



Home Office

Reforming the Independent Police Complaints Commission: structure and governance

A public consultation

Foreword from the Home Secretary


The Independent Police Complaints Commission (IPCC) provides robust oversight of the way the police deal with complaints, provides the public redress for failure, and independently investigates the most serious and sensitive allegations. Its work is vital to ensure accountability and public confidence in policing.

In 2013, I announced that increased resources were to be transferred to the IPCC to increase its capacity, ensuring it can deliver this role and can undertake its own investigations into serious and sensitive matters involving the police. This work is well underway. The IPCC are progressing a major change programme to build a larger and more efficient organisation. Last year (2014/15) the IPCC started more than twice the number of investigations it began in the previous year. It is expected to significantly raise that number again this year, whilst concluding more cases than ever before.

Delivering a stronger IPCC is a key part of the Government's reforms of the police complaints system to ensure that complaints made against the police are responded to in a way that restores trust, builds confidence, and allows lessons to be learned. These reforms include strengthening the system's independence at a local level by giving Police and Crime Commissioners a greater role, making the system less bureaucratic and adversarial, and enhancing the IPCC's powers of investigation and remedy. I intend to legislate for all of these changes in this Parliament.

In light of its unprecedented growth and these wider reforms, the IPCC needs a new organisational structure and governance arrangements that will enable it to meet these challenges, and to meet its objective to 'secure and maintain public confidence' in a reformed police complaints system.

I am grateful to the IPCC for the work it has done on how to reform its structure and corporate governance. I am also grateful to Sheila Drew Smith for her thoughtful and detailed report on these issues, and to all those who fed in views and provided evidence to her. This consultation provides others with the opportunity to give their views and help shape the reformed IPCC.

A handwritten signature in black ink, appearing to read 'Theresa May', with a stylized flourish at the end.

The Rt Hon Theresa May MP

Introduction

1. In March 2015, the Government published its response to its public consultation on *Improving Police Integrity*¹ setting out a number of proposed reforms to police complaints and the disciplinary systems aimed at increasing accountability, transparency and efficiency. In addition, the Government commissioned the Independent Police Complaints Commission (IPCC) to undertake further work on considering options for revised governance arrangements and organisational structure “to ensure that an expanded IPCC can function as effectively and efficiently as possible”.
2. Following the publication of the IPCC’s proposals, the Home Secretary asked Sheila Drew Smith OBE, a member of the Committee on Standards in Public Life (CSPL), to undertake an independent review of the IPCC’s proposals to assess and test them and, if necessary, make alternative recommendations to reform the IPCC.
3. The Government has considered Sheila’s review and the IPCC’s proposals and is seeking views on its proposed reforms to the IPCC’s corporate governance arrangements and structure, as outlined in this document.

About this consultation

4. This consultation can be completed online on the Home Office pages of the GOV.UK website. The consultation will close at 5pm on 28 January 2016. Further information about the consultation, including the use of data, and an e-mail and postal address for submitting hard copies of responses to the consultation document or other comments, are provided in the Annex attached to this consultation.

Background

The IPCC’s role

5. The IPCC was established in the Police Reform Act 2002 (PRA 2002) and started operating in 2004. It is responsible for overseeing the police complaints system in England and Wales, assessing appeals against complaints decisions and investigating serious matters involving the police, including Deaths and Serious Injuries (DSI) following police contact.
6. The role of the IPCC is expanding, with a major change programme underway (announced by the Home Secretary in 2013²) to provide the IPCC with increased capacity and funding to enable it to investigate “all serious and sensitive matters” involving the police.

¹ “Improving police integrity: reforming the police complaints and disciplinary systems. Summary of consultation responses and next steps. “ Published by the Home Office on behalf of the Government, March 2015 ISBN: 978-1-47411-641-1.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411970/improving_police_integrity_reforming_the_police_complaints_and_disciplinary_systems.pdf

² Statement by the Home Secretary to the House of Commons on Tuesday 12 February 2013 on police integrity

Improving police integrity and the Triennial Review of the IPCC

7. In July 2014, the Home Secretary announced an end-to-end review of the police complaints system, including the role and powers of the IPCC. This Home Office review resulted in a consultation on a number of proposals for reform of the police complaints system, concluding in March 2015. In its response to this *Improving Police Integrity* consultation in March 2015, the Government committed to making changes to the police complaints system to strengthen the role of Police and Crime Commissioners (PCC), to make the system easier to understand and more independent, and to strengthen and streamline the appeals process.
8. Following support from consultation respondents to reform the IPCC's governance arrangements and structure, the Government asked the IPCC to consider options for reform.
9. In addition, the inaugural Triennial Review of the IPCC³, published in March 2015, noted problems with the Commissioners of the IPCC being "engaged in both the governance of the organisation and its operational activity". The Triennial Review recommended that the IPCC "consider what governance arrangements...will best secure efficient, effective and accountable operations".

