



**THE GOVERNMENT RESPONSE TO THE SIXTEENTH REPORT FROM THE  
HOME AFFAIRS SELECT COMMITTEE SESSION 2013-14 HC 757:**

# **Police and Crime Commissioners: progress to date**

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

December 2014

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## THE GOVERNMENT RESPONSE TO THE SIXTEENTH REPORT FROM THE HOME AFFAIRS SELECT COMMITTEE SESSION 2013-14 HC 757: Police and Crime Commissioners: progress to date

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.

As the Committee itself has recognised, 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 forces. In a similar vein, the NAO in its policing landscape review (January 2014)<sup>2</sup>, found that the sector itself was able to appreciate that PCCs offer a real opportunity to drive improvements and value for money in a way that unelected police authorities could not. The NAO also recognised that as directly elected individuals, PCCs are able to make decisions faster than a committee and can be more transparent about the reasons for those decisions. The NAO found that PCCs have observed a significant increase in engagement with the public compared to police authorities. They are more visible.

In driving collaboration, in pursuing Commissioner-led campaigns, and through their increasingly prominent multi-agency leadership role, it is clear that the PCC model is now making a difference in many areas in England and Wales. This has continued with the transfer of commissioning powers for victim services from October of this year.

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 (PCPs) in public meetings, who also hold power over a number of their executive decisions. Indeed, in South

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<sup>1</sup> <http://www.hmic.gov.uk/media/police-governance-in-austerity-20101025.pdf>

<sup>2</sup> <http://www.nao.org.uk/wp-content/uploads/2014/01/Police-accountability-Landscape-review.pdf>

Yorkshire, we have witnessed the clear power such scrutiny can bring to bear on elected officials.

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 your 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.

We recognise that PCCs have only held office for two years and that some commissioners have more to do. Where needed, steps are being taken to make improvements.

Ultimately, however, under our model, if they fall short the public will for the first time have a means by which to do something about it – at the ballot box. The Government, therefore, welcomes the Committee's report and its overall assessment of PCC progress to date.

The Committee's specific conclusions and recommendations are addressed in turn below.

## **PCCs and the Public**

- 1. One of the main aims of police and crime commissioners was to make the strategic direction of policing in England and Wales subject to democratic accountability. It is disappointing, therefore, that the turn-out for the elections in November 2012 was so low, leading some to question whether PCCs have a sufficient electoral mandate. Since their introduction, however, public awareness of commissioners has increased significantly, albeit not always for the right reasons. This, combined with the move of the next PCC elections to be in line with the May electoral cycle should ensure a greater turn-out and level of public engagement at the next elections in 2016. Until then, and whilst the nascent work of PCCs is still to have its full effect on the public's perception of local policing, it is inevitable that many will consider the concept of police and crime commissioners to be on probation. (Paragraph 9)*

PCCs are still in their first term, but they are making a difference. The Government will continue to make the case for PCCs. The Committee's report itself acknowledges that since the first elections in November 2012, public awareness of police and crime commissioners has increased greatly and that their visibility, in public polling and research terms, is in stark contrast to that of the

police authorities they replaced (62 per cent PCC public awareness against that of only seven per cent for police authorities)<sup>3</sup>.

Whilst this is just one test of the overall success of PCCs, their increasingly significant role in driving collaboration, innovation, partnership working and Commissioner-led campaigns, provides further evidence of their establishment as significant and influential publicly elected figures. It is also clear that PCCs are providing leadership on issues that would previously have been dealt with at the centre, for example, the Association of Police and Crime Commissioners (APCC) was the first national organisation to sign up to the Mental Health Concordat.

