintaining the highest standards of integrity within their forces and that PCCs themselves have a dual duty to serve the public whilst adhering to the same standards.

In Devon and Cornwall the PCC has made it clear to the Chief Constable and to his own staff that the highest standards of honesty and integrity are expected in all they do.

The PCC has directed his office to bring together a framework for scrutinising how the Chief Constable is ensuring that the policing Code of Ethics is embedded within Devon and Cornwall Police.

Whilst neither the PCC nor the OPCC is legally obliged to adopt the Code of Ethics, in Devon and Cornwall the PCC has made it clear that both he and his staff will adhere to the principles it sets out.

The PCC has prepared and published his Statement on Ethics, see Annex A.

*x. What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?*

The PCC has asked the Joint Audit Committee to provide him (& the Chief Constable) with assurance in the way the Code is embedded and complied with in the two organisations. The PCC is working with his advisors and senior staff to determine the most effective way of ensuring his office upholds ethical standards and is able to demonstrate such to the public.

*xi. Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?*

The existence of the Elected Local Policing Bodies (Specified Information) 2011 goes a long way towards ensuring that PCCs achieve a high level of transparency. We would suggest measures are put in place to ensure this piece of legislation is regularly reviewed to reflect the changing demands of the PCC's role (e.g. introduction of responsibility for victims' services).

This OPCC publishes a broad range of information detailing expenses, costs and charges incurred by the PCC. The OPCC website includes the PCC's schedule of meetings and public engagements. We believe the transparency of such information is reasonable and accords with general principles of openness and publication requirements



*xii. What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?*

Early in its conception, the OPCC established a comprehensive Scheme of Governance which applies to the Police and Crime Commissioner and the Chief Constable for Devon and Cornwall. This sets out how the PCC and the Chief Constable operate, how decisions are made and the procedures, which are followed to ensure that these are efficient, transparent and accountable to local people. The scheme of governance also sets out how the PCC will work with the Chief Constable. This scheme of governance has been assessed by the Joint Audit Committee and is kept under regular review.

**Completed by the Office of the Police and Crime Commissioner for Devon,  
Cornwall and the Isles of Scilly**

28 November 2014

# Statement on Ethics from the Police and Crime Commissioner for Devon & Cornwall

## Introduction

All elected representatives have a duty to act with honesty and integrity. This statement by Police & Crime Commissioner Tony Hogg outlines his commitment to maintaining the highest standards in public life.

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Statement from Tony Hogg:

As the Police and Crime Commissioner (PCC) for Devon and Cornwall I have sworn an oath on taking office agreeing to abide by seven standards (known as the Nolan Principles ) laid down by the Committee for Standards in Public Life.

My role includes holding the Chief Constable (CC) to account for ensuring that all police officers, staff, contractors and volunteers for Devon and Cornwall Police abide by the policing Code of Ethics.

I fully endorse the Code which incorporates the Nolan principles as well as two further values *fairness* and *respect*. I have also incorporated these two values as I am united with the CC in wishing to ensure that respect and fairness are at the heart of policing and my governance.

I have set out below the standards which support my work and the ways in which they are demonstrated.

## The Seven standards of Conduct in Public Life (the Nolan principles)

### 1. Selflessness

PCCs are committed to making decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends. All decisions made by the PCC are made on behalf of the public interest and are disclosed in my log of Commissioner's decisions.

I am committed to putting local people at the heart of my work as a PCC. This work includes employing a designated team who are working to ensure that Devon & Cornwall Police achieve their vision to be the best urban, rural and coastal Service. Additionally my office are pioneering a comprehensive service to support Witnesses and Victims of crime from April 2015.

### 2. Integrity

PCCs should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

My office has a policy of recording all gifts and hospitality which have been accepted with a value of over £30.00 on a Gifts and Hospitality register.

The Governance framework describes my role as Commissioner and outlines financial and procurement rules and processes which govern financial management.

In the eventuality where the interests of exercising the functions of my office might conflict with any disclosable or other interest, which has become known to me, I shall as soon as possible declare such conflict and take necessary action.

A Protected Disclosure policy (whistle-blowing) is also in place in my office.

### **3. Objectivity**

PCCs carrying out public business should always operate in an open, transparent and objective manner making decisions and choices on merit.

In accordance with the Governance framework I am committed to ensuring that financial regulations and contractual standing orders are adhered to during the procurement of service and awarding of contracts.

My Recruitment Policy demonstrates my commitment to an open and transparent process when recruiting members of staff for the Office of Police & Crime Commissioner (OPCC).

### **4. Accountability**

The PCC is accountable to the public and must ensure that actions are subject to effective and meaningful scrutiny. They are held to account through the election ballot box and scrutinised on a regular basis by the Police & Crime Panel (PCP). The PCP in Devon and Cornwall it is made up of 18 councillors and two independent members from across the peninsula.

My formal business is conducted through a series of meetings and all key decisions are published on the website. I have established two senior level boards with the Chief Constable to ensure the smooth policing of Devon and Cornwall:

Strategic direction and decision making is provided by the Joint Management Board (JMB). The public can view a summary report of key issues and decisions made by the Joint Management Board.

Scrutiny of force functioning and performance is undertaken by the Performance and Accountability Board (PAB) The public can attend PAB meetings, which are held across the peninsula in person, or watch as it is broadcast on the internet. For details of forthcoming PAB meetings please see my Events Calendar.

## **5. Openness**

PCCs should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

I hold public meetings and members of the public can contact my office by phone (01392 225555) or email [OPCC@devonandcornwall.pnn.police.uk](mailto:OPCC@devonandcornwall.pnn.police.uk) to arrange an appointment to attend one of my PCC surgeries. Details of dates and locations can be found on my Events Calendar. Dates are also circulated in both electronic and traditional newsletters, social media, the Community Messaging System (CMS) and through the force diversity communications team

My website is compliant with the Local Policing Bodies (Specified Information Order) 2011. There is a range of information accessible on the website, including information disclosed through Freedom of Information requests.

Quick links to all key information held on my PCC website can be found on my Transparency and Public Information Links page.

## **6. Honesty**

PCCs have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

The Code of Conduct requires me to register any personal interests and to inform the monitoring officer of any changes to those interests within 28 days of the changes coming into effect. My senior adviser and members of OPCC committees (Joint Audit Committee; Appointments and Remuneration Committee and independent strategic board members) are required to provide details of their personal interests for the Register of Interests .

## **7. Leadership**

One of the primary roles of the Police and Crime Commissioner is to lead their communities in tackling crime by setting out the policing priorities for their police force. This is contained in my Police & Crime Plan which is developed in consultation with communities in order to reflect the public's requirements of the police. My plan lays out how the Chief Constable and I will make the communities of Devon and Cornwall safer.

As Police and Crime Commissioner for Devon and Cornwall I am fully committed to ensuring that integrity and ethical behaviour is at the heart of policing. I fully support the newly published Code of Ethics for the police and I have written to my fellow PCCs recording my support for a

development of Code of Ethics for PCCs and their staff.

With my performance team I am establishing a process for holding the Chief Constable to account for embedding and reinforcement of the Code of Ethics within Devon and

Cornwall police. It is vital to me that honesty, integrity and ethical behaviour are central to policing in Devon and Cornwall.

### **Additional policing principles:**

#### **8. Fairness and Respect**

I am committed to ensuring that fairness is at the heart of my work as PCC by ensuring that my decision-making is even handed and free from favouritism or bias.

I believe in treating everyone with respect and tolerance regardless of their background and beliefs.

Following my election on 15 November 2012 I pledged to represent 'all sections of the public without fear or favour.' I have been clear with the public and my staff that I intend to act with political impartiality in my role as PCC.

My Equality & Diversity policy demonstrates my intention to represent all residents, communities and users of Devon and Cornwall Policing services.

#### **Complaints Process**

Complaints about the behaviour of PCCs are dealt with by local Police and Crime Panels. If the matter is a serious complaint (an allegation of criminal behaviour against the PCC), the Panel will refer it on to the Independent Police Complaints Commission to deal with. If it is a less serious matter, the Panel is responsible for resolving the problem and seeking a satisfactory outcome. For instance, this might be an explanation or apology from the PCC, or an agreement to prevent or improve a problem in the future.

The administration of the complaint is dealt with by the Monitoring Officer for the Police and Crime Panel. The Monitoring Officer handles the paperwork about the complaint and may be asked to provide advice about the law in relation to complaints. The Monitoring Officer needs to ensure the details of the complaint are recorded and administered appropriately, but they do not take the final decision as to the outcome of the complaint as this lies with the PCP

In Devon and Cornwall the PCC has asked the Chief Executive of the OPCC to act as their Monitoring Officer. The Monitoring Officer is under a statutory duty to act fairly and objectively in this role.

For complaints against the PCC for Devon and Cornwall please contact: The Monitoring Officer, Office of the Police & Crime Commissioner for Devon and Cornwall.

**COMBINED RESPONSE FROM SOME MEMBERS OF THE DEVON AND CORNWALL POLICE AND CRIME PANEL IN RESPECT OF THE FOLLOWING QUESTIONS.**

*i. Are there any gaps in the existing mechanisms for holding PCCs to account?*

There needs to be better accountability to areas with the highest densities of crime in PCCs' areas. The current Panel arrangements (see also vi) mean the voice of these areas (typically large cities in predominately rural areas) can get lost and the PCC therefore not held properly to account. A duty to engage directly with these areas should be introduced.

They are far too restrictive and lack credibility. The Police and Crime Panel (hereinafter referred to as PCP) role only works as far as the regard it is given by the PCC. We are fortunate in this respect but generally have far too few powers. The ability to reject a budget once is not sufficient and needs the words to compel change if necessary.

The PCC role is:

- **being directly accountable to the scrutiny of the public -**

The PCP scrutinise this on behalf of the public the question is how effective are PCPs in undertaking this role. This partly depends of the calibre of the PCP but also the powers given to them and there are some gaps which will be explored in this response . One area of concern is the PCC/D&C Police joint audit committee. The PCC appoints independent people to the joint audit committee and therefore there is a question as to how truly independent they are.