The IPCC's proposals

10. The IPCC's response to the Triennial Review⁴, published on 12 August 2015, included proposals for a reformed IPCC that would report direct to Parliament, with powers vested in a single Crown appointee which would be a "corporation sole" – a single head with sole responsibility for decision-making and accounting officer responsibilities. The IPCC proposed that this single head would be known by a new name "Ombudsman" and that he or she would work through a "Deputy Ombudsman" and through formally designated "Regional Ombudsmen" and a "Wales National Ombudsman".

The Sheila Drew Smith Independent Review

11. In order to provide an independent and expert assessment of the IPCC's proposals, the Home Secretary invited Sheila Drew Smith OBE to undertake a review of the proposals and, in particular, consider their likely impact on public confidence. Sheila's review, which started in August 2015, sought input from a number of key stakeholders from within the IPCC, the Home Office, police organisations and academia. Her report has been published in full alongside this consultation document on the Home Office pages of the GOV.UK website.

³ Triennial review of the Independent Police Complaints Commission. The Home Office. March 2015. ISBN: 978-1-78246-786-1. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411566/IPCC_Triennial_Review.pdf

⁴ Response to the Triennial review. IPCC. June 2015.

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

The Government's proposals

12. The following section summarises the key proposals for reform of the IPCC's governance arrangements and organisational structure, considering the IPCC's proposals and Sheila Drew Smith's subsequent report.
13. Questions seeking views on these proposals are set out on pages 9 to 12.

Governance structure

Current arrangements

14. The IPCC is currently structured as a Commission, with a Chair, two deputy Chairs, seven Commissioners and two Associate Commissioners, some of whom have both operational and non-executive functions. This arrangement has resulted in Commissioners "being engaged in both the governance of the organisation and its operational activity"⁵, as well as a separate Chief Executive Officer required by law.
15. Both the IPCC and Sheila Drew Smith agree that the "dual" reporting structure this provides for has resulted in "blurring lines of decision-making and accountability". Sheila Drew Smith has concluded that the current structure would not support the level of growth now expected of the IPCC as it moves towards independent investigation of all serious and sensitive matters.

Single head as a Crown appointment

16. Sheila Drew Smith concurs with the IPCC that there should be single head of the organisation which should be a Crown appointment (rather than by the Secretary of State) and that this will help with the public perception of and with the actual independence of the reformed IPCC.
17. In contrast with the IPCC's original suggestions, Sheila Drew Smith does not recommend that this single figure head should be "a corporation sole". She concludes that a Board structure, including a majority of *external* non-executive directors would provide greater strategic input and a robust challenge on performance, efficiency and effectiveness. But the new head of the reformed IPCC should retain independence for casework decision-making (as for bodies such as the Crown Prosecution Service (CPS) and the National Audit Office (NAO)). She also recommends that the new Board should have an Audit and Risk Sub-Committee to provide further challenge and scrutiny.

The Government's view and proposal

18. The Government notes that there is a significant degree of consensus that the Commission model, as currently set out in legislation, is not sustainable. Clear lines of accountability and decision-making are essential to ensure that the expanded IPCC can deliver more high-quality investigations. The Government agrees that while decision-making powers should be delegated from a single head, a board is an essential part of good governance arrangements. The Government intends to replace the existing Commission arrangements with:

⁵ Triennial review of the IPCC: a review of the functions, efficiency and governance of the IPCC. Home Office. March 2015. ISBN 978-1-78246-786-1. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411566/IPCC_Triennial_Review.pdf

- a single head of the organisation, who makes decisions about investigations independent of government and will be a Crown appointment, and cannot have worked for the police; and
- a unitary board, with a majority of non-executive directors to provide robust challenge.