Similarly, PCCs are taking a substantial local leadership role in their force areas, bringing fresh and innovative approaches to bear. Tony Lloyd, the PCC for Greater Manchester, for example, has through the Justice and Rehabilitation Executive Board, using Ministry of Justice Financial Incentive Mechanism monies, commissioned Probation services in Greater Manchester to deliver intensive community orders over the next 18 months. These court orders, for male offenders aged 18 to 25 years old, include constraints and support, through education, training and employment, supervision, restorative justice and compliance provisions. Martin Surl, the PCC for Gloucestershire, like many other PCCs, is exploring how policing can be improved by using technology to engage with the public. He has part funded the launch of a mobile phone app which enables the community to provide information on gangs and gang-related activity. It also enables confidential sharing of information between young people and the multi-agency 'avenger' team.

We recognise that there have been a small number of incidents that have attracted public attention for the wrong reasons. But we recognise too that these incidents have been the responsibility of individual commissioners for which they must account to the public. That is precisely how the model is designed to work. In overall terms, the picture is a far more positive one than painted by the Committee.

## Training and transition

*2. This Report and the Committee's previous reports on PCCs have shown that many of the difficulties that commissioners have faced could have been avoided given greater opportunity to find their feet before starting the job. For the next elections, we recommend a transition period for new commissioners of one month between election and taking office. This would allow time for the Association of PCCs, College of Policing, Local Government Association, and others to provide intensive training for newly elected commissioners, and a period of transition for post-holders and their teams. (Paragraph 11)*

In recommending a transitional period for new commissioners, the Government is of the firm view that the Committee has identified a once only issue and therefore disagrees that such a period is required or would be desirable. The next PCC elections in May 2016 will be about evolution not revolution.

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<sup>3</sup> HASC Report, Police and Crime Commissioners: progress to date, para 4

All of the necessary processes and procedures to support the relationship between commissioners and chief officers have been developed and are in place. In addition, the politically restricted staff embedded within PCC offices will remain in place to assist in any transition to a new incumbent and would be responsible for advising and briefing on the new role. The APCC is also now fully established and has developed a corporate memory in relation to lessons to be learnt which will prove invaluable for newly elected candidates.

That being said, the Government will work with the APCC to refresh the guidance and national briefing in place to assist PCCs in relation to their powers and responsibilities in readiness for the 2016 elections.

3. *We continue to believe that there should be a national register of commissioners' disclosable interests, and reject the suggestion that such an exercise is complex and bureaucratic. It has been a perfectly straightforward exercise to produce it for this Report. In the continued absence of any such initiative by HMIC, the Home Office or the Association of PCCs, we produce the latest version of the register as an Annex to this Report. For the first time, we also include the disclosable interests of deputy commissioners. (Paragraph 13)*

The Government has been clear, including in responding to previous recommendations made by the Committee, that it expects high standards of transparency from PCCs. We have set out, through the Elected Local Policing Bodies (Specified Information) Order 2011 (and the subsequent amendment in 2012), the information that PCCs must publish to support the public in effectively holding them to account. Through this Order, PCCs have to publish, amongst other things, a register of interests, including every pecuniary interest or other paid interest; budgets; contracts and tenders; senior salaries; expenses; and key decisions.

In the Government's response to the Committee's 2013 report on PCCs' interests, we made clear that our rationale for not compiling a national register of interests for PCCs is not a matter of the complexities or bureaucracy involved in such an exercise. Rather, the Government will not compile such a register as it is simply not the role of central government to establish and maintain a national register of these interests. This remains the Government's position.

The Government has been equally clear that HMIC does not have a role in inspecting PCCs; HMIC inspect police forces, ensuring that the public have the relevant information that they need on policing performance in their area to hold their PCC to account.

#### **The work of commissioners to date**

4. *Collaborative working has the potential to save money as well as providing a higher standard of policing. We support the efforts of commissioners in working with their neighbours and others in fields as diverse as the provision of blue light services, mental health, community safety, organised crime and counter-terrorism. Although there has been progress in some areas, it is clear that a majority of police forces are not yet exploiting the full potential of collaboration. We*

*recommend that, for forces delivering less than 10 per cent of their business through collaboration, commissioners and chief constables should prioritise work in this area, seeking advice from those forces that have already demonstrated success. We will also continue to highlight examples of good practice in collaborative working in the future. (Paragraph 24)*

We welcome the Committee's approach of highlighting best practice and will support forces to collaborate where it is in the interests of efficiency and effectiveness.