Appointments should be under the control of the PCP. Their meetings are open to the public and webcast and at the present time effectiveness has not been reviewed by the PCP

- **having the democratic mandate to respond to local people's concerns**

It seems, once elected, PCPs cannot easily be removed except where there has been an offence committed punishable by 2 years imprisonment and this could be

	<p>reviewed</p> <ul style="list-style-type: none"> <li>• <b>setting local force's policing priorities and force budget</b> This is a key part of the role that seems to work well and is scrutinised by the PCP, however, as mentioned above the ability to reject a budget once is not sufficient and needs the words to compel change if necessary.</li> <li>• <b>working with local partners to prevent crime</b> This is a key part of the role which the PCC seems to work hard at accomplishing through his interface with the community, though as mentioned later in this response, the PCP could review the effectiveness of the PCC's engagement</li> <li>• <b>holding their Chief Constable to account for the performance of the force</b> This relies on partnership working by and large. The PCC is dependent on fulfilling this role by the extent and nature of the information s/he receives and this is dependent on developing with the police reliable recording of crime statistical information that is not "gamed" by the police. A review in the current effectiveness will depend to large extent of getting this right locally and nationally. It is too early to say whether the PCC is bringing "real local scrutiny of how Chief Constables and their forces perform." Locally the PCC has been successful in holding the CC to account for the 101 service. This is also subject to the scrutiny of the PCP and seems to be an area where the PCP can really make a difference.</li> <li>• <b>appointing, and where necessary dismissing, the Chief Constable</b> This is also subject to the scrutiny of the PCP and seems to work well.</li> </ul>
<p><i>ii. What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?</i></p>	<p>PCCs generally lack accountability as have been evidenced by the growth in their office and support structures. Improvements in transparency are called for and this is being recognised with efforts being made. The ability to recall a PCC must be high on</p>

	<p>the National political agenda. The PCC publishes a police and crime plan and an annual report which is reviewed by the PCP. It would be helpful if this contained input from the joint audit committee and the PCP was given the opportunity to perhaps include a statement about their role and relationship with the PCC.</p> <p>There is currently a link from the PCC website to the PCP reports meetings and agendas on the Plymouth City Council website. But the PCC website is out of date on commenting on the PCP recommendations and commenting on these is voluntary.</p>
<p><i>iii. How are PCCs ensuring transparency in their decision making?</i></p>	<p>Visibility and PR improvements in Web site and consultation.</p> <p>Our PCC is making efforts to increase transparency and an example he would give is the appointment of an “independent panel” to take part in the recruitment of the Chief Executive. The panel was appointed by the PCC so questions remain over its independence. There was a feeling that this was ‘window dressing’ and that the candidate chosen was inevitable given his interim role. The PCC can proactively request PCP scrutiny of decisions before they are made. .</p> <p>The PCP and PCC together can do more to ensure PCC transparency. For example, more proactive scrutiny exercises such as the recent reactive review of the closure of police enquiry offices. However, the PCCs’s consultation on the proposed Community Remedy could have included scrutiny by the PCP.</p>
<p><i>iv. What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?</i></p>	<p>Lengthy reports to the PCP available on Web site. These are not fully understandable to the public.</p> <p>The public can attend and view webcasts of the police/pcc joint performance committee (Performance and Accountability Board).</p> <p>Other information available to the public is on the PCC website</p>



	<p>and the website of the Devon and Cornwall Police and the Home Office Police UK website.</p> <p>It was suggested at a recent PCP meeting that in order for the PCC's performance information to be more helpful to the panel the data should include the 'performance target', the 'performance actual' and then whether the performance was rated at red, amber or green. Currently the reporting of performance information is still 'work in progress'.</p>
<p><i>v. What has worked best for PCCs in engaging with the public and local communities?</i></p>	<p>Face to face, Press and Media. Engagement with Local Authorities through Community Safety Partnerships. Role is too great for a single individual covering such a massive area.</p> <p>The PCP meetings are 'webcast', the public can attend, and there is a mechanism for the public to ask questions about the 'functions of the PCP. This has the potential to be a means for public engagement, but despite best efforts, the public show little to no interest in PCP business.</p> <p>The PCC has used a variety of engagement methods none of these have been scrutinised by the PCP. We get a report at each meeting on the engagement undertaken but we have not evaluated their effectiveness. These include visits to local groups, surveys and joint interviews with the Chief Constable on the radio and filmed and uploaded to the PCC website. The latter are extremely good at getting key messages across such as managing the public's expectations. A recent scrutiny exercise by the PCP highlighted that public consultation through the mail in Cornwall had been particularly poor as a key tier of representation had been overlooked. Engagement is only as good as the database held of consultees and the PCP has not reviewed this formally.</p> <p>Meetings of the Performance And Accountability Board are webcast and open to the public to attend and this includes local CSP chairs. However, public attendance at these appears to be very poor.</p>

	<p>Dates for committees and key events are also circulated in both electronic and traditional newsletters, social media, the Community Messaging System (CMS) and through the force diversity communications team.</p> <p>The PCC has established 6 Strategic Delivery Boards to deal with the 6 themes in his police and crime panel but their effectiveness has not been reviewed by the PCP.</p>
<p><i>vi. How well are Police and Crime Panels able to hold a PCC to account between elections?</i></p> <p><i>a. Does the role of the Police and Crime Panel need any further clarification?</i></p> <p><i>b. How well are the current “balanced”<sup>43</sup> membership arrangements ensuring effective scrutiny and support of PCCs?</i></p> <p><i>c. Are the current membership thresholds requiring a two thirds majority to veto a PCC’s level of precept and appointment of a Chief Constable proving practicable?</i></p> <p><i>d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?</i></p> <p><i>e. How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?</i></p>	<p><b>Response to (a)</b> The relationship between Panel’s role in scrutiny and Scrutiny arrangements in Local Authorities needs clarification.</p> <p>A complete re-think is needed with either further powers or the role scrapped. It does provide an interface with the public in theory but seldom do members of the public attend meetings or submit questions.</p> <p>There is concern that the majority of the scrutiny exercises carried out by the PCP rely exclusively on the PCC’s willingness to listen to and adopt their recommendations. The PCC can choose to ignore recommendations. It should be a legal obligation for the PCC to post a PCP scrutiny report on the PCC website and for the PCC to comply or explain – post on the website why s/he has chosen not to follow the recommendations of the PCP.</p> <p>PCP Agendas, reports and minutes are available publically on the Plymouth City Council website and the host authority has set up a dedicated ‘Police and Crime Panel’ website. The PCC website links to both of these.</p> <p><b>Response to (b)</b> The current arrangements giving one rep to every Local Authority, with limited flexibility to increase allocations, skews representation especially in rural areas with two-tier local government. Crucially, it can lead to under-representation of areas with the highest crime (typically densely populated urban areas). For example, in Devon &amp; Cornwall, despite Plymouth having c25% of the Force’s crime, it gets only two seats on the Panel (one provided under the optional arrangements). This means representation and therefore the</p>

focus of accountability, does not reflect the distribution (and nature) of crime.

It has been noticeable that support has come largely from members of the same political party although not always.

Scrutiny is nevertheless from across the board.

The membership of the PCP does seem to ensure effective scrutiny.

**Response to (c)** There are issues with the time lag between appointments and Panel consideration. A possibility would be to give the Panel a clearer and stronger role at the time of appointment. The timing of precept announcements is also problematic in terms of Local Authority budget-setting, creating uncertainty, and should be brought forward in the calendar. This is an issue Devon & Cornwall Panel has previously lobbied the Home Office on but has not been listened to. In both cases the 2/3 majority is not the issue. They are too high and it should be a “majority”.

**Response to (d)** Yes and agree the maximum levels of salaries and expenses in the office of the Commissioner. Much was made in the justification of the scheme that the cost would be far less than the old Police Authority. This has been proven not to be the case.

**Response to (e)** The PCP has, to date, not proactively reviewed the PCC’s register of gifts and hospitality or register of interests. The PCP are not aware of the role of the so called ‘independent audit committee’ in reviewing this. Given that the joint audit committee reports to the PCC and not the PCP (and its appointment is not truly independent) it would seem appropriate for good governance that this register is formally reviewed at each PCP meeting by the PCP. The PCC and senior staff should have a legal duty to adopt an appropriate code of conduct. This code should include an appropriate reference to incidences in a PCC’s former life that may come to light and cast doubt on the reputation of the office such as in the recent child abuse case involving a PCC. It seems the PCC is currently reviewing what appropriate code of conduct to adopt for himself

	<p>and his staff (see my answer below). This seems to be entirely voluntary.</p> <p>The PCC reports via his website on his and his office expenses and compliance with the Home Office code and that approval for exception claims will be sought by the 'Remuneration and Appointments Committee'. This is a panel that is appointed by the PCC and is not therefore truly independent. It would be better if this was appointed by the PCP and its reports were made available to it. There is a mention on the PCC website about who is on this committee, but not how they are appointed or their term of office. Though this was once reported to the PCP at its request. Their meetings are not open to the public.</p> <p>Reprimand &amp; Power to recommend "recall" to the Home Office.</p>
<p><i>vii. Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?</i></p>	<p>No, and this is not in the least understood by the public and has muddied the accountability. Further communication of this is needed. Regularly, the PCC will deflect issues because he sees them as "operational" but the boundaries are blurred.</p> <p>The PCC role is not understood by the public and the number of complaints received by the Commissioner which are operational would support this. This should be communicated effectively in all publications and on websites more needs to be done to achieve this.</p>
<p><i>viii. According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?</i></p>	<p>I have no doubts as to the sound operation of the Audit Committee in relation to interest. The PCC website gives information on the terms of reference of this joint committee and who is on this committee but not how they are appointed or their term of office. Though this was once reported to the PCP at its request. Copies of the audit committee reports are made available on the PCC website but to date there has been not scrutiny by the PCP. Meetings are open to the public and webcast.</p> <p>Locally we have not reviewed how well these arrangements are working and are not aware of any conflicts arising from this.</p>

<p><i>ix. What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?</i></p>	<p>To ensure the Nolan principles are applied and are seen to be enforced.</p> <p>It is key to the role and the ability of the PCC to hold the Chief Constable to account that the PCC is viewed as an ethical leader representing the public. If lapses come to light in past or present behaviours of the PCC that cast doubt on ethical leadership and the leader loses the support and confidence of the public at large there is no question but that they should stand down as in the recent child abuse report involving a PCC in a former role. At the present time neither the minister nor the party they are a member of has the power to make them stand down and in this respect the PCC is no different to other elected representatives. The PCP only has power to Suspend the PCC if he or she has been charged with an offence punishable by at least two years in prison and does not therefore cover the lapse in ethical leadership that is not of a significant criminal offence. Where there is a clear breach of an adopted code of conduct/ethical code the PCC should be formally answerable to the PCP which should have the power to dismiss the PCC from office if after a properly convened hearing which follows the rules of natural justice the PCC is found to be in breach of significant part of the code.</p>
<p><i>x. What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?</i></p>	<p>Greater recognition is required over the fact that PCCs are one of a number of locally elected representatives and they should be encouraged to engage effectively with ward councillors and councillors involved in Local Authority Scrutiny (as well as councillors in leadership positions).</p> <p>There is some confidence that the PCC and Chief Constable are embedding the highest ethical standards but never complacent. This is an area that the PCP is yet to scrutinise. However, there is a question as to whether the audit committee is the right place to review ethical standards especially given that it is not fully</p>

	<p>independent. In my view the PCP should play this role.</p> <p>The PCC has at the last joint audit committee meeting 18 September 2014 published a draft statement on ethics for information and discussion. The statement has been published on the OPCC website, with some of the links still to be embedded. This has not been reviewed by the PCP. In this the PCC says: “I fully support the newly published Code of Ethics for the police and I have written to my fellow PCCs recording my support for a development of Code of Ethics for PCCs and their staff. With my performance team I am establishing a process for holding the Chief Constable to account for embedding and reinforcement of the Code of Ethics within Devon and Cornwall police. It is vital to me that honesty, integrity and ethical behaviour are central to policing in Devon and Cornwall”</p> <p>This seems to be the first opportunity we have had to understand how the PCC and the joint audit committee are keeping under review police compliance with the Policing Code of Ethics. Perhaps a formal report to the PCP at least annually by the PCC on his scrutiny of this could be made.</p> <p>The draft statement says the PCC and his staff will abide by the seven principles set out in Standards in Public Life: First Report of the Committee on Standards in Public Life (a) (known as the “Nolan Principles”).’ The Seven Principles of Public Life are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.</p>
<p>xi. <i>Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?</i></p>	<p>Yes. Information available to PCP including the costs of consultants and the expenses sought by the PCC in relation to living accommodation and he published his and those of office on his website as part of his obligation to provide an “over £500” expenditure report. However, the PCP had not yet carried out a formal review of the registers held by the PCC in relation to him/ his staff in relation to gifts and hospitality and conflicts of</p>

	interest and this could be reviewed by the PCP.
<i>xii. What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?</i>	There is no formally agreed protocol or guidance and this needs to be addressed. The PCP has asked questions of the PCC concerning the PCCs appointment of close friends but these were generated by the panel using the panel's collective understanding of the need to ensure against conflicts of interest for those in public office rather than any formal guidance. More robust protocols would be helpful in helping the PCP hold the PCC to account.



