



Home Office

Improving police integrity: reforming the police complaints and disciplinary systems

Summary of consultation responses
and next steps

March 2015



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Summary of consultation responses and next steps

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

March 2015



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Foreword

I have always been clear that the vast majority of police officers and staff do their jobs with integrity and honesty. They put themselves in harm's way to keep the public safe. They deal with dangerous criminals and protect the vulnerable. And according to the independent Crime Survey for England and Wales, they have cut crime by a fifth since 2010 even as police spending has fallen.

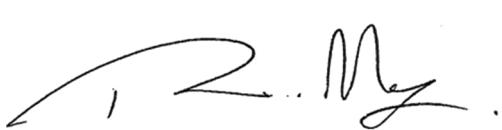
But the good work of those thousands of officers is undermined when a minority act inappropriately. Public confidence, the basis of our model of policing by consent, threatens to be damaged by a continuing series of events and revelations relating to police misconduct.

We have already taken steps to ensure the highest standards of integrity among police officers and staff. The College of Policing has published a Code of Ethics and a national register of officers struck off from the police has been produced and made available to vetting and anti-corruption officers in police forces. We have strengthened the Independent Police Complaints Commission to ensure it can take on all serious and sensitive cases involving the police. And, for the first time, Her Majesty's Inspectorate of Constabulary will inspect all forces on the basis of not just efficiency and effectiveness, but also their legitimacy in the eyes of the public.

These changes come on top of the radical reforms we have made to the way the police are held to account. We have made the police more accountable to their local communities. Where before there were invisible, unelected and ineffective police authorities, now there are visible and democratically accountable Police and Crime Commissioners who are working hard to ensure that their communities have a stronger voice in policing. Where previously there was inefficiency and toothlessness, there is now a powerful mandate to drive change.

In December, I launched a public consultation on my proposals for long-term reforms to improve police integrity. At the heart of those reforms were changes to the police complaints system to create an expanded role for Police and Crime Commissioners, to make the complaints system fairer, easier to follow and more transparent. The consultation also included reforms to the police disciplinary system, following the independent review carried out by Major-General Chip Chapman, measures to strengthen protections for police whistleblowers, changes to the remit of Her Majesty's Inspectorate of Constabulary, and changes to the role, powers and structure of the Independent Police Complaints Commission.

This response sets out the results of that consultation and further detail on the reforms that the Government proposes to make to the police complaints and disciplinary systems. Together, these reforms will represent a substantial overhaul of the systems that hold police officers to account. They will build on our radical programme of police reform. And they will help to ensure that police honesty and integrity are protected, and corruption and misconduct rooted out. That is what the public and the many thousands of decent, dedicated and hardworking police officers of this country deserve.



The Rt Hon Theresa May MP

Chapter One:

About this consultation

1.1 The consultation document *Improving Police Integrity: reforming the police complaints and disciplinary systems* set out the Government's plans for reform of the police complaints and disciplinary systems, measures to strengthen protections for police whistleblowers, an extension to the remit of Her Majesty's Inspectorate of Constabulary (HMIC), and changes to the role, powers and structure of the Independent Police Complaints Commission (IPCC). The consultation presented 42 questions across four policy areas and invited comments from national, local and regional organisations, police forces, Police and Crime Commissioners (PCCs), Police and Crime Panels, frontline practitioners, staff associations, trade unions and other groups or interested individuals.

Method

1.2 The consultation took place over an eight week period from 11 December 2014.

1.3 The consultation document was made available on the Home Office website, <https://www.gov.uk/government/consultations/improving-police-integrity-reforming-the-police-complaints-and-disciplinary-systems>. A Welsh version was available on request, as were large print and audio versions. Responses to the consultation could also be completed anonymously online, submitted via email to policeintegrityconsultation@homeoffice.gsi.gov.uk or posted to the Home Office.

1.4 To support the consultation process, three events were held to canvass opinions from policing partners and frontline practitioners. Key themes from these discussions were noted and have been reflected in the summary of responses. A list of the events is set out in the table on page 6.

1.5 The Government received a total of 170 responses to the consultation (97 were submitted by post or email, and 73 were responses to the online survey).