The Home Secretary, at Spending Round 2013, committed to establishing a Police Innovation Fund from 2014/15, worth up to £50 million, to incentivise collaboration, support improved police IT and digital working and enable PCCs to invest in other innovative delivery approaches with the potential to improve policing and deliver further efficiency in the future. A pre-cursor fund of £20 million was made available in 2013/14 to enable PCCs to press ahead with early investment in transformation.

Through the 2013/14 and 2014/15 Funds we have supported a broad spectrum of activity. This includes projects to enhance collaboration - including with fire and rescue and other public services; we have improved digital working within and between forces; and have introduced new means by which the public can make contact with their forces. For example, we have invested in body worn video, with eight forces receiving funding from the 2014/15 Fund to roll out the technology. To ensure this technology is inter-operable between forces, and that Police and Crime Commissioners obtain the best value for money, we have encouraged all successful bidders to work collaboratively on their solutions.

Bidding for the 2015/16 Police Innovation Fund opened on 3 November and will close on 2 January. An event was held in early November to provide support in the Police Innovation Fund bid development process and assist forces to collaborate on similar bids.

5. *We also support the alliances between Warwickshire and West Mercia, and Surrey and Sussex, the former of which has achieved the majority of their required savings over the current spending period through collaboration. Where such alliances prove successful and supported by the public, we believe there is a case for facilitating the full merger of forces under a single police and crime commissioner and chief constable. (Paragraph 25)*

The Government's position on force mergers is clear – we do not support compulsory mergers. However, if a force merger is voluntary, is supported by a robust business case and has the consent of residents of the force areas involved, we will, of course, consider it.

## **Transparency**

6. *We are deeply concerned that despite a requirement in statute, and a reminder from the Home Office, some commissioners are still failing to meet their transparency requirements. This information is vital in allowing voters to assess the effectiveness of their PCCs. We recommend that the Home Office and the*

*Association of Policing and Crime Chief Executives continue to pursue this matter with the relevant PCC offices. Furthermore, we recommend that commissioners begin to publish a register of meetings held with external stakeholders. (Paragraph 30)*

The Government shares the concern of the Committee that Commissioners in some areas are still failing to meet their transparency requirements, and we can reassure the Committee that the Home Office have been, and continue to, engage with PCC Chief Executives (as Monitoring Officers for their PCCs) to ensure that all of the data set out in the Specified Information Order is published and readily accessible. In order to support public access, there are now links to all PCC websites on the popular Police.uk website.

*7. However, we believe this information will be more useful to the public and police and crime panels in holding PCCs to account if it is drawn together to allow meaningful comparisons. As such, we recommend that the Association of PCCs begin collating and publishing all statutory information on its website, and carry out comparative analysis where appropriate. In so doing, it should also highlight those PCC offices that are not meeting their requirements. The Home Office or HMIC should also publish a comparative analysis of the range of ways in which commissioners have approached the 2014 Stage 2 transfer of staff and assets. (Paragraph 31)*

The Committee's recommendation that the APCC collate and publish data covered by the Specified Information Order from each PCC's office is a matter for the Association.

The Government rejects the Committee's recommendation that the Home Office should publish an analysis of the approaches taken to Stage 2 staff transfers. There is a requirement in the Specified Information Order for PCCs to publish the number of staff working in their office, alongside an organisational chart showing the structures within the office. The public, therefore, have access to relevant staffing information. It would be for individual PCCs to publish specific Stage 2 plans if they so wish.