## **Committee on Standards in Public Life**

### Local Policing – accountability, leadership and ethics Issues and Questions paper

#### **I. Are there any gaps in the existing mechanisms for holding PCCs to account?**

There should be a power of recall available to the Home Secretary, which can be triggered by the Police and Crime Panel. This would essentially be on the grounds of where a PCC has brought the role of PCCs in general into disrepute, or a significant loss of public confidence has been caused.

Independent PCCs recently wrote to the Home Secretary in support of the view that any power of recall should mirror any system that is devised for MPs.

However, further details on how the power of recall could work for PCCs are included in the response to question VI, below.

#### **II. What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?**

Continue to work openly and transparently as set out in question 3 (below) and to provide information and consult/engage with the public as highlighted in questions 4 and 5 (below).

#### **III. How are PCCs ensuring transparency in their decision making?**

Examples of this would include:

- Specified Information Order and ICO Model Publication Scheme requirements
- Freedom of Information requests
- Police and Crime Panel scrutiny of performance and decisions
- Press and media scrutiny
- Stakeholder and public consultation

#### **IV. What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?**

- Publication of required information (as referred to in question3, above) on-line
- PCC Newsletters and information leaflets
- Social media
- Consultation and engagement – public meetings, surgeries, events and surveys
- Police and Crime Panel meeting reports



**V. What has worked best for PCCs in engaging with the public and local communities?**

A 'mixed-economy' approach, including:

- Website and social media
- Public meetings
- PCC surgeries
- Focus Groups
- Community days and visits
- Conferences
- Community events
- Surveys
- Press/media releases
- PCC blog

**VI. How well are Police and Crime Panels able to hold a PCC to account between elections?**

- a) **Does the role of the Police and Crime Panel need any further clarification?**
- b) **How well are the current "balanced" membership arrangements ensuring effective scrutiny and support of PCCs?**
- c) **Are the current membership thresholds requiring a two thirds majority to veto a PCCs level of precept and appointment of a Chief Constable proving practicable?**
- d) **Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?**
- e) **How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?**

As mentioned in question I, above, I believe that the Police and Crime Panel should be able to trigger a power of recall for consideration by the Home Secretary. I would see this proposal operating in the following way:

The possible decision to trigger the power of recall should be discussed at a closed session of the Police and Crime Panel.

The discussion should be evidenced-based and involve consideration of an appropriately detailed report setting out the grounds for considering the trigger.

The report would need to be sponsored by a Panel member and have the support of three other Panel members. It should be shared with the PCC at least 5 working days before the meeting and the PCC must be able to make their counter arguments in defence of the allegations, with legal representation if appropriate.

Any decision to trigger the power of recall will need to be agreed on a two-thirds majority vote by the Panel (similar to the existing requirements around Panel veto powers). The decision point will be whether to ask the Home Secretary to consider a recall and thereby trigger a by-election for the PCC area. The vote should be held by secret ballot to avoid any political lobbying or influence at the meeting. The two-thirds support should also be of the full Panel, not of those present at the meeting (e.g. 12 out of 17 members).

If the Panel decide to exercise the trigger then the case will be referred to the Home Secretary for consideration and a final decision.

The same report and evidence considered by the Panel will be submitted to the Home Secretary in support of the case. No further evidence should be submitted as this would be outside of the considerations that led to the decision to exercise the trigger in the first place.

The Home Secretary should hold a formal hearing. The Chair of the Panel (regardless of how they voted) should make the case on behalf of the Panel and the PCC will be able to make their own representations at the hearing.

At any time during this process there would also be the option for the PCC to resign and thereby trigger a by-election (which they would be able to stand in).

**VII. Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?**

There remains ongoing public confusion around the roles of PCCs and Chief Constables, although there is a sense that this is improving.

However, in particular there remains confusion around the police complaints process and the respective roles of Chief Constables, PCCs and the IPCC.

**VIII. According to the Financial Management Code, Audit Committees should ‘advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.’ How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?**

In our experience, the Joint Independent Audit Committee works very well. At the end of each meeting we record issues for a joint annual report as we have representatives from both the Force and OPCC attending.

We have not experienced conflicts of interests but the independence of the members does allow for a robust discussion. Items are also fed into the risk management processes as they are identified.

**Martyn Underhill  
Dorset Police and Crime Commissioner**

**November 2014**

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**DORSET PCP RESPONSE TO CSPL ISSUES AND QUESTIONS PAPER**

Ser No (a)	CSPL Questions (b)	Response (c)
1	Are there any gaps in the existing mechanisms for holding PCCs to account?	<p><b>Comment.</b> The mechanism of the PCP is limited. The PCP has no powers to blame and then punish the PCC for any untoward issues. In addition, the need to allow the panel to be proactive rather than reactive is paramount. There is no endorsed national policy that ensures issues are discussed between the PCC and the PCP before implementation. There is no national reporting chain for the PCP to raise concerns to Central Govt.</p> <p><b>Recommendations.</b></p> <ul style="list-style-type: none"> <li>• A full review of the mandatory powers of the PCP with respect to PCC actions/behaviour in order to provide robust PCC checks and balances up to and including dismissal.</li> <li>• Legislation is required to ensure that the PCC exposes all decision points to the PCP prior to implementation and endorsement.</li> <li>• Establish a formal chain of command from County PCP to Central Govt in order to formulate national guidance on the role they undertake and to report PCC issues.</li> <li>• A rigid control of PCC complaints supervised by the PCP, and available to the IPCC.</li> </ul>
2	What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?	<p><b>Comment.</b> PCC accountability to the public between elections hinges around visibility and communication. It is achieved through public meetings, surgeries, targeting (ie business, youth, minorities etc), internet, surveys and press. All of the above require public interest, this is the challenge.</p> <p><b>Recommendation.</b> There is a need to incentivise public interest in PCC activity. This needs innovation. In addition, there is a requirement to make voting as easy as possible; this should include ensuring that PCC voting, wherever possible, occurs when other elections (local/national) are taking place.</p>
3	How are PCCs ensuring transparency in their decision making?	<p><b>Comment.</b> Transparency should be overt in the selection of senior staff in the OPCC; this must include a formal and open selection process<sup>1</sup>. The key PCC decision document is the Police and Crime Panel. It ought to be a plan with a vision, timelines and end state declarations, not a history of selected success stories or aspirations. It must also explain why a certain direction is being taken. The PCC should not obfuscate between OPCC policy and issues effecting police operational issues.</p> <p><b>Recommendations.</b></p> <ul style="list-style-type: none"> <li>• Selection of senior staff of the OPCC should be through a formal, transparent, selection process; to include a formal independent board member and a silent observer from the PCP. The PCP should only have the power of veto if "cronyism" is suspected.</li> <li>• The logic behind direction in the PCC plan must be fully explained, complete with timelines and bench marks for success. A national format for the plan should be mandated by central gov't in order to ensure conformity across the 43 OPCCs.</li> </ul>

<sup>1</sup> This action was undertaken by the Dorset OPCC.

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<p>4</p>	<p>What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?</p>	<p><b>Comment.</b> All relevant documentation is available on the OPCC website. It is readily accessible and understandable. For in-depth analysis, HMIC reports have much value and can act as a catalyst for PCC/local Police analysis by the PCP. CoPACC also has utility. Girding public interest is a must. A PCP webpage must be informative and have the ability to engage with public opinion.</p> <p><b>Recommendations.</b></p> <ul style="list-style-type: none"> <li>• The Police Crime Plan and the Annual Report should be lodged in all authority libraries in order for non IT users to read. This would also allow measurement of access/interest.</li> <li>• HMIC reports should be issued to the Chair of PCPs.</li> <li>• An interactive PCP webpage in order to allow a two way passage of information between the PCP and the public.</li> </ul>
<p>5</p>	<p>What has worked best for PCCs in engaging with the public and local communities?</p>	<p>See serial 2 above. In addition, the Dorset PCC has:</p> <ul style="list-style-type: none"> <li>• Established a Victims Bureau with dedicated staff, thus freeing up valuable police officer time in the process.</li> <li>• Holds monthly Community Days across the county, which include public forums and 1 to 1 surgeries.</li> <li>• Has appointed Volunteer PCC Community Advocates who provide invaluable help in engaging the PCC with particular sections of the community in Dorset.</li> <li>• The PCC employs a full time press officer.</li> </ul>

<p>6</p>	<p>How well are Police and Crime Panels able to hold a PCC to account between elections?</p> <p>a. Does the role of the Police and Crime Panel need any further clarification?</p> <p>b. How well are the current “balanced” membership arrangements ensuring effective scrutiny and support of PCCs?</p> <p>c. Are the current membership thresholds requiring a two thirds majority to veto a PCC’s level of precept and appointment of a Chief Constable proving practicable?</p> <p>d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?</p> <p>e. How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?</p>	<p><b>KEY ISSUE</b></p> <p><b>Comment.</b> The PCP is unable to hold the OPCC fully to account (especially on finance). Whilst scrutiny is undertaken of the OPCC at PCP meetings, the impact of outcome effect is negligible. The PCP has no method of veto or for enforcing a direction that elected panel members (representing their constituents) may wish to go. Balanced membership is satisfactory. The precept veto powers of the PCP are not understood by the electorate due to being contrived<sup>2</sup>. The Chief Constable appointment is crucial to the PCC in order ensure a strategic working relationship is in place so as to maximise the effect of the Police and Crime Plan; this appointment should be within the gift of the PCC with a full transparent and open selection process. This principle aligns with senior appointments in the OPCC. The role of the PCP should be to ensure transparency in selection, not suitability, which rests with the selection panel. The standards for personal conduct are well documented (Nolan). The PCP should be the authority for holding the PCC to account. The issue is that the current benchmarks for inappropriate behaviour are too lenient. The PCP should be empowered to deal with all complaints against the PCC, allowing them to publicise the outcome; the results should be available for inspection by the IPCC. The PCP should have a method of reflecting the feelings of the PCP, that represent the taxpayers (Q6). More clarification is needed, plus the public do require panel members, to sometimes have questions asked regarding operational issues, that is outside the panels remit (Q6a). The Panels are balanced (6b).</p> <p><b>Recommendations.</b></p> <ul style="list-style-type: none"> <li>• Precept approval process by the PCP should be by simple majority in line with UK voting regulations; with no overrule by the OPCC.</li> <li>• The PCP should have a method of imposing its will on the OPCC through majority voting.</li> <li>• PCP veto for the Chief Constable/Senior OPCC staff appointments must only focus on transparency of selection, not suitability. The PCC should have an appeal process.</li> <li>• Standards of personal conduct should align with those for Justices of the Peace or similar appointments in the legal system. This is legislative work that must be undertaken.</li> <li>• Empower PCPs to manage all complaints against the PCC; to be monitored by the IPCC.</li> </ul>
<p>7</p>	<p>Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?</p>	<p><b>Comment.</b> The boundaries between the PCC and the Chief Constable, whilst outlined eloquently in various documents, are not generally understood at all levels. There may be confusion for the layman between Strategic direction and planning (the PCC) and execution of effect (the CC).</p> <p><b>Recommendation.</b> The roles should be highlighted in clear terms in the PCC plan and at every opportunity by the PCC (press, meetings etc) and CC.</p>

<sup>2</sup> Of note, a majority decision vote of PCP members present to veto a precept rise could not stop a PCC driven precept rise (2014) being implemented, due to the 2/3rds majority policy. This is completely wrong - the decision must be based on a simple majority; and be binding. Interestingly, the press present at the meeting were completely baffled, leading to a lack of interest/reporting.