Independence and reporting

19. Sheila Drew Smith considered evidence from those, including the IPCC, who put the case for the IPCC to report directly to Parliament, in order to demonstrate complete independence from the Government.
20. Sheila Drew Smith's report concludes that there is little evidence that such a move would add to the public perception of independence. The IPCC's decision-making is generally regarded as independent, and there is no evidence at all of Home Office interference in decision-making. She notes that the Police Ombudsman for Northern Ireland (PONI) is seen as independent, but is still overseen by the Department of Justice in Northern Ireland (DOJNI). She also comments that it is difficult to see how a Parliamentary Committee could provide the level of oversight and scrutiny needed.
21. Sheila Drew Smith's report concludes that the IPCC should continue to be sponsored by the Home Office, and that the Home Office should continue to strengthen this arrangement. Her report says that transparency is key to accountability, and recommends that the IPCC take steps to publish more data around its performance.

The Government's view and proposal

22. The Government agrees that the IPCC should remain accountable to the Home Office. The Home Office is better placed to provide the day-to-day sponsor relationship, alongside the other policing bodies e.g. Her Majesty's Inspectorate of Constabulary and the College of Policing. Sheila Drew Smith's recommendations on strengthening sponsorship and accountability echo those of the Triennial Review of the IPCC earlier this year, which the IPCC has accepted. Home Office officials will continue to work with the IPCC to deliver greater transparency.

Regional presence and structure

23. Sheila Drew Smith's report also considered the IPCC's own proposals and case for a regional presence and structure. The IPCC favoured enshrining a regional structure in legislation, and believes it is essential to have a senior regional presence, to be public facing and a local point of contact. It proposed seven regional "Ombudsmen" with delegated decision-making.
24. In her report, Sheila Drew Smith agreed that a regional presence is essential to help increase the public visibility of the reformed IPCC and play a role in regional or local engagement with individual police forces, Police and Crime Commissioners (PCCs), community groups and families. She recommends a new regional model with decision-making delegated to 'regional heads', who should be senior employees and not public appointments (as the IPCC's Commissioners are currently). Her report rejects the title "Ombudsman" as noted below. She also suggests that the title "Regional Commissioner" would be problematic as there are risks in not signalling clearly the changed nature of the Commissioner role, and also that it risks confusion with PCCs.

The Government's view and proposal

25. The Government agrees that, as with Commissioners, high-calibre figures at regional level can build positive links with the police, families and communities, and could be effective ambassadors for the organisation.
26. The law currently provides for the IPCC to set up regional offices if it chooses (with the consent of the Secretary of State) and it already has a number of offices around England and Wales. The Government agrees that there is a case for the IPCC to build on this and to divide its work and structure along regional lines. The existing legislation would allow the IPCC to do this. The Government is interested in views as to whether the IPCC should continue to have the flexibility to organise itself as it sees fit, or whether the legislation should be amended to mandate that the IPCC should have a regional structure, providing a clearer framework and certainty, as well as sending out a clear signal on the importance of regional and local engagement. In line with Sheila Drew Smith's recommendation, this amended legislation would need to be flexible so as to remain future-proofed and to give the IPCC discretion about how to do this.

Police experience

27. In the interests of achieving the highest standards of independence and ensuring public confidence, Sheila Drew Smith has recommended that the new single head of the reformed IPCC should not have worked for the police at any time previously. This condition in law currently applies to all the Commissioners. In the IPCC's proposed model, the Ombudsman, the Deputy Ombudsman, the Regional Ombudsmen and the Wales National Ombudsman should not have worked for the police. For the two deputy Heads that she has recommended, and the Regional Heads within the reformed organisation, Sheila Drew Smith has suggested a less restrictive condition might apply for these employee roles, for example, that they could not have worked for the police within the previous 10 years.

The Government's view and proposal

28. It is of great importance that the public have confidence that the IPCC will act independently of the police and that its investigations are unprejudiced. In the current organisation, Commissioners cannot have worked for the police and, as the public face of the organisation, provide a clear signal of the IPCC's independence. The Government agrees that, in the reformed organisation, the individual who is ultimately responsible for all decisions, the Head, should embody this independence and should not have worked for the police before.
29. The government recognises that a judgement needs to be made on whether this absolute restriction should apply to senior employees of the organisation, even the Regional Heads. As Sheila described in her report, as well as independence, the quality and timeliness of the IPCC's work is essential to inspiring public confidence. The reformed organisation needs to be able to appoint the best people, including those who bring with them valuable policing expertise. It is important for the culture of the organisation that high-calibre employees, with successful careers in the IPCC, do not have their progress blocked by, for example, having some previous employment as a member of civilian police staff.

30. The Government is interested in views on how best to strike the right balance between demonstrating independence and operational flexibility, and, in particular, on whether there should be any restrictions on those with police experience working in senior IPCC posts.