### **Appointment of deputy and assistant commissioners**

*8. The employment of assistants and deputies has raised inevitable accusations of cronyism. Whilst we do not question the right of commissioners to appoint a deputy, their appointment must be transparent and instil public confidence. We recommend that at the 2016 elections, candidates for commissioner should be able to name their intended deputies so that they are elected on the same ticket. In cases where a commissioner subsequently seeks to appoint a deputy post-election, the Home Office should set out a clear process for the conduct of their selection. The police and crime panel should also have the power to veto the appointment. (Paragraph 38)*

The Government is of the view that there is strong reasoning behind the ability to appoint a political deputy, and there is no barrier to the deputy being named on the same election ticket as a PCC. For example, Bob Jones, now sadly the former PCC for the West Midlands, ran a joint campaign with his deputy.



Due to the requirements of the legislation, anyone appointed politically is not appointed on merit. It is fair for there to be some scrutiny regarding the role but we do not believe that the PCP should be able to veto an appointment given the political nature of the role.

9. *We believe the status of assistant PCCs is ambiguous and risks creating public confusion about their role, and that the nomenclature should be avoided. In some cases their appointment appears to side-step the scrutiny process required by statute for deputies. In some areas the appointment of multiple assistants could be seen as an attempt by the PCCs in those areas to recreate the former police authorities. We are also concerned that such appointments do not meet the requirement for posts below the level of deputy to be politically restricted. We recommend that the appointment of posts aside from deputy commissioner should in all cases be subject to an open and transparent recruitment process similar to that for entry to the Civil Service or local government, with that process approved by the chief executive of the office of the PCC. (Paragraph 39)*

The Government disagrees that the status and role of Assistant PCC is ambiguous, they are not a deputy and are not covered by political exemption. If they are members of staff, they must be politically restricted and should be appointed on merit. The recommendation is therefore unnecessary as such appointments have to be made in an open and transparent manner, as with all staff in the PCC's office save the Deputy Commissioner.

#### **Target setting and crime statistics**

10. *Public confidence in the veracity of crime data has been severely undermined by recent revelations, culminating in the withdrawal of their designation as National Statistics. We welcome the work that HMIC, commissioners and chief constables are now undertaking to ensure the robustness of crime data, especially as they constitute a key indicator on which the public will assess the performance of commissioners in 2016. (Paragraph 46)*
11. *We note that target-setting has been cited as one of the reasons for the manipulation of crime figures. We are concerned, therefore, that a large number of commissioners have set targets or performance measures as part of their police and crime plans. Where this is the case, it is vital that PCCs ensure such targets operate as intended and do not act as incentives for the gaming of crime statistics in the future. We recommend that all such commissioners review urgently the auditing arrangements they have in place. We are mindful also that as the next elections approach many PCCs will feel under pressure to demonstrate their effectiveness. It will be the responsibility of chief constables to ensure this does not translate into pressure on forces to under or misreport crime. (Paragraph 47)*

This is a matter for PCCs. As has been made publically clear, the Home Secretary has actively discouraged commissioners from setting local performance targets. However, the Government cannot insist that they be dismantled. To do so would arguably dilute the integrity of the directly elected PCC model.

As part of its recent crime data integrity audit, HMIC examined the reasons for possible misrecording of crime, including the effect of performance pressures.

## **Support for Victims**

12. *Many PCCs seem to be taking seriously the responsibility they are due to take on for commissioning victims services. There is a potential opportunity to make a significant improvement to the quality of services offered in this area. However, there are also a number of risks, particularly during the transition phase. We recommend that HMIC evaluate the approach taken after PCCs take over responsibility for commissioning victims services in October 2014 so as to inform decision-making by PCCs in the second tranche. We further recommend that before the next PCC elections, HMIC conduct a full evaluation of the move to local commissioning to inform the approach taken by the next generation of PCCs. (Paragraph 51)*

The Ministry of Justice (MoJ) have worked closely with PCCs as we transitioned from a model where support services for victims' of crime were procured solely by central Government, to one where the majority of services are commissioned by PCCs. PCCs are ideally placed to understand the support needs of victims in their communities and commission services to meet those needs. To do so, we have provided PCCs with a ring-fenced grant.