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<p>8</p>	<p>According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?</p>	<p><b>Comment.</b> The Dorset OPCC Joint Ind Audit Cttee (JIAC) scrutinises the Dorset OPCC. There are 5 independent members; also present at meetings are representatives from the Police HQ, KPMG and South West Audit Partnership. There is a risk of "marking your own homework" but this relies on the transparency of the JIAC. The OPCC also has an annual independent audit conducted by KPMG. An external audit of the Insurance reserve highlighted excessive resource holdings; this has been positively addressed by the Dorset OPCC. There have not been any overt conflicts of interest between the OPCC and Chief Constable. The PCP also scrutinises the OPCC finance plan but has no powers other than insisting on transparency.</p> <p><b>Recommendations.</b></p> <ul style="list-style-type: none"> <li>• The process of selecting members for the JIAC needs to be readily accessible and understood.</li> <li>• The PCP must have powers on the financial planning direction of the OPCC through the democratic process. In addition, there should be formal liaison between the JIAC and the PCP in order to ensure positive financial transparency and a coherent local fiscal policy.</li> </ul>
<p>9</p>	<p>What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?</p>	<p><b>Comment.</b> Ethical behaviour, in its simplest terms, is knowing and doing what is right. The difficulty is in defining "right". Ethical people distinguish themselves by doing that which is inconvenient, unpopular, and even temporarily unprofitable in the service of long-term positive effect. This means ensuring that the "right" prospective PCC candidates are selected to stand for election. MPs have to undergo local party scrutiny prior to being nominated as a Prospective Parliamentary Candidate. The Dorset OPCC has an Ethics and Appeals Sub-Committee; membership is drawn from the JIAC. The Cttee's purpose is to challenge and scrutinise the delivery of a Policing Service that is transparent in its work and upholds the principles of good governance. This is achieved through twelve areas of scrutiny. The oath which is signed by all PCCs on taking office is not headed "Oath of Impartiality" but "Declaration of Acceptance of Office". Reworded from its original draft, which was described as an oath, it has been individually reworded by PCCs; there is not a national PCC oath that emphasises ethics, impartiality and to not interfere with operational policing/decisions. This creates a defence option for any PCC if accountability is questioned. There is no national legislation that mandates how OPCCs will operate in order to ensure structural uniformity across the 43 police areas. This includes reporting (national and local), Police and Crime Plan, local police accountability, OPCC staff and function, public information and use of non-police public funds. All PCCs should undergo annual scrutiny by HMIC whilst in office in order to ensure they meet the national requirements.</p> <p><b>Recommendations.</b></p> <ul style="list-style-type: none"> <li>• All prospective PCCs should undergo formal, independent, panel scrutiny prior to being allowed to stand. The method of selecting JPs may be a template.</li> <li>• There is one, national, oath of impartiality and integrity for all PCCs.</li> <li>• Central government mandates by legislation the structure:             <ul style="list-style-type: none"> <li>○ Documentation and publicity of how the PCCs hold police to account.</li> <li>○ And function of the PCC and the office of the PCC.</li> <li>○ Documentation and format of public information provided by the PCC.</li> </ul> </li> <li>• All PCCs undergo annual HMIC inspection in the interests of govt and the public.</li> </ul>

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10	<p>What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?</p>	<p><b>Comment.</b> The Dorset OPCC Plan has direction to the Chief Constable that the Police Code of Ethics is to be adhered to. The promotion of this code within the force is not known; this does not mean that the code is not being promoted - it is just not readily visible to the public. If PCCs are to ensure police ethics and integrity then it follows that they themselves have to maintain the highest of standards when carry out their duties. There is no power under current legislation that empowers PCP's to suspend PCC's unless they commit a criminal offence.</p> <p><b>Recommendations.</b></p> <ul style="list-style-type: none"> <li>• Overt promotion by Police media teams on how the Policing Code of Ethics is being maintained and promoted within the local force.</li> <li>• PCCs must ensure the highest ethical standards; contravention must lead to disciplinary action, driven by the PCP.</li> </ul>
11	<p>Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?</p>	<p><b>Comment.</b> On the Dorset OPCC website there is a register of interest, gifts and hospitality and external meetings. Last entry was Feb 14.</p> <p><b>Recommendation.</b> None.</p>
12	<p>What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?</p>	<p><b>Comment.</b> See ser 2.</p> <p><b>Recommendations.</b> None.</p>

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## **Evidence to the Committee on Standards in Public Life**

In a general sense the accountability structures for the PCC and Chief Constable appear robust.

It appears the shadows of historic events within policing, added to more recent operational decisions perhaps not being fully understood by the audience, or, the wider public being ill-informed or unwilling to listen to the complete argument have negatively impacted upon public perception.

It is fair that the ethical standards in policing have to be considered in the context of wider public life. By way of example, other iconic issues involving members of parliament for instance have no doubt contributed to public/governmental fear of there being low ethical standards in a more general sense.

The immergence of the College of Policing; the additional support and finance been provided to the Independence Police Complaints Commission; and the growth within the HMIC would all suggest that over the last 3 years the accountability regime has become more substantial and robust. In a sense, from an operational perspective, it does feel that the energies of those organisations are bringing about greater scrutiny and accountability in all aspects of our work.

When focusing upon ethical standards the HMIC throughout the summer of 2014 have completed a robust Integrity inspection. The inspection considered how each force had responded to the recommendations of the HMIC report 'Without Fear or Favour' and subsequently the 'Revisiting the Police' report.

The inspection also considered how each police force looked to embed the recently agreed Code of Ethics and finally took a view with regard to the 'capability and capacity' of each force to conduct anti-corruption type of investigations and the resources afforded to such a threat.

Whilst the IPCC and HMIC perform an accountability and audit role it is prudent to point out that the police service itself has the will and the capability and focus to deal with low levels of integrity and high levels of corruption. As evidenced by the College of Policing Disapproved Register one can see that the vast majority of those members of staff leaving the service on grounds of gross-misconduct or dismissal do so as a result of internally led police scrutiny. Only a small number of cases are as a result of any outside involvement.

The Code of Ethics evolves from the 'Standards in Public Life' and the 'Statement of Common Purpose and Values' doctrines and provides a fantastic



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platform for the police service generally to ensure staff understanding the boundaries of acceptable behaviour. As aforementioned the HMIC have taken a considered view as to how the Code of Ethics is being embedded across the country.

From a Durham perspective the PCC holds quarterly meetings with members of the Professional Standards Department in order that all aspects of Professional Standards work ranging from public complaints through to anti-corruption activity. The PCC considers whether that activity is considered robust and acceptable.

In addition, given the PCC has a huge engagement process, the PCC's office as a result have regular dialogue with Professional Standards staff as a result of picking up upon any identified community concern, operational concern or indeed strategic direction of the force. That general oversight is considered sufficiently robust that the PCC and the staff are aware of single issues of concern in addition to the wider context around the education, prevention, intelligence and enforcement activity of the department.

In terms of the individuals within the accountability structure Durham Constabulary acknowledge and comply with the ACPO Vetting Policy. The ACPO Vetting Policy defines the level of vetting required and stipulates the frequency of vetting checks for those individuals who perform sensitive or high profile posts.

The work of the Professional Standards Department is also scrutinised on a monthly basis by members of the PCC Audit Committee. The committee have oversight and sign off of all conduct investigations completed by the force in addition to an audit role within the complaints process. Professional Standards Department ensure that our information and workload is accessible to the PCC, the PCC Staff, and the Audit Committee. In doing so we ensure there is a full understanding of PSD work and the outcomes achieved.

The PCC and his staff have been trained by ourselves in terms of the Code of Ethics are involved in the embedding and roll-out of the Code of Ethics across the force the details of which are reported to the PCC on at least a quarterly basis.

As can be seen from the recent HMIC report Durham Professional Standards Department conduct many pro-active and covert audit operations which test Senior Officer diary appointments, expenses, gifts and hospitalities, and remuneration packages. All of which, in addition to the publication of all of our anti-corruption and integrity strategies performance and accountability

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frameworks and an annual report on such, are published to the public via our force website.

The HMIC commented upon our senior leaders demonstrating high levels of ethical delivery as can be seen from the commitment to provide training to every member of staff as well as integrity and leadership being prevalent within all strategic documentation, rationale and internal processes including promotion boards, secondment opportunities and lateral development interviews.

The force have recently embarked upon an internal and external Ethics Committee. The results and the discussions within both boards are published to the public to ensure transparency.

In terms of the external Ethics Committee which is a joint venture with Cleveland Police consisting of members of the Institute of Local Governance supported by two members of the public from each force which have been hand selected by the Chief Constable and the PCC. Again, that further strengthens the audit and accountability regime particularly issues involving ethical delivery.

In conclusion, the accountability structures which exist are robust and seek to identify failed organisations, failed structures, failed processes or indeed failed individuals. Notwithstanding the reality is individuals do often unpredicted failed to meet the high levels of performance we all expect. Largely the structures in place help to identify the risk and manage those occurrences albeit rare when evidence becomes available.

As a force Durham are committed to delivering a high level of ethical standards whilst it is difficult in submitting this feedback to demonstrate the length of our activity should you wish to enter into any further dialogue or be presented with evidence of our prevention, education and enforcement work please feel free to contact me.

Superintendent Darren Ellis  
Head of Department  
Professional Standards and Legal Services Department  
Durham Constabulary



## **JOINT CHIEF FINANCE OFFICER Safeguards Protocol**

### **Introduction**

1. This document has been produced by the Office of the Durham Police and Crime Commissioner (OPCC) to give assurance to the Joint Audit Committee, and the public, about the role of the Chief Finance Officer.
2. The Police and Crime Commissioner receives the Police Grant from the Home Office, and is responsible for setting the police budget and holding the Constabulary to account. His Chief Finance Officer is responsible for advising him on those processes.
3. A conflict of interest could arise if his Chief Finance Officer, and the Constabulary's Chief Finance Officer, is the same person. However there are also potential benefits, and this is the arrangement that the PCC has chosen. Therefore the PCC's office has put in place safeguards to manage the risk that the Chief Finance Officer might be conflicted. This document sets out those safeguards.

### **Rationale for Arrangement**

4. The PCC's primary responsibility is to secure the maintenance of an effective and efficient police force. He has established the role of Joint Chief Finance Officer (CFO) to assist him. The joint role brings ongoing financial and operational benefits, including:
  - More effective, streamlined decision making;
  - The provision of consistent expert advice;
  - Reduced costs, by having one full time equivalent member of staff fulfil both roles.
5. The Chief Finance Officer is also the Section 151 Officer (cf. Local Government Act 1972) for both the PCC and the Chief Constable, responsible for the proper administration of their financial affairs.

### *Risk and Mitigation*

6. The PCC's Chief Finance Officer might face a conflict of interest, because he is also the Chief Finance Officer to the Chief Constable. The most obvious

theoretical manifestation of this would be **an inability to provide independent advice, particularly on holding the Chief Constable to account on financial matters.**

7. In looking to mitigate the impact of this risk, the OPCC has (with advice from Internal Audit) developed an extensive Control Framework which is linked to relevant legislation.

8. **The PCC has considered the risk alongside this Control Framework and considers that the benefits outweigh the risks, once the Control Framework is taken into account.** Its elements are set out below.