1.6 The Government would like to thank all those who have given their time to respond and contribute to this consultation. A list of some of those who responded is at Annex A.

Consultation events

Date	Location	Detail	Participants
15 January 2015	Derbyshire	Meeting of the National Police Complaints and Misconduct Group	National Policing Lead, Police Superintendents Association for England and Wales, Police Federation, PCCs, Heads of Professional Standards Departments.
21 January 2015	North Yorkshire	Northern regional meeting of professional standards practitioners	Police officers working in professional standards departments, representatives from the office of the PCC in some police force areas.
2 February 2015	London	Home Office meeting	PCCs, Chief Executives and staff of the Office of the PCC and staff working for the Mayor's Office for Policing and Crime and the Common Council in the City of London.

Chapter Two:

Reforming the Police Complaints System

2.1 Chapter two of the consultation proposed a series of changes to the police complaints system. Those proposals included:

- Structural change, through expanding the role of Police and Crime Commissioners (PCCs),¹ of the complaints system, giving them the option of taking on responsibility for triage functions² and local resolution and responsibility for hearing appeals currently dealt with by chief constables.
- Extending the remit of Her Majesty's Inspectorate of Constabulary (HMIC) to enable it to continue to inspect the efficiency and effectiveness of the way complaints are handled and resolved should the structural changes be implemented locally by PCCs.
- Reforming the fundamental tenets of the complaints system, by extending the definition of a complaint, requiring all complaints to be recorded, changing the language used to describe some parts of the complaints system to make it easier for the public to understand and making it easier to identify persistent and vexatious complaints.
- Improvements to the way in which the police deal with complaints from victims of crime; and
- Introducing of a new system of super-complaints that would allow organisations to identify trends and patterns of aspects of policing that might be harming the interests of the public and raise complaints on behalf of certain groups of people.

Structural reforms to the police complaints system and extending the remit of HMIC

2.2 At present, police forces administer the greater part of the police complaints system locally. The most serious and sensitive cases are escalated to the Independent Police Complaints Commission (IPCC), which also oversees the complaints system nationally. 35% of people lack confidence in the ability of the police to deal with their complaint fairly³ and 78% of people are not satisfied with how their complaint is handled.⁴

2.3 To improve the independence of the complaints system, the Government proposed to enable a greater role for directly-elected PCCs. In particular, the consultation proposed giving PCCs responsibility for key stages in the complaints system:

- a) Receiving and recording a complaint.

¹ The term 'PCC' as used in this document covers Police and Crime Commissioners, the Mayor's Office for Policing and Crime (for the Metropolitan Police Service) and the Common Council (for the City of London Police).

² 'Triage functions' refer to the separate functions of receiving and recording complaints, assessing and allocating complaints as suitable for local resolution, local investigation or investigation by the IPCC, and acting as a single point of contact and communication for complainants.

³ Public Confidence in the Police Complaints System, 2014, p22. <https://www.ipcc.gov.uk/page/public-confidence>

⁴ Crime Survey for England and Wales, 2012/13. www.ons.gov.uk/ons/about-ons/business-transparency/freedom-of-information/what-can-i-request/published-ad-hoc-data/crime/october-2013/complaints-made-against-the-police--2011-12-and-2012-13.xls&rct=j&frm=1&q=&esrc=s&sa=U&ei=Lnx8VKm6DtKtaY2_gdAG&ved=0CBkQFjAB&usq=AFQjCNEZxbJ1WpaXqSwBp09I8GPDawvkVg

- b) Assessing and allocating a complaint either for local resolution, local investigation or national investigation by the IPCC, taking account of the mandatory referral criteria.
- c) Acting as a single point of contact and communication for the complainant, explaining the process to the complainant and acting as the main link between the complainant and the complaints system, including where a complaint requires an investigation by the police; and
- d) Resolving complaints that are appropriate for local resolution,⁵ driving proportionate remedies such as an apology or independent mediation.