All PCCs now commission support services for victims, specific to the needs of their area. A first tranche of 7 PCCs also took on responsibility for the provision of victims' referral arrangements and associated support. These 7 moved away from MoJ national arrangements with Victim Support in October, with all remaining PCCs following in April 2015. We recognise the need for lessons learnt from the first tranche to inform the preparations of the second, and this is a core part of ongoing MoJ work with PCCs during the transition to local commissioning.

Commissioning is an ongoing process of assessing need; acquiring services to meet those needs and evaluation of services to ensure needs are being met. As part of this process, PCCs may wish to undertake analysis of how they approached the task of commissioning victims' services, in order to assist them in ensuring that continuous improvements are made in future years. An individual PCC or group of PCCs could commission HMIC to conduct such an analysis.

The CJS inspectorates already examine aspects of victims' services within their individual and joint inspections. In addition, in 2015, they will consolidate these findings to produce their first joint annual appraisal of the quality of victim and witness experiences – highlighting good practice and areas for improvement. In response, agencies will be asked to produce an action plan setting out how they will ensure victims actually receive the services to which they are entitled.

## **Commissioner-led campaigns**

13. *Police and crime commissioners are increasingly using their voice to lobby Government on policies that are formed at a national level. We welcome this, and hope that they continue to do so. (Paragraph 53)*

The Government agrees that PCCs can and increasingly are using their voice at a local, regional and national level to raise and lead the way on driving forward issues of importance. Perhaps the clearest example of PCCs leading the way in public policy terms was their commissioning of the Parker Review of the Association of Chief Police Officers (ACPO) and their work to chart the future course for national police leadership.

At a more local level, Katy Bourne, PCC for Sussex, for example, led a campaign towards Sussex police becoming the first police force in England and Wales to gain White Ribbon Award Status in recognition of their commitment to tackling domestic abuse<sup>4</sup>.

### **Overall effectiveness of commissioners to date**

*14. It is too early to say whether the introduction of police and crime commissioners has been a success. As such this inquiry should be seen as a progress report, rather than a definitive assessment of the PCC model. Indeed, even by 2016 it may be difficult to draw a national picture because of the range of different approaches being taken by commissioners, although this should be possible after the term then commencing. However, one clear message from our evidence is that 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. (Paragraph 56)*

The Government regrets that the Committee have not reached the conclusion that the PCC model is a success. As time progresses, it becomes ever clearer that some PCCs are playing an important and visible role in providing an impetus to reform, innovating and delivering policing more efficiently. Not only have they brought real local accountability to how chief constables and their forces perform, they are working hard to ensure that their local communities have a stronger voice in policing. In this regard, the Government welcomes the Committee's conclusion that 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. We will also continue to work closely with the APCC who are themselves closely examining the model so that we can build on its strengths and improve upon it where necessary.

The introduction of PCCs has also created the opportunity to galvanise the local policing and criminal justice landscape and provided leadership for multi-agency partnership in communities. A number of PCCs now chair the Local Criminal Justice Boards within their force areas and many have entered into formal partnership arrangements with other local agencies in order to help reduce crime and improve community safety, including those from the Criminal Justice System, local authorities and emergency services.

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<sup>4</sup> White Ribbon is a global campaign, aimed at ensuring men take more responsibility for reducing the level of violence against women.

Examples of this leadership and galvanising influence are numerous. In Surrey, Commissioner Kevin Hurley has led a joint enforcement project which is piloting a scheme in two boroughs and districts which sees police and council officers with enforcement powers work together in a joint team to tackle local problems in partnership, and the Deputy PCC leads a cyber safe group which brings together the police, council, education services and the IT industry to look at joint cyber crime prevention. In Dyfed Powys, Commissioner Christopher Salmon has set up a centre for rural policing (alongside Cardiff and Aberystwyth universities), to co-commission Drug Intervention Programmes with the health board with a new emphasis on alcohol. And in Northamptonshire, Commissioner Adam Simmonds has established a Police, Crime and Justice Institute at the University of Northampton. It will provide police training, assessment of evidence and research.