### **Control Framework**

- I. The Strategic responsibilities of both the PCC and CC are set out in the **Policing Protocol Order 2011**. This makes it clear that the PCC is ultimately accountable to the public for the management of the police fund while the CC has day to day responsibility for managing their allocated budgets.
- II. The OPCC and Durham Constabulary **Scheme of Governance** sets out how powers and delegations will be exercised by the Joint CFO, Chief of Staff and the Chief Constable. It acts as an important safeguard and form of assurance for the PCC in preventing the CC from committing expenditure or carrying out certain activity which the PCC may otherwise not wish to be involved in.
- III. **Job descriptions**, as defined within the Scheme of Governance, have been developed in accordance with Section 4 of the Home Office Financial Management Code of Practice for the Police Service in England and Wales and are in place for each role.
- IV. **S36 of the Police Reform and Social Responsibility Act 2011 requires the CC to give all relevant information to the PCC as needed.** In ensuring this requirement is fulfilled, the S151 status of the CFO requires him to act in the public interest should he consider that undue pressure is being placed on him to act in a manner which is unprofessional. Internal whistleblowing procedures (Bad Apple) are in place to protect the CFO in this regard. Section 114 of the Local Government Finance Act 1998 requires the Section 151 Officer to issue a report if there is likely to be unlawful expenditure or an unbalanced budget.
- V. In addition to the legislative requirements identified above, the “Role of the Chief Financial Officer in Local Government”, a publication by the **Chartered Institute of Public Finance and Accountancy outlines five principles** which the Joint CFO as a professionally qualified Accountant should adhere to. All of the principles within the document are underpinned by the need for the Joint CFO to act ethically i.e. with: integrity, objectivity, professional competence and due care, confidentiality, with professional behaviour and with impartiality.
- VI. The CFO is employed by the CC. Work undertaken for the PCC is delivered through an agreement for the provision of services, **reporting through the**

**Chief of Staff.** This means that advice from the CFO to the PCC can be checked and challenged by the Chief of Staff before it reaches the PCC – and the PCC can be provided with additional advice if necessary.

- VII. Finance is a standing item on the **Executive Board Agenda** (Membership: PCC, CC, Chief of Staff and CFO) and either a verbal or written report is presented by the joint CFO, outlining the current and future financial position of both the PCC and CC along with any necessary decisions and actions that need to be made. This ensures an open discussion and joint agreement for any decisions. All decisions taken are recorded.
- VIII. The Business Manager in the Office of the PCC is a Qualified Accountant. He is an employee of the PCC and reports directly to the Chief of Staff. The respective roles and responsibilities of the CFO and Business Manager include the provision of Budget / Financial information. Establishment of **the Business Manager's position within the OPCC provides additional assurance** to the robustness of financial information that is provided to the PCC.
- IX. A **Dispute Resolution Process** using Informal and Formal Mediation is in place to provide additional support to the PCC in holding the CC to account. In addition to the various internal controls outlined above, the PCC or CC can request external advice from a third party, such as another PCC/CC CFO, should they not be satisfied with the advice that they have received from the Joint CFO. Alternatively, they could request advice from HMIC. Under S54 of the Police Act 1996, a PCC can request HMIC carry out an inspection on any aspect of the force's operations, including obtaining information.
- X. The PCC can access **Internal Audit** to confirm that checks and balances exist to ensure high standards of governance and adequate risk management is in place. Similarly they can take assurance from **External Audit** in ensuring overall financial probity as auditors of both the PCC and CC. They could also be used to offer an external opinion should the PCC or CC be concerned as to any lack of transparency or independence by the joint CFO.
- XI. Ultimately at any point either the PCC, CC or Joint Chief Finance Officer can terminate this agreement. This would result in the PCC needing to appoint another CFO, which the Chief of Staff would advise him on.

## Contact

Enquiries about this protocol should be directed to the Office of the Police and Crime Commissioner at [enquiries@durham-pcc.gov.uk](mailto:enquiries@durham-pcc.gov.uk)

Published December 2014



## **Durham Police and Crime Panel**

**3 February 2014**

### **Review of Police and Crime Commissioner and Police and Crime Panel - Memorandum of Understanding/Partnership Working Agreement**

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### **Report of Lorraine O'Donnell, Assistant Chief Executive, Durham County Council**

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#### **Purpose of the Report**

- 1 To seek agreement on a Memorandum of Understanding/Partnership Working agreement between the Durham Police and Crime Commissioner (PCC) and the Police and Crime Panel (PCP).

#### **Detail**

2. At its meeting on 4<sup>th</sup> February 2013, the Police and Crime Panel agreed a Memorandum of Understanding/Partnership Agreement (Appendix 2) as a statement of the PCC's and PCP's commitment to build and nurture an effective partnership based on the principles set out in the agreement. The panel also agreed to review the agreement following at the end of the PCC's first year of office.
3. The Agreement sets out expectations to support a positive and constructive relationship between the PCC and PCP. It also provides a framework for the development and agreement of additional protocols/procedures to deal with specific issues including procedures for dealing with complaints against the PCC or Deputy PCC, Confirmation Hearings for Chief Constable and Statutory Officer posts and Information Sharing.
4. The Agreement is used as a means of promoting and encouraging appropriate values and behaviours in partnership working, constructive mutual challenge and reviewing progress.
5. Following consultation with the PCC Commissioner and the Chair of the Police and Crime Panel, it is suggested that this agreement remain in place and be reviewed on an annual basis.

## **Recommendations**

- 1) That the Police and Crime Panel agree to the Memorandum of Understanding/Partnership Working Agreement between the PCC and the PCP.
- 2) That the Memorandum of Understanding/Partnership Agreement be reviewed on an annual basis.

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## **Appendix 1: Implications**

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### **Finance**

None

### **Staffing**

None

### **Risk**

None

### **Equality and Diversity / Public Sector Equality Duty**

None

### **Accommodation**

None

### **Crime and Disorder**

This is a key focus of the work of the Police and Crime Commissioner and Police and Crime Panel.

### **Human Rights**

None

### **Consultation**

None

### **Procurement**

None

### **Disability Issues**

None

### **Legal Implications**

The Agreement includes responsibilities of the Police and Crime Commissioner and Police and Crime Panel within the Police Reform and Social Responsibility Act 2011



# **DURHAM**

**Police and Crime**

**Commissioner**

**and**

**Police and Crime Panel**

**Memorandum of  
Understanding/Partnership Agreement**

## **Introduction**

The Police Reform and Social Responsibility Act 2011 brings in new governance arrangements for policing and policing accountability. Principal among these changes is the election of the Police and Crime Commissioner (PCC) and the appointment of the Durham Police and Crime Panel (PCP). The Police and Crime Panel will scrutinise the decisions and activities of the Police and Crime Commissioner. In turn the Police and Crime Commissioner will hold the Chief Constable to account for the delivery of policing services and the achievement of the Commissioner's objectives.

This work is being delivered in a changing and challenging environment which requires flexibility and a pragmatic approach, high levels of cooperation and joint working, as well as a commitment to supporting each other in the delivery of shared and individual responsibilities.

Our overriding aims are to keep people safe and to provide the very best service that we can to the diverse communities of County Durham and Darlington.

This Memorandum of Understanding/Partnership Agreement is a statement of the Police and Crime Commissioner and Police and Crime Panel's (our) commitment to build and nurture an effective partnership based on the principles set out in this agreement.

## **Purpose**

The Agreement sets out the broad principles and processes which will guide our work together. It sets out our expectations to support a positive and constructive relationship. It also provides a framework for the development and agreement of additional protocols/procedures to deal with specific issues these could include procedures for dealing with complaints against the PCC or Deputy PCC, Confirmation Hearings for Chief Constable and Statutory Officer posts and Information Sharing.

We will use the Agreement as a means of:

- promoting and encouraging appropriate values and behaviours in partnership working
- constructive mutual challenge and
- reviewing progress

## **Our key statutory roles and responsibilities**

The PCC is responsible for:

- Securing an efficient and effective police force for the Durham Police Area
- Producing, and consulting on, a five year police and crime plan, in consultation with the chief constable, which sets the police and crime objectives for the area.
- Holding to account the chief constable including the power to appoint and dismiss

- Publishing information/data including an annual report
- Setting the annual force budget and police precept
- Requiring the chief constable to prepare reports on police matters

The PCP is responsible for:

- Scrutinising the PCC, to promote openness in the transaction of police business and also to support the PCC in the effective exercise of their functions
- Contributing to the development of the PCC's police and crime plan
- Reviewing the PCC's proposed precept
- Reviewing the PCC's Annual Report
- Reviewing the proposed appointments of chief constable, chief executive, chief finance officer and deputy police and crime commissioner (if proposed) and holding public confirmation hearings for these posts
- Making reports and recommendations on matters relating to the PCC
- Investigating complaints about non criminal behaviour of the PCC

## **Our principles for successful partnership working**

### **Shared objectives**

Our shared objective is to tackle local crime and disorder, creating safer communities throughout all of County Durham and Darlington and increasing public confidence.

Community safety is the protection of everyone's right to live without fear for their own or other people's safety. It is about impacting on crime, fear of crime and victimisation. It means the empowerment and involvement of all in the community to tackle inequalities, address the underlying causes of crime and create environments in which all people feel safe. It is about quality of life.

We will co-operate with each other, and the other responsible authorities, to reduce crime and anti social behaviour and support an efficient and effective criminal justice system.

### **Shared values and behaviours**

At the heart of successful partnership working is **trust**. Building trust takes time, but it only takes an instance to damage it. Agreeing shared values and behaviours, which are interrelated and impact on each other, are critical to successful partnership working and developing trust. We have set out below our shared values and how we will behave to demonstrate them. We will hold each other to account and measure ourselves against these principles.

### **Taking an evidence led approach**

Priorities are evidence based and decision making transparent. Effective action is reality based and solution focussed.

We will:

- Ensure that decision making is informed, consistent and transparent

- Be committed to continuous improvement
- Ensure that claims about performance are evidence based
- Actively encourage ideas and innovation
- Manage risk
- Monitor, evaluate and review our work to ensure we respond to changing needs and can demonstrate we are making a difference

### **Valuing and respecting each other**

Respect and value everyone's contribution.

We will:

- Respect each other's mandates, obligations and independence
- Recognise each other's constraints and commitments
- Build effective working relationships with each other
- Recognise the value of everyone's contribution
- Make accountability real in a constructive way

### **Public interest**

Act in the interest of the public and demonstrate value.

We will:

- Take a balanced and multi-faceted approach to issues
- Focus on long term as well as short term problems, responses and solutions
- Act in the interests of the public good over individual interests
- Demonstrate to the community how we are achieving publicly valued outcomes
- Carry out our work responsibly, with integrity and in a relevant and appropriate way

### **Building capacity**

Build capacity in our partnership.

We will:

- Develop skills, knowledge and experience in order to carry out our roles and responsibilities effectively
- Ensure meaningful dialogue through early consultation and early information sharing of data and analysis
- Tackle difficult and controversial issues

### **Acting ethically**

Act ethically with integrity and build trust. Be honest, open and objective and encourage constructive challenge.

We will:

- Ensure that our dialogue is open and transparent
- Agree how we will achieve democratic accountability
- Declare conflicts of interest and address them
- Use appropriate and simple language
- Be honest and objective
- Encourage questions and constructive challenges
- Agree a mechanism for whistleblowing

## **Aligning objectives**

Harness our collective efforts.