Name for the reformed IPCC

31. Sheila Drew Smith's report rejects the name "Ombudsmen" for not only the Regional Heads but also for the Head of the new organisation. She concludes that, while some aspects of the IPCC's remit are 'ombudsman-like' (for example, hearing appeals), its powers and responsibilities are far more extensive than those set out in the international Ombudsman Association's core principles, which are focused on final-tier arbitration and redress. Increasingly, the IPCC's primary function is to carry out first tier investigations into serious and sensitive cases, and so the "Ombudsman" name is simply "not a good fit." Sheila Drew Smith does however recommend that the name of the organisation be changed to mark the abolition of the Commission structure, and to avoid confusion with the separate role and title of PCCs. She suggests the "Independent Police Conduct Authority" as a possible alternative.

The Government's view and proposal

32. The Government is proposing that the IPCC is no longer organised as a Commission, and so considers that the existing title is no longer suitable. As Sheila Drew Smith sets out, renaming the IPCC also provides an opportunity to clarify the purpose of the reformed organisation. A clear and recognisable name plays an important part in generating awareness of the organisation and its role, and so the Government is keen to seek the views of the public before committing to a new title for the IPCC.

Public confidence

33. Sheila Drew Smith's review also looked more widely at the question of public confidence, and how any changes to the IPCC's governance structure might impact on public confidence in the police complaints system, and in the reformed IPCC itself.
34. She concluded that public confidence can, in part, be secured and maintained by ensuring transparency of the IPCC's performance, implementing more robust Quality Assurance (QA) processes, and the reduction of delays around investigations. This can build on work that the IPCC is currently undertaking. Sheila suggested that the reformed organisation should ensure it has a mechanism for independent adjudication in complaints against its staff and, more importantly, a mechanism for an independent review or audit of its decision-making.

The Government's view and proposal

35. The Government believes that, set alongside its other planned reforms to the IPCC's powers, the clearer governance structure outlined above will increase the public perception of its independence, and that a clearer line for decision-making, and the challenge of a robust board, will improve the transparency and efficiency of the organisation.
36. It also notes that whilst a change of high-level governance arrangements is necessary for the IPCC, the organisation needs to do more to earn public confidence. It welcomes Sheila Drew Smith's findings and agrees that the reformed organisation should develop a proportionate mechanism for robust assurance of its decision-making.

Consultation Questions

The IPCC's governance structure

As set out above, the Government proposes to implement a new organisational structure for the IPCC which will involve the following key elements:

- a single head of the organisation, who makes decisions about investigations independent of government, will be a Crown appointment and cannot have worked for the police;
- decisions made independently of government, but continuing with administrative oversight by the Home Office; and
- a single, clear line of decision-making, with governance of the organisation provided by a unitary Board, with a majority of non-executives to provide robust external challenge.

QUESTION 1

DO YOU AGREE WITH THE GOVERNMENT'S PROPOSED PACKAGE OF MEASURES, AS SUMMARISED ABOVE, TO REFORM THE IPCC'S GOVERNANCE STRUCTURE?

AGREE	DISAGREE	DON'T KNOW

QUESTION 2

SPECIFICALLY, DO YOU AGREE THAT THERE SHOULD BE A SINGLE LINE FOR DECISION-MAKING AND ACCOUNTABILITY WITHIN THE REFORMED IPCC RATHER THAN THE CURRENT "DUAL" STRUCTURE?

AGREE	DISAGREE	DON'T KNOW

Ensuring the independence of the reformed IPCC

QUESTION 3

DO YOU AGREE THAT THE IPCC'S DECISION-MAKING SHOULD BE COMPLETELY INDEPENDENT OF THE GOVERNMENT, BUT THAT THE HOME OFFICE SHOULD RETAIN OVERSIGHT OF THE IPCC'S ADMINISTRATION AND FINANCIAL ARRANGEMENTS?

AGREE	DISAGREE	DON'T KNOW

Regional structure

The government believes that the reformed IPCC could benefit from organising itself with a greater regional presence to increase its visibility and interface with the public and stakeholders such as the police. The Government is interested in views on whether the reformed organisation should have discretion to operate along regional lines or whether it should be required to do so.

QUESTION 4

DO YOU THINK THE REFORMED IPCC SHOULD HAVE THE FLEXIBILITY TO DECIDE FOR ITSELF HOW IT OPERATES AT REGIONAL LEVEL?