2.4 PCCs are democratically accountable to their electorates for the way in which they carry out their role. To preserve their accountability, they are not subject to targets from central Government and are free to determine their priorities for the police in their area. To preserve this freedom, the consultation proposed to give PCCs the ability to choose whether to take on the functions listed at 2.3(a)-(d), to leave them where they lie currently with police forces or choose an alternative arrangement. The consultation invited views on whether this proposal struck the right balance between giving PCCs flexibility to decide how they felt that the complaints system should be structured locally and ensuring consistency in how complaints are dealt with throughout England and Wales.

2.5 In addition, to strengthen the independence of the complaints system further, the consultation sought feedback on whether PCCs should be given responsibility for appeals on the outcome of complaints dealt with through local resolution, with the flexibility as to whether to take on that responsibility directly, leave the function where it currently lies or to establish other arrangements entirely.

2.6 The consultation also invited views on whether the remit of HMIC should be extended, if the proposals regarding the structure of the complaints system were to be implemented.

2.7 The questions and a summary of the responses are set out below.

1. DO THESE PROPOSALS STRIKE THE RIGHT BALANCE BETWEEN LOCAL FLEXIBILITY AND ENSURING CONSISTENCY IN HOW COMPLAINTS ARE DEALT WITH THROUGHOUT ENGLAND AND WALES?

2. DO YOU AGREE PCCs SHOULD BE GIVEN RESPONSIBILITY TO CONSIDER APPEALS ON THE OUTCOMES OF COMPLAINTS DEALT WITH THROUGH LOCAL RESOLUTION?

3. SHOULD THE GOVERNMENT CONSIDER GOING FURTHER TO STREAMLINE APPEALS? FOR EXAMPLE (I) BY REMOVING THE NEED FOR THE IPCC TO HEAR APPEALS ON CASES THAT THEY HAVE REFERRED BACK TO POLICE FORCES TO CONSIDER AND/ OR (II) HANDING THESE APPEALS FROM THE IPCC TO THE PCC FOR MISCONDUCT CASES THAT FALL BELOW DISMISSAL?

4. SHOULD HMIC'S REMIT BE EXTENDED TO INCLUDE INSPECTION AND JUDGEMENT ON THE EFFECTIVENESS OF STAFF WORKING FOR PCCS RESPONSIBLE FOR THE COMPONENTS OF THE COMPLAINTS SYSTEM?

⁵ Complaints are considered suitable for local resolution when the conduct complained about would not justify bringing criminal or disciplinary proceedings and would not involve the infringement of a person's rights under article 2 or 3 of the European Convention on Human Rights.

Consultation Feedback

A role for PCCs in the complaints system

2.8 There was broad support for PCCs taking on a greater role in the complaints system. Most responses indicating support for this proposal were submitted by PCCs, but some police forces as well as other respondents, such as the Committee for Standards in Public Life and the Victims Commissioner, believed that the structural reforms would have a positive impact on the way the system was perceived by the public. Those who responded positively felt that the reforms could improve the system for complainants, as well as provide PCCs with useful information about the issues affecting the relationship between their constituents and the police.

2.9 Several respondents expressed doubts about the capacity and capability of PCCs to take on additional responsibilities. They felt that the expertise required to deal with complaints effectively lay in police forces and, in order for PCCs to provide a quality service to complainants, some of that resource would need to be transferred.

2.10 There was greater support for PCCs having a role in handling complaints than taking responsibility for dealing with complaints through local resolution. A number of respondents believed the structural reforms would bring additional independence to the complaints system, but there was concern around the potential for the reforms to remove the responsibility for, and the ability of, forces to deal with customer service issues as they arise.

2.11 A large number of respondents raised concerns about PCCs taking on responsibility for local resolution. These concerns included the impact that this would have on the operational independence of chief constables, but some respondents also questioned whether it was appropriate to remove the police from local resolution entirely. Some respondents believed that in order for local resolution to remain effective, the police, as service providers, must continue to play a role. They expressed concern that removing the police from local resolution would mean that the public could become less confident in their ability to achieve a successful resolution to their complaints.

2.12 Some respondents believed that the proposals underestimated the level of work that is undertaken to identify an appropriate local resolution and prepare its implementation. These respondents were concerned that the time taken to deal with complaints through local resolution may increase as a result of the proposed reforms.