We will:

- Allow sufficient time and capacity to be given to understand an issue and to reflect on its impact
- Establish accountability and give each other constructive feedback
- Make sure that actions are clear, time limited and task oriented
- Ensure that agreed actions are carried out
- Build on our comparative advantages and complement each others contributions
- Share a collective understanding of our partnership and promote the values of our partnership

## **Specific protocols and procedures**

As detailed earlier in the Agreement it may be necessary, over time, to develop and agree additional protocols and procedures to deal with specific issues. This partnership agreement provides the framework for doing this. These protocols may include procedures for dealing with complaints against the PCC or Deputy PCC, Confirmation Hearings for Chief Constable and Statutory Officer posts and Information Sharing

The following procedure is proposed in relation to meetings of the Panel:

### **Meeting Schedule and Work Programme**

The Police and Crime Panel will meet at least four times per year with extraordinary meetings called as and when necessary. It is proposed that the Panel Secretariat (comprising of officers from Durham County Council Legal and Democratic Services and Overview and Scrutiny) will work with the Office of the Police and Crime Commissioner (OPCC) to determine suitable dates bearing in mind the statutory dates laid down for the Police and Crime Plan, precept and budget, annual report etc. The work programme will also take into account the Panel's duty to review/scrutinise PCC decisions and actions.

In considering potential meeting dates to which the PCC or a member of his staff is required to attend the Panel Secretariat will wherever possible consult with the OPCC to determine suitable dates. In any event the Chair of the Panel, via the Panel Secretariat, will inform the PCC or staff member in writing giving, where practical, 15 days notice. Such a notice to state the nature of the item on which he or she is required to attend to give account and whether the Panel require any papers to be produced. Where a report is required sufficient time will be allowed for this to be produced.

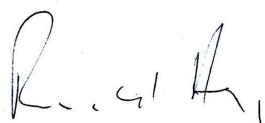
Where, in exceptional circumstances, the PCC is unable to attend on the required date, then an alternative date for attendance may be arranged following consultation with the Chairman of the Panel. If the Panel require the PCC to attend a meeting, the Panel may (at reasonable notice) request the Chief Constable to attend on the same occasion to answer any questions which appear to the Panel to be necessary in order for it to carry out its functions

## **Resolving Differences**

In any new arrangements there will inevitably be differences of opinion on issues. We will take a positive and constructive approach to resolving any issues in accordance with the arrangements set out in the relevant Protocol or Procedure. In general officers will attempt to resolve an issue in consultation with the Chair of the PCP and the PCC before referring the matter to the full PCP.

## **Summary**

This Memorandum of Understanding/Partnership Agreement is work in progress. We recognise that these are new and different arrangements and there will be issues to work through and resolve. The quality of our relationship will be more important than any written agreements. If we invest time and energy in maintaining a good partnership working relationship, together we can make a huge difference. We are committed to doing that in a constructive and positive way, remembering always that our shared priority and the reason why we exist is to serve the people of County Durham and Darlington by creating safer communities. It is acknowledged that the relationship between the PCC and the PCP will develop over time. It is agreed that this Agreement be reviewed on an annual basis.



*Mr Ron Hogg*

**Durham  
Police and Crime  
Commissioner**



*Cllr Lucy Hovvels*

**Chair  
Durham Police and  
Crime Panel**



## **Durham Police and Crime Panel**

**24<sup>th</sup> June 2014**

### **Protocol for Section 38 of the Police Reform & Social Responsibility Act 2011**

#### **Report of Lorraine O'Donnell, Assistant Chief Executive**

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##### **Purpose of the Report**

- 1 To present for consideration by Panel Members, a protocol between the Association of Police & Crime Commissioners (APCC) and the Chief Police Officers' Staff Association (CPOSA) for Section 38 of the Police Reform and Social Responsibility Act 2011.

##### **Background**

- 2 Section 38 of the Police Reform and Social Responsibility Act 2011 Act includes powers for the Police and Crime Commissioner to call upon the chief constable of the police force for that area to resign or retire. Schedule 8 of the Act requires the PCC inform the Panel of the reasons to call upon the resignation or retirement of the chief constable.
- 3 At its meeting on the 3<sup>rd</sup> March 2014, the Panel agreed a protocol (Appendix 2) between the Police and Crime Panel, Police and Crime Commissioner and the Chief Constable to ensure transparency and fairness and sets out a process and procedures which will be followed by the Commissioner in the event that he is contemplating the exercise of his power under section 38 of the Act.
- 4 Following the Panel's meeting, a national protocol on Section 38 of the Act, attached in Appendix 3 has been agreed between the Association of Police & Crime Commissioners (APCC) and the Chief Police Officers' Staff Association (CPOSA).
- 5 In summary, both protocols are very similar with exception that the national protocol includes mediation. The national protocol, together with the Durham Protocol was considered by the Chief Constable and PCC at a meeting of the Constabulary's Executive Board in April 2014 and recommended that Panel give consideration to the national protocol to be attached as an addendum to the existing Durham protocol on Section 38 responsibilities.
- 6 The Police and Crime Commissioner will be in attendance at the Panel's meeting to respond to questions from Panel Members.

## **Recommendation**

- 1) That the Police and Crime Panel consider information within the report and Appendices 2 and 3.
- 2) That the Police and Crime Panel agree to include the national protocol in appendix 3 as an addendum to the existing Durham Protocol on Section 38 responsibilities of the Police Reform and Social Responsibility Act 2011.

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**Contact: Jonathan Slee    Tel: 03000 268139**

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## **Appendix 1: Implications**

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**Finance –**

**Staffing –** The report includes information on the role of the Panel should the PCC call upon the Chief Constable to resign or retire.

**Risk – None**

**Equality and Diversity / Public Sector Equality Duty – None**

**Accommodation – None**

**Crime and Disorder – None**

**Human Rights – None**

**Consultation – None.**

**Procurement – None**

**Disability Issues – None**

**Legal Implications –** information within the report is focused on Section 38 of the Police Reform and Social Responsibility Act 2011.

**DURHAM POLICE AND CRIME  
COMMISSIONER**

**AND**

**DURHAM POLICE AND CRIME PANEL**

**AND**

**CHIEF CONSTABLE OF DURHAM**

**PROTOCOL**

**Regarding the Exercise of the PCC's Power under Section 38 of the  
Police Reform and Social Responsibility Act, 2011**

## **Introduction**

The Police Reform and Social Responsibility Act, 2011 (PRSRA) introduced new governance arrangements for policing and policing accountability. Principal among these changes is the election of the Police and Crime Commissioner (PCC) and the appointment of the Durham Police and Crime Panel (PCP). The role of the PCP is to scrutinise the decisions and activities of the PCC. In turn the PCC will hold the Chief Constable to account for the delivery of policing services and the achievement of the PCC's objectives.

The PCC and the PCP have already signed up to a Memorandum of Understanding setting out the broad principles of working together to build and nurture an effective partnership in the delivery of the shared and individual responsibilities of the commissioner and the panel.

It was specifically envisaged by the original Memorandum of Understanding that it may be necessary over time to develop and agree additional protocols and procedures to deal with specific issues.

## **Purpose**

In order to ensure transparency and fairness, this protocol sets out the process and procedures which will be followed by the PCC in the event that he is contemplating the exercise of his power under section 38 of the PRSRA, to call upon the Chief Constable to retire or resign.

The provisions set out in this protocol represent statements of intention only and are not legally binding. They may be withdrawn, reviewed or amended at any time by the relevant party.

## **Policing Protocol**

The PCC fully acknowledges the independence of the Chief Constable in operational policing matters as set out in the Policing Protocol (the Protocol).

This is underpinned by the statement in the PCC's Oath of Office that he will not interfere with the Chief Constable's operational independence. Indeed, the PCC and the Chief Constable are required by the Protocol to work together to safeguard the principle of operational independence.

## **The Police (Conduct) Regulations, 2012 (the Conduct Regulations)**

It is acknowledged by the PCC that the existence of the new statutory powers in Section 38 of the PRSRA does not affect the application to Chief Constable of the existing statutory regime for disciplining constables as set out in the Conduct Regulations. The Conduct Regulations contain detailed procedures and incorporate a number of safeguards to ensure that the relevant officer receives a fair hearing.

It is also acknowledged that in enacting Section 38 of the PRSRA, Parliament did not intend that the power contained in that provision should be exercised in a way that would defeat the intent and purpose of the Conduct Regulations.

Accordingly, the PCC undertakes to follow the process and procedures laid down by the Conduct Regulations in respect of any allegations of misconduct by the Chief Constable.

## **Performance Failure**

The PCC intends, subject to exceptional and unforeseen circumstances, to use his power under Section 38 of the PRSRA only in a case of serious failure in the Chief Constable's performance of his duties and functions which could jeopardise the achievement of the PCC's local policing priorities or the effective delivery of local policing needs.

All parties to this protocol agree that the PCC, as the local elected community representative, has a discretion to determine whether the Chief Constable's performance has been so unacceptable, by reference to local needs and priorities, as to compromise the efficiency and effectiveness of the police force and therefore justify his dismissal. However, it is also agreed that the PCC should reach any such

conclusion in good faith and have a reasonable basis for doing so, by reference to the ordinary public law principles of rationality.

The PCC recognises that the use of the power to call upon the Chief Constable to retire or resign should be a matter of last resort and exercised only, where appropriate, after full and frank discussion with the Chief Constable and after a reasonable opportunity has been provided to enable the failure of performance to be rectified.

## **Process and Procedures**

Without prejudice to the statutory process which the PCC is required to follow by virtue of part 2 of schedule 8 to the PRSRA and regulation 11A of the Police Regulations 2003, the PCC will consult with Her Majesty's Chief Inspector of Constabulary at an early stage and shall take account of his/her views in formulating any proposal to call for the Chief Constable's retirement or resignation.

The PCP will permit the Chief Constable to be accompanied by a friend or legal representative at any scrutiny meeting which is held in pursuance of paragraph 15 of schedule 8 to the PRSRA. The PCP will determine the procedure to be followed at the scrutiny meeting. At the meeting the Chief Constable and the PCC will answer on their own behalf any questions put to them by or on behalf of the Panel.

Before making any recommendation in pursuance of the said paragraph 15, the PCP will consult Her Majesty's Chief Inspector of Constabulary and take account of his/her views.

In the event that the PCP recommends that the PCC should not call for the retirement or resignation of the Chief Constable, the PCP will provide the PCC with the full written reasons for the recommendation. The PCC will not reject the recommendation until he has notified the Chief Constable and PCP in writing why he is minded to reject it.

## Section 38 Police Reform & Social Responsibility Act 2011

### Protocol between the Association of Police & Crime Commissioners (APCC) and the Chief Police Officers' Staff Association (CPOSA)

#### **INTRODUCTION**

The purpose of this protocol is to provide guidance to those considering using the powers in Section 38 and those who may be the subject of such use; to help avoid recourse to use of the powers in the first place, for example, through mediation; and to help ensure that where the powers are invoked they are used lawfully.

The protocol draws on legal advice whose principles have been accepted by both parties. It is also supported by the Home Office and HMIC.

The key legal principles are:

- The powers in s. 38 are not unfettered
- The powers must be exercised in a way that is consistent with the purposes of the Police Reform & Social Responsibility Act ("PRsRA")
- Public law principles such as fairness and reasonableness apply
- Article 6 of the ECHR may apply

It is recognised that the protocol is not a definitive interpretation of the relevant legislation. Interpretation is ultimately a matter for the courts. Moreover there may be circumstances where it is appropriate to depart from the protocol. However it is expected that regard will be had to the protocol in all cases and that any departure from it can be explained.