### **Holding chief constables to account**

*15. Commissioners have developed a range of informal and formal approaches to holding their chief constables to account, both in private and in public, for the delivery of policing. The relationship between both parties has to balance an open and constructive approach with robust challenge where necessary. Commissioners must continue to guard against the inherent risks of the new governance model by ensuring decision-making is as transparent as possible, and avoid any temptation to interfere in the operational independence of chief constables in accordance with the Policing Protocol. Indeed, commissioners and chief constables should regard the Policing Protocol as the foundation on which their relationship is based, and training on it should form part of the induction period we have proposed for PCCs. Behind the new accountability framework lies the power of PCCs to fire their chief constable. Whilst the Stevens Commission concluded that this power risked having a chilling effect on the decision-making of chief constables, the evidence we received does not support this assertion. (Paragraph 67)*

The Government agrees that commissioners and chief constables should regard the Policing Protocol as the statutory foundation on which their relationship is based. This is why it was introduced. Indeed, we know of no evidence to suggest otherwise.

We do not agree that any specific training on the operation of the Protocol for PCCs is necessary. We will again, however, review the guidance in place for PCCs to ensure that it adequately and clearly covers the Policing Protocol and its responsibilities.

We welcome the Committee's conclusion that there is no evidence to support the Stevens Commission assertion that the PCCs' power to dismiss their chief constable risked having a 'chilling effect' on their (chief constables') decision-making.

### **The process for the removal of a chief constable**

*16. The removal of a chief constable should follow due process. It is clear to us that there are a number of ways in which the procedure of removing a chief*

*constable can be improved to promote greater public confidence. We recommend that the Home Office bring forward proposals to amend the powers of commissioners to suspend or remove chief constables under Section 38(2) and 38(3) of the Police Reform and Social Responsibility Act 2011 by stipulating the grounds on which they may do so. The Home Office should also provide guidance to commissioners on the use of their powers in both respects. In the case of a suspension there should also be a clear system of safeguards similar to those which guide suspension in respect of conduct. (Paragraph 75)*

17. *We are concerned that commissioners can side-step the statutory scrutiny process set out in Schedule 8 to the 2011 Act for the removal of a chief constable by simply threatening to use it. Accordingly, we recommend that police and crime panels inquire and report into the circumstances whenever a chief constable's service is brought to an end irrespective of whether the Schedule 8 scrutiny process is formally engaged. (Paragraph 76)*

18. *It is also not right that the statutory scrutiny process can be side-stepped where a chief constable is close to the end of their contract, and the commissioner chooses not to agree an extension. We recommend that the Home Office bring forward proposals to extend the Schedule 8 process to include scrutiny by the police and crime panel in such instances to bring it in line with the process for the removal of a chief constable. (Paragraph 77)*

19. *We have recommended earlier in this Report the need for a period of training for new commissioners before they take office. We believe that instruction in respect of their duties under the 2011 Act, the Police (Conduct) Regulations 2012, and other relevant employment law would form a useful aspect of that training period. Finally, we recommend the Home Office, HMIC, CPOSA, and the Association of PCCs work together to develop a third party mediation process that commissioners and chief constables can refer to when their relationship breaks down. Training on this process should also be included in the induction period for new commissioners. (Paragraph 78)*

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 in its response to the sixth report from the Home Affairs Committee Session 2013-14 HC 487, dated December 2013.

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.

The PCP 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. This includes scrutiny of a decision by a PCC not to extend a chief constable's fixed term appointment or to suspend a chief constable.

The Government believes that 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.

It is entirely a matter for PCCs to make decisions around appointing, suspending and removing chief constables. Any form of mediation needs to be voluntary between a PCC and a chief constable, and the Government does not consider that any centralised control or guidance on such a process is appropriate. It is for other partners to determine whether they wish to issue a mediation process.