YES , the IPCC should have discretion and flexibility	NO , it should be a requirement	DON'T KNOW

Police experience

The Government considers that there should be a restriction on the head of the reformed organisation having worked for the police in the past. The Government is interested in views as to whether some restriction should apply to other senior posts (i.e. those with public-facing roles such as the proposed Deputy or Regional Heads).

QUESTION 5

SHOULD THERE BE SOME RESTRICTION ON PEOPLE WITH A POLICING BACKGROUND TAKING UP POSTS AS SENIOR MANAGEMENT EMPLOYEES OF THE IPCC?

YES	NO	DON'T KNOW

New name for the reformed IPCC

QUESTION 6

A. DO YOU AGREE WITH THE SUGGESTED NAME “INDEPENDENT POLICE CONDUCT AUTHORITY” AS A TITLE FOR THE REFORMED IPCC?

AGREE	DISAGREE	DON'T KNOW

B. WHAT ALTERNATIVE SUGGESTION WOULD YOU MAKE?

Please specify your suggestions for the name:

[free text box – 20 words maximum]

Other comments

QUESTION 7

DO YOU HAVE ANY OTHER COMMENTS IN RESPONSE TO THE ABOVE QUESTIONS, OR ON OTHER MATTERS IN RELATION TO THIS PUBLIC CONSULTATION, OR ABOUT THE IPCC AND THE WAY IT IS STRUCTURED AND ORGANISED?

Any other comments or suggestions:

[free text box – 500 words maximum]

About you

The information requested below will help the government analyse and make best use of the feedback it receives from this public consultation and inform further discussions with the public and partners.

QUESTION 8

A. I AM:

A police officer or employed by the police (or another body over whom the IPCC has jurisdiction)	
A member or an employee of the IPCC	
A campaigner or professional (not from the police) who has had contact with the IPCC as part of my work	
A member of the public	
None of the above	

B. MY DETAILS: (see Annex to this consultation for further details on data protection)

- Name:
- Organisation:
- Region:
- Address:
- E-mail address:

Annex

Scope of this consultation

Topic of this consultation	This consultation seeks views on reforms to the governance arrangements and organisation of the IPCC.
Who should respond	Anyone with an interest in the police discipline and complaints system and the role of the IPCC.
Geographical scope	The IPCC's remit covers all 43 police forces in England and Wales, as well as the National Crime Agency (NCA) and its work in England and Wales. IPCC's remit also includes some functions of HM Revenue and Customs (HMRC) and the Home Office Border Force. Section 26 of the Police Reform Act 2002 also gives the IPCC the ability to enter into an agreement to provide its functions to other bodies with staff who exercise the powers of a police constable. For example, the Ministry of Defence Police (MDP) (a civilian force that guards military installations in the UK) and the British Transport Police (BTP) are overseen by the IPCC under such an agreement.
Duration	This consultation will close at 5pm on 28 January 2016.
How to respond	Please respond online via the GOV.UK website. If you are not able to respond via the online system, please contact the Home Office via the e-mail address below.
Additional ways to become involved:	Please contact the Home Office via the contact details listed below if you require information in any other format, such as Braille, large font or audio. The Department is obliged to both offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed by the Government and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

The Government has already consulted informally with a number of key partners, including representatives of the police, prior to publishing this consultation. Sheila Drew Smith has listed the people whose views her review considered in her report.

How to respond to this consultation

Online

[IPCC Governance Consultation](#)

e-mail

IPCCGovernanceConsultation@homeoffice.gsi.gov.uk

Post

IPCC Governance Consultation
c/o the IPCC Policy Team
Police Integrity & Powers Unit
Home Office
6th Floor, Fry Building
2 Marsham Street
LONDON SW1P 4DF

Telephone

020 7035 1587

Consultation Coordinator

If you have a complaint or comment about the Home Office's approach to this consultation, you should contact the Home Office Consultation Coordinator at the e-mail address HOConsultations@homeoffice.gsi.gov.uk. Alternatively you can write to them at:

Consultation Co-ordinator
Better Regulation Unit
Home Office
3rd Floor, Peel Building
2 Marsham Street
London SW1P 4DF

Responses: Confidentiality & Disclaimer

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

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with applicable access to information frameworks (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want certain information 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 you should explain to us why you regard any information you have provided as confidential. If we receive a request for disclosure of the information we will take due account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The department will process your personal data in accordance with the DPA. In the majority of circumstances, this means that your personal data will not be disclosed to third parties.

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