#### **MEDIATION**

Given the challenging nature of the roles of Police & Crime Commissioner ("PCC") and Chief Constable and the relationship between the two, a difference of views or other tensions may arise in that relationship from time to time. This is to be expected.

The parties involved will be best placed to determine whether, and if so, how, such tensions may be shared and addressed. The PCC's chief executive and the Deputy Chief Constable may be able to assist in this regard.

On occasion, with a view to avoiding any unnecessary escalation and to facilitate a brokered and pragmatic solution in the interest of all parties, the two parties may wish to consider mediation.

The Acas guide, "Mediation explained", provides a brief summary of the principles of mediation:

- Mediation is voluntary – you only take part if you want to.
- Mediation is confidential – nothing you tell the mediator will be passed on to anyone else unless you want it to be and what has gone on in mediation cannot normally be used in any later procedures or court action.
- Mediation is quick – mediation can be arranged in a few days and the mediation itself usually takes less than a day.
- Mediation can be cheaper and less stressful than going to court.
- Mediation is most effective at the early stages of conflict.
- Mediation aims to maintain the employment relationship.

It is also important to note that mediation cannot force a resolution and will only provide a solution if both parties feel able to agree to it. Furthermore, any mediator will need to be seen as independent and have the confidence of both parties. The mediator should not be a person or member of a body who could at a later date become involved in any formal proceedings.

The APCC and CPOSA have identified that Acas are suitable and willing to provide an accredited mediation service.

Contact should be initiated through the APCC or CPOSA. Any costs will have to be met from the respective Force budget.

### **SUSPENSION - SECTION 38 (2)**

Section 38(2) of the PRSRA contains a generally phrased power to suspend a chief officer. This does not, however, mean that it is open-ended or that there is some unfettered discretion in the PCC to suspend without cause. Indeed, the government response of December 2013 to the Sixth Report from the Home Affairs Committee Session 2013-14 noted "*suspension under section 38(2) should only occur in a case where the PCC is considering calling on the Chief Constable to resign or retire under section 38(3)*".

The power is subject to regulations laid down under s. 50 of the Police Act 1996. The relevant regulations are the Police (Conduct) Regulations 2012 which encompass those cases where investigations of misconduct or gross misconduct are instigated with a view to referral under Regulation 19(1) to misconduct proceedings if the PCC decides (at the end of an investigatory process governed by the Regulations) there is a case to answer. The Regulations lay down a comprehensive procedural regime that must be adhered to in respect of suspension for alleged misconduct. Accordingly any decision to suspend a Chief Constable in respect of alleged misconduct must accord with that regime.

The 2012 Regulations intersect with the power of the PCC to suspend under s. 38(2) because suspension is permitted under Regulation 10 of the 2012 Regulations where two conditions are satisfied. These are that:

- (i) the appropriate authority (*in casu* the PCC) has determined (having considered temporary redeployment to alternative duties or an alternative location as an alternative to suspension) that such redeployment is not appropriate in all the circumstances of the case, and
- (ii) it appears to the PCC that either: (a) the effective investigation of the case may be prejudiced unless the officer concerned is so suspended, or (b) having regard to the nature of the allegation and any other relevant considerations, the public interest requires that he/she be so suspended.

It should be noted that the power to suspend under Regulation 10(5) is limited in time and applies only until it has been decided by the PCC that there shall be no referral to misconduct proceedings or such proceedings have concluded.

It is clear that s. 38(2) may be exercised for wider purposes than misconduct but it may not be used for a collateral purpose (such as to bypass applicable regulations) or for a reason outside the scope and purpose of the PRSRA. Thus, interference with the operational independence or other legitimate exercise of functions of a Chief Constable by suspension would therefore probably be held to be unlawful.

Furthermore, s. 38(2) may only be exercised compatibly with traditional public law requirements including, possibly, fundamental rights requirements. Any decision to suspend outside the sphere of misconduct will, thus, have to be conducted by means of a fair and

lawful process and be a rational decision. Accordingly, the main relevant public law constraints are likely to be:

- (a) the power may only be used in a way that is consistent with the object and purpose of the statute. In particular, a decision taken for a collateral or legally improper purpose will be unlawful. It is clear that the concept of improper purpose is by no means co-extensive with bad faith. A purpose will be improper if it is legally impermissible. Thus, it is likely that a power contained in one statute would be unlawfully exercised if it were to be used to subvert the purpose of another statute including regulations made under that statute.
- (b) in order to be lawful a decision-maker must only take lawful considerations into account and must not consider legally irrelevant factors.
- (c) the decision must not be irrational in the sense that it *'is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it'*.
- (d) the decision must be taken fairly. Ordinarily this requires observance of the principles of natural justice or, in the language of the cases a decision must not reflect procedural impropriety.

These are by no means the only public law constraints but are the ones most likely to apply to a decision by a PCC to suspend a Chief Constable under s. 38(2).

The only express procedural requirement for suspension under s. 38(2) is that the PCC notify the local Police & Crime Panel ("PCP"). It will be for the PCP to determine how it exercises its duty to *'review or scrutinise decisions made, or other action taken, by the PCC in connection with the discharge of the PCC's functions'* in keeping with s. 28(6) of the PRSRA in this regard. It is the government's view (response of December 2013 to the Sixth Report from the Home Affairs Committee Session 2013-14) that PCPs should fully exercise their powers of scrutiny in examining and deciding whether the proposed removal (and any associated suspension) of a Chief Constable is justified.

It may lay the PCC open to a challenge on rationality grounds were the PCC to ignore - without rationally articulating their reasons for doing so - any recommendations or expressed views of the PCP as to the fact or continuation of suspension.

Although there is no set procedure for suspension outside the scope of the 2012 Regulations, in the interests of fairness (and having regard to Article 6 of the Human Rights Act) the PCC should normally inform the Chief Constable of the case against them and afford them an opportunity to make representations. A failure to do this may render the decision to suspend open to legal challenge.

It is likely that the relatively high threshold for suspension for alleged misconduct in the available case-law would be held by a court to apply to suspension under s. 38(2) for other reasons outside the sphere of alleged misconduct. Accordingly, the following should be borne in mind:

- Suspension is an extraordinary step to take and impacts dramatically upon the individual and the reputation of the Force. It should only be considered when the continuing presence of the Chief Constable in the workplace is untenable and genuinely not in the best interests of the Force and the public.
- Retaining the Chief Constable in the workplace may not only be in the best interests of the individual but will also avoid the significant expense of suspension that often attracts public criticism.
- Alternatives to suspension, such as a secondment elsewhere, should be considered. The regional Inspector of Constabulary may be able to assist in this regard and also offer professional advice.



- Where the Chief Constable has nominated a CPOSA Panel of Friends member to act as their Friend that individual may be able to act as an intermediary and assist in brokering an agreed alternative to suspension.
- The PCC should consider taking professional and legal advice before invoking a suspension.
- Any suspension should accord with the principles of natural justice and relevant case law.
- Where a suspension is invoked, it should be regularly reviewed and the proportionality and necessity principles applied on each occasion. A review should take place if the circumstances relevant to the suspension have changed and in any case not less than every four weeks and be documented by the PCC. The Chief Constable, or their representative, should be invited to make representations in writing prior to each review.

### **REMOVAL/RESIGNATION - SECTION 38(3)**

Similar considerations to those outlined above in the context of suspension apply to the power to call for retirement/resignation (the removal power) under s. 38(3). The central elements of the regime to be followed are to be found in the Appendix.

In keeping with the observations made in respect of suspension under s. 38(2), the power under s. 38(3) is not intended to be exercised in respect of misconduct which is governed by the Police (Conduct) Regulations 2012.

The s. 38(3) power should also be exercised within the principles of public law and only in a manner that is consistent with the object and purpose of PRSRA.

If the exercise of the power is to be pursued following receipt of the written views of the Chief Inspector of Constabulary, the PCC should explicitly explain how they have had regard to those views in their written explanation to the Chief Constable and the PCP of the reasons why they are continuing to proceed

A failure on the part of the PCC to obtain the written views of the Chief Inspector of Constabulary and take them into account before calling for a Chief Constable's resignation or retirement would be a clear breach of the regulations. Were the Chief Inspector's views not to be obtained then they clearly could not be taken into account and on the simplest public law analysis that would reflect a failure to take account of a legally material (indeed, legally imperative) consideration.

However, although the Chief Inspector's views must be obtained they do not necessarily have to be followed. They must be taken into account and cannot merely be disregarded. Provided that they are taken into account and adequate and intelligible reasons are given for departing from those views they are not legally binding.

Similarly, whilst the regime expressly permits the PCC to decide to remove notwithstanding the PCP's recommendation, nonetheless the PCC may wish to articulate a reasoned case for disregarding any such recommendation: A failure to do this may similarly be open the decision to legal challenge.

### **Appendix**

S. 38 is subject to regulations under the Police Act 1996, s. 50 and (materially) also subject to the provisions of Part 2 of Schedule 8 as regards the suspension or removal of a Chief Constable.

In this respect the Police Regulations 2003 (as amended) are also regulations made under s. 50 of the Police Act 1996. By virtue of the Police (Amendment) Regulations 2011, a new Regulation 11A was added to the Police Regulations 2003.

Having regard to Schedule 8 and Regulation 11A the central elements of the regime to be followed are:

*(1) If a PCC is proposing to call on a Chief Constable to retire or resign the PCC shall:*

- (a) obtain the views of the Chief Inspector of Constabulary in writing;*
- (b) have regard to those written views;*

*(2) The PCC must give the Chief Constable a written explanation of the reasons why the PCC is proposing to call for their retirement or resignation and at the same time provide a copy of the written views of the Chief Inspector of Constabulary.*

*(3) The PCC must give the relevant PCP:*

- (a) written notification that the PCC is proposing to call upon the Chief Constable to retire or resign;*
- (b) a copy of the reasons given to the Chief Constable, and.*
- (c) a copy of the written views of the Chief Inspector of Constabulary*

*(4) The PCC must give the Chief Constable the opportunity to make written representations about the proposal to call for the Chief Constable's resignation or retirement.*

*(5) The PCC must:*

- (a) consider any written representations made by the Chief Constable; and*
- (b) give the relevant PCP a copy of any such representations made by the Chief Constable, as soon as practicable after the PCC is given them.*

*(6) If a PCP is given a notification under (3), the PCP must make a recommendation to the PCC as to whether or not the PCC should call for the retirement or resignation.*

*The recommendation must be given to the PCC in writing before the end of the period of six weeks beginning with the day on which the PCP receives the notification.*

*(7) Before making the recommendation, the PCP:*

- (a) may consult the Chief Inspector of Constabulary, and*
- (b) must hold a scrutiny hearing at which the PCC and Chief Constable are both entitled to be heard.*

*The PCP must publish the recommendation made under this paragraph. It is for the PCP to determine the manner in which the recommendation is to be published in accordance with the relevant sub-paragraph (5).*

*(8) The PCC:*

- (a) must consider the PCP's recommendation, and*
- (b) having considered the recommendation, may accept or reject it.*

*(9) The PCC must notify the PCP of the decision whether or not to accept the recommendation.*

*(10) If, following the above, the PCC is still proposing to call upon the Chief Constable to retire or resign the PCC must:*

- (a) notify the Chief Constable and PCP and provide a written explanation of the reasons why the PCC proposes to call for the retirement or resignation;*
- (b) give the Chief Inspector of Constabulary a copy of the notification and the explanation, and*

*(c) give the chief executive appointed under paragraph 6(1)(a) of Schedule 1 to the 2011 Act a copy of the notification and the explanation, as well as the written views of the Chief Inspector of Constabulary obtained at the outset of the process.*

*A PCC must not call upon a Chief Constable to retire or resign until the end of the scrutiny process has been reached.*

*The end of the scrutiny process is reached when the first of the following events occurs:*

- (a) the period of six weeks has ended without the PCP having given the PCC any recommendation as to whether or not the PCC should call for the retirement or resignation;*
- (b) the PCC notifies the PCP under (9) of the decision whether or not to accept the PCP's recommendation in relation to the resignation or retirement.*

*(11) The Chief Constable must retire or resign if called upon to do so.*



13<sup>th</sup> November 2014

**Durham Response to APCC consultation on PCC tenure / recall: GR-A 47/2014**

Thank you for the opportunity to comment on the potential content of the APCC's report to the Home Office on PCC Tenure.

