

# Have you got what it takes?

Working with and holding your chief constable to account

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### Important facts

Each police force is led by a chief constable. They are supported by a deputy chief constable and one or more assistant chief constables and staff.

The chief constables must regularly explain to the public the actions of officers and staff they command within their force area.

They are responsible for keeping our communities safe and secure, and the force's officers and staff are under their control. Chief constables are not linked to any political party and are responsible to the public as well as answering to the police and crime commissioner (PCC).

Like other police officers, chief constables are not employed by the State or anyone else. However, from November they will be appointed by the PCC for the force area.

Chief constables and their officers must answer to the courts and the law for how police powers are used. They must answer to the PCC in terms of delivering efficient and effective policing, and the way resources and spending are managed.

Chief constables will deliver the strategy and aims set out in the PCC's police and crime plan, and they will help the PCC plan the force's budget and give them access to information, officers and staff whenever this is needed.

### Background

Chief constables must lead their force in a way that is consistent with the oath made by all officers. They must make sure their force acts independently and fairly. The PCC and chief constable must work together to protect the principle of 'operational independence', while making sure that the PCC is not restricted from carrying out their role.

The chief constable must let the PCC know about any matter or investigation where the PCC may need to provide public assurance either alone or with the chief constable.

PCCs are responsible to the public for the overall policing within their force area.

However, a PCC cannot tell a constable – even the chief constable – how to use their police powers. The police will still be independent at all times and will answer to the law and courts when carrying out their police powers. A PCC can hold the chief constable to account for the performance of the force and set the strategic direction for the force in their area.

Today, chief constables have the power to direct and control all officers, some members of police authority staff and police volunteers.

From November, this power must be used in such a way as is reasonable to help the PCC to do their job. Each chief constable will also be under a separate duty to give the PCC the information that they need so that they can hold the chief constable to account.

A further change in November will see all chief constables being given the power to appoint all of the officers and staff in their force. However, they will work closely with their PCC in the case of senior officers (above the rank of chief superintendent).

Chief constables will also answer to their PCC for the day-to-day financial management of the force and for arranging the force's responsibilities in terms of national operations and emergencies.

The chief constable will manage all complaints against the force, its officers and staff (except those related to the chief constable) and make sure that the PCC is kept informed so that they can carry out their legal obligations in relation to complaints. Serious complaints and matters to do with conduct must be passed to the Independent Police Complaints Commission in line with the law.

## More information

The fact that the police operate independently is a basic principle of British policing. The Home Secretary expects the professional discretion of the police service and the oath they make to give the public reassurance that this independence will continue.

Under section 2 of the Police Reform and Social Responsibility Act 2011, a police force, and the civilian staff of a police force, are directed and controlled by the chief constable of the force. Section 4 says the same for the Commissioner of the Metropolitan Police.

The direction and control of a chief constable will include:

- (a) the ability to issue a warrant card to an officer as evidence that the officer has the authority to use police powers;
- (b) decisions related to appointing and dismissing officers and staff;
- (c) decisions to do with organising policing resources or the decision whether or not to use police officers and staff;
- (d) total discretion to investigate or ask for an investigation into crimes and individuals as

he or she sees fit;

- (e) decisions taken to balance competing operational needs under the framework of priorities and aims set by the PCC;
- (f) operational decisions to reallocate resources to meet immediate demand; and
- (g) deciding on officers' specific duties and responsibilities within the force area to meet the aims set by the PCC.

This is not a full list and gives examples only. The chief constable is expected to make sure that they regularly keep their PCC informed of their decisions and activity so that the PCC can hold the chief constable to account for the overall policing within their force area. Accountability for the direction and control of the force by the chief constable does not just stay with the PCC but is also open to investigation and scrutiny by the Independent Police Complaints Commission.

## What is and what isn't an operational matter?

This is difficult to define. Case law sets out the important principle that police officers act as officers of the Crown in carrying out their duties, but are not to be treated as 'servants' of any executive authority and can use their powers independently as they decide. It also sets out the duty on chief constables to uphold the peace and the law in their area, in the way that they see fit.

## How can a PCC strike the right balance?

The policing protocol allows for flexibility and judgement within force areas. PCCs and chief constables must take account of the protocol when carrying out their functions. This means that a PCC or chief constable does not have an absolute duty to keep to the protocol, but must take it into account and should only stray from it if there is good reason to do so.