### **The developing role of police and crime panels**

*20. Effective scrutiny by police and crime panels relies on creating a constructive working relationship with the commissioner in which the panel acts as a 'critical friend'. However, many panels have to date struggled to understand their powers and define their role. Indeed, one former member of a police and crime panel described it as "a crocodile with rubber teeth". In short, they need to conduct themselves less in the style of the former police authorities, and operate more in the mode of select committees. We recommend that the Home Office provide fuller guidance to panels on their role and remit, and how it relates to commissioners. We also recommend that the Local Government Association consider further ways to develop the sharing of best practice between panels. The political balance on panels is also a concern to us, and so we recommend that, where possible in the future, if the chair of a police and crime panel is from the same party as the commissioner, then the panel should consider appointing a deputy chair who is not from that party. (Paragraph 87)*

PCPs have significant powers and the Government shares the Committee's view that it is the appropriate use of these powers that is what matters. Home Office officials will work with the LGA, PCCs and PCPs to ensure that PCPs are fully aware of their role and powers.

On the Committee's recommendation regarding the political allegiance of a PCP chair; it is up to the panel (that is obligated to resemble the political make up of the area) to decide on panel arrangements, including deciding upon a chairman.

### **Strengthening the role of panels**

*21. The Government's intention was for commissioners to be held to account by the public with police and crime panels providing 'light touch' scrutiny. But the low turn-out for the PCC elections and, the lack of a formal 'Opposition' between*

*elections, inevitably places a greater emphasis on the role of panels in scrutinising commissioners. (Paragraph 92)*

22. *To allow panels to conduct more proactive scrutiny, we recommend that the Home Office brings forward proposals to amend the Elected Local Policing Bodies (Specified Information) Order 2011 to require commissioners to publish a forward plan of key decisions, where these are known in advance, and to publish background information on each decision when it is made. The Home Office should also produce accompanying guidance for commissioners on what constitutes a decision. We further recommend that the Local Government Association and the Association of PCCs agree a protocol on the timely provision of information to panels generally, but with particular reference to the precept-setting process, to enable more effective scrutiny by panels. In this area, we also recommend that the Government does not again delay confirmation of police funding to such a late stage as last year, with the Autumn Statement not taking place until December. Finally, we recommend that the Local Government Association undertake in-depth research on panels' experience to date on complaint handling, so that it can make recommendations to the Home Office on how the process should be improved (Paragraph 93).*

The Government shares the Committee's view that PCPs have a vital role to play in the scrutiny of PCCs. We are not convinced of the need to change the Specified Information Order as the Committee has proposed as we would expect the PCC, as local elected representatives, to engage PCPs as part of the decision making processes. We would expect the PCP to in turn use its position and statutory powers to ensure scrutiny was effective.

We do not want to circumvent the directly elected PCC, and we do not want PCPs to become de-facto police authorities. Home Office officials will continue to monitor the working of the Specified Information Order, and will keep in mind the Committee's recommendation on the requirement of PCCs to provide a forward plan of key decisions.

Regarding the delay in setting the precept, it was important when setting the referendum principles that the Government took careful consideration of the effect of council tax increase on the cost of living.

The timetable for determining the police precept can accommodate the later than usual announcement of principles. Under the *Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012* Police and Crime Panels had until the 8 February to decide whether they would veto their PCC's precept proposal.

The Committee's recommendations for the APCC and for the LGA are, of course, matters for those bodies.

## **Panel resources**

23. *If police and crime panels are to play a stronger role in proactively scrutinising commissioners they need to be resourced accordingly in a way that is sustainable. We recommend the Home Office and Local Government Association undertake*

*research to estimate the actual cost of support for panels to date to determine a more realistic level of funding. We further recommend that to provide long-term certainty, in the future, such funding should come from the police precept. (Paragraph 95)*

The Government does not accept this recommendation as PCPs receive funding which is commensurate with the non-executive scrutiny role required of them by legislation.



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