I do believe there is a need to strengthen the accountability of PCCs. However, I also believe that fundamental democratic principles need to be maintained, and that we must not introduce a system which results in trial-by-media or the ability to overturn the results of a fair election.

**Question 1:** *Do police and crime commissioners agree that additional grounds for terminating a PCC's term of office should be included in the final report making recommendations to the Home Office? If so, do commissioners prefer any particular option(s) set in this section, or are there any other grounds which should be included?*

It is difficult to define such criteria. However it is necessary to have something that is inherently subjective in order to give grounds to someone (see question 2) to trigger termination procedures. I would support either:

- Bringing the Office of the PCC into disrepute; and
- Loss of public confidence / trust.

In order to fulfil the first criteria, the conduct that has occurred, to bring allegedly the Office into disrepute, must have happened whilst they have been PCC.

**Questions 2 and 3:** *Do police and crime commissioners have a preferred option about who should have the power to trigger termination mechanisms?; and Do police and crime commissioners have any preference on mechanisms to safeguard the appropriate use of this power or on options for how the power of recall might work?*

I'm answering these two questions together. It needs to be a significant body that decides on such a serious issue as termination proceedings. I do not believe that it should be ANY of:

- Home Secretary (too much risk of political motivation, trial by media, ability to subvert local electorate. E.g. what is to stop the Home Secretary from firing a PCC because they disagree with Government policy?)
- Police and Crime Panel (too few people and too little democratic visibility and accountability)
- Public surveys (no safeguards for robustness, and too much risk of trial by media. The only local survey that matters is the election).

Removing someone from elected public office on a subjective basis is such a serious matter that we need an alternative. **I propose that termination proceedings should be able to be started by a vote**

**in full council in each of the local authorities within the force area. Such a vote could be a two-thirds majority.**

This would mean that every council within the Force area would have to agree that the PCC should go. This reduces the risk of political motivation, because one local authority could not remove the PCC on its own. At the same time this provides a clear mechanism with strong democratic accountability.

**Question 4:** *Do police and crime commissioners have a preference about whether a by-election is automatically triggered where there is a vacancy, or whether PCCs and Deputies should stand on a joint ticket? Alternatively, are there any other options in relation to appointing / electing a new PCC which should be considered?*

A by-election should be triggered automatically. There should not be a joint ticket. There is no need for every PCC to have a Deputy PCC for any other reason, and this is not a good enough reason to appoint one. Instead there should be a clearer and sensible arrangement for continuing the good conduct of the office, during the period between the PCC ceasing to hold office and the by-election.

**Question 5:** *Do police and crime commissioners have any preferences about which of these options should be pursued, or alternatively which should not be included in the final report? Are there any other options which should be considered in relation to the appointment of Acting PCCs?*

Crucially, **the matter of Acting PCC should not be a decision that is taken once a vacancy arises.** People need to know the process and their responsibilities beforehand. **No one should have to make a decision, and there should be no debate.**

The most important thing is that the by-election is arranged promptly. In the meantime, unless there is a Deputy PCC, **it should be the Chief Executive of the OPCC that becomes the Acting PCC**, with checks and balances. They are the most appropriate person because:

- They are a caretaker with strong knowledge of the office and its responsibilities
- They are a capable public servant who has been appointed by the PCC and approved already by the Police and Crime Panel
- It is a temporary post.

And we can insert the following checks:

- Their powers should be restricted so that they cannot, given that they are unelected, change the course of the office or make overtly political decisions. E.g. They should not be able to:
  - o Change the Police and Crime Plan; or
  - o Set the police precept;without the approval of the Police and Crime Panel.
- Every Chief Executive in the country should appoint a Deputy Monitoring Officer within the Office, who can take over the role of Monitoring Officer, should the Chief Executive need to become the Acting PCC.

I would be happy to expand on these proposals when we meet on Tuesday morning.

**Ron Hogg, Police and Crime Commissioner for Durham**

**To:** Committee on Standards in Public Life

**From:** Dyfed-Powys Police and Crime Commissioner

**Subject:** Local Policing – accountability, leadership and ethics

### **Questions**

**25. The Committee is interested in your views on how effective the police accountability structures are, what works well, what can be improved and what can provide the public with the necessary assurance that ethical standards are being maintained. The committee welcomes any general comments but in particular invites responses to the following questions:**

**i. Are there any gaps in the existing mechanisms for holding PCCs to account?** Ultimately the electorate must hold PCCs to account. In the interim, this function is undertaken by the Police and Crime Panel. The relationship between the PCC and the Panel is developing well. As awareness and acceptance of the separate and distinct roles of the PCC and Police and Crime Panel develop, so too does the relationship between the two bodies. The Panel were able to offer some constructive observations in relation to the development of the Police and Crime Plan and accepted the proposed budget and precept proposals in 2012 and 2013. The panel also considered the recommendations of the PCC in appointing his Deputy (after an open selection and appointment process), Chief of Staff and Chief Finance Officer. The Panel interviewed appointees robustly before confirming the appointments. The Panel has been equally robust in reviewing the Commissioner's reports to them and in questioning the information contained within those reports. There may be scope for addressing accountability between elections, such as recall. That is subject to submissions to the Home Secretary.

**ii. What can PCCs do themselves to improve their accountability to the public between elections? How well are these mechanisms working in practice?** Openness and transparency is key to accountability. Information on decisions undertaken by the PCC are published on the website and highlighted via social media. Minutes of the weekly Policing Board are also published and the Policing Accountability Board whereby the Commissioner holds the Chief Constable to account and provides information on the work of his office is held in public. Papers and minutes of the same are also published on the OPCC website. This allows members of the public to monitor the PCC's progress.

In Dyfed-Powys it has been found that regular public engagement works well in improving public confidence. The PCC holds public surgeries for members of the public to bring any queries they may have directly to his attention. Feedback

from the public about Dyfed-Powys police and the work of the OPCC is gathered at local events and publicised online.

**iii. How are PCCs ensuring transparency in their decision making?** In November 2013 Dyfed-Powys OPCC was rated in the top three of OPCCs in the country, and the most transparent in Wales. Our decision making policy is published on the OPCC website and all decisions are formally recorded and published on the website for public access.

**iv. What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?** The Police and Crime Plan, minutes of meetings, annual reports, quarterly performance reports, complaints and scrutiny panel reports, HMIC report responses. All of the above are written in a public friendly format and published on the OPCC website. The Police and Crime Panel also publish the minutes, agendas and papers of all meetings.

**v. What has worked best for PCCs in engaging with the public and local communities?** In Dyfed-Powys the public have engaged well with the PCC when the PCC has visited individual communities in what are referred to as 'Your Voice Days'. These days have allowed members of the public to have face-to-face contact with the PCC, allowing them to voice any concerns, compliments or queries. Dyfed-Powys OPCC uses Twitter on a regular basis to promote the work of the office and to encourage public contact. Summer events have also been a useful method of engaging with members of the public and gathering the views of local communities.

**vi. How well are Police and Crime Panels able to hold a PCC to account between elections?**

**a. Does the role of the Police and Crime Panel need any further clarification?** See response to 25 (i). In Dyfed-Powys the role of the Police and Crime Panel is clearly set out within their terms of reference which is published on their website. The terms of reference were discussed in the initial meeting between the PCC and Panel. They may have a role in future changes, such as recall. .

**b. How well are the current "balanced" membership arrangements ensuring effective scrutiny and support of PCCs?** The current 'balanced' membership ensures representation from each of the four counties of Dyfed-Powys.

**c. Are the current membership thresholds requiring two thirds majority to veto a PCC's level of precept and appointment of a Chief Constable proving practicable?** Yes.

**d. Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?** No. The accountability for all OPCC staff should be with the PCC. That is a fundamental principle of the PCC's accountability.

**e. How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?** PCCs should be held to account for their standards of personal conduct at elections. There is an argument for recall which warrants consideration, particularly in view of recent events. However, it is essential that the purpose of a democratic vote is not undermined. Police and Crime Panels are responsible for the consideration of complaints against the PCC which includes complaints against conduct and behaviour.

**vii. Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?** General correspondence and complaints/ compliments addressed to the PCC's office in Dyfed-Powys suggest that there is public misunderstanding about the specific division of responsibilities of the PCC and Chief Constable. Members of the public sometimes consider the PCC to be a complaints appeal body, having the ability to intervene in operational policing matters and/or the ability to record crime. This can be addressed by sensible communication between the PCC and Chief Constable.

**viii. According to the Financial Management Code, Audit Committees should 'advise the PCC and the Chief Constable according to good governance principles and to adapt appropriate risk management arrangements.' How well is this working in practice? Are there any examples of conflicts of interests arising from PCCS and Chief Constables having in some cases, a joint audit committee and/or joint chief financial officer?** In Dyfed-Powys it seems to be working well with no issues arising surrounding having a joint audit committee. Members of the joint audit committee offer independent advice to the PCC and Chief Constable on the basis of the information provided by Wales Audit Office, the internal audit function and OPCC / Force officers. In Dyfed-Powys the PCC and Chief Constable, following advice from Wales Audit Office and the Police and Crime Panel, the PCC has appointed a Chief Finance Officer whilst the Chief Constable has a Director of Finance in place.

**32. The Committee are concerned to understand generally the steps all parties to the Policing Protocol are taking to ensure they are abiding by the Seven Principles on Public Life. The committee also wished to consider specifically the extent to which PCCs are providing ethical**



**leadership in embedding the Policing Code of Ethics, and are themselves acting within that framework as elected officials. The Committee invites views generally and on the following questions:**

**ix. What do you see are the key responsibilities of the PCCS as ethical leaders? Can you provide examples of PCCs managing those responsibilities well or, if not, suggest what can be improved?** The PCC has published his ethical framework which outlines his commitment to the seven standards of conduct known as the Nolan Principles. Within his framework, the PCC outlines how he meets these standards. See [www.dyfed-powys.pcc.police.uk/Document-Library/Your-Commissioner/EthicalFramework-Dec2013-v2.pdf](http://www.dyfed-powys.pcc.police.uk/Document-Library/Your-Commissioner/EthicalFramework-Dec2013-v2.pdf) for further information.

**x. What actions are PCCS taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leader promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?** Professionalism is a core priority for the PCC. The Force is implementing the Code of Ethics. The PCC addresses ethics and professionalism in Policing Accountability Board regularly. Information relating to performance is made available to the public via the OPCC website.

**xi. Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest gifts and hospitality and external meetings?** Yes. The PCCs website includes details of all expenses, gifts and the PCC's annual leave.

**xii. What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?** When the PCC commenced his role he made an oath to represent 'all sections of the public without fear or favour'. He was required to sign code of conduct and declaration of interests. This document is published on the PCCs website for the public to access. When making decision the PCC is also required to consider whether or not he has any personal or prejudicial interests which may conflict with the matter.