Flexibility for PCCs to adopt a local model

2.13 The consultation sought views on the degree of flexibility PCCs should have in choosing whether or not to take on responsibility for parts of the complaints system (listed at 2.3 (a)-(d)).

2.14 A number of respondents believed that the Government's proposals succeeded in striking the right balance between local flexibility and consistency. Others stressed the importance of enabling PCCs to identify alternative arrangements for dealing with complaints that may include options for delivery outside the police force or the force's Professional Standards Department.

2.15 Concerns were expressed that giving PCCs this flexibility could result in a more fragmented complaints system. A number of respondents felt that allowing too much flexibility to choose would lead to inconsistency in the way that complaints were handled. Others felt that the possibility that the reforms could lead to different models in different parts of England and Wales would make the system more confusing and complicated for the public.

2.16 A number of respondents believed that there are measures that the Government should consider introducing alongside the structural reforms to mitigate the risk of fragmentation. The mitigations ranged from minimum standards of consistency and accessibility through to a preference for the Government to specify a basic model that PCCs would be expected to adopt.

Implementing the structural reforms

2.17 Some respondents considered how the proposals could be implemented. Several focused on the transfer of resources and staff from one organisation to another, frameworks for information sharing, and other issues commonly associated with transition programmes. Others identified the implications of the transition following PCC elections or by-elections. A number of respondents focused on the impact the proposals could have on collaboration, along with the impact that existing collaboration arrangements may have on the choices PCCs can take about the structure of the complaints system locally.

2.18 The Government also received some responses from Police and Crime Panels (PCPs), who oversee the work of PCCs. PCPs felt that the structural reforms may lead to an increase in the number of complaints against PCCs, particularly from complainants dissatisfied with how their complaint may have been handled or resolved. PCPs were concerned about the potential impact on their workload, as well as the adequacy of their powers to scrutinise PCCs.

An appellate function for PCCs

2.19 The consultation sought views on giving PCCs responsibility for hearing appeals against local resolutions. A large number of respondents, including the majority of PCCs who responded and some police forces who answered the question directly, supported this idea. They felt that giving PCCs responsibility for appeals would help improve the system, introduce additional and welcome independence into the appeals system and strengthen the role of the PCC in holding chief constables to account. Although the National Policing Lead for Complaints and Misconduct did not think it appropriate to give PCCs responsibility for other parts of the complaints system, he considered that giving them responsibility for appeals resonated more closely with their oversight and scrutiny role regarding local policing.

2.20 A proportion of respondents wanted to go further than the proposals contained in the consultation. Some, echoing comments in relation to the proposed structural reforms, wanted PCCs to have absolute flexibility, including the possibility of removing the appeals function from the police entirely and creating their own, local independent bodies to deal with appeals. Others wanted to transfer responsibility for appeals against local investigations, as well as local resolution, to PCCs.

2.21 A number of respondents offered their views on the powers a PCC may require to handle appeals effectively. While some considered the powers suggested in the consultation (to enable PCCs to access information held by forces, order a review of an investigation, or refer cases to the IPCC at the PCC's own expense) appropriate, others felt that additional powers would be needed. Those who felt that additional powers would be required were concerned about the adequacy of the existing powers of the PCC to hold the chief constable to account. They suggested a range of additional powers, including the ability to require chief constables to report formally on how complaints are dealt with and the ability, in some cases, to intervene in the way in which a complaint is being handled.

2.22 There were some respondents who did not agree with the proposals to give PCCs responsibility for appeals. These respondents repeated concerns raised in relation to the proposed structural reforms, particularly regarding the potential impact on operational

independence, the potential resource implications and the capacity and capability of PCCs or their staff to take on responsibility for appeals.

2.23 A small number of respondents did not believe that giving PCCs responsibility for hearing appeals would make the system any more independent than it is currently, particularly since the proposals also included giving PCCs responsibility for undertaking local resolution. The appeals process, these respondents argued, could only be made more independent by asking the IPCC to hear all appeals.

2.24 Most respondents who engaged with the question of giving PCCs responsibility to consider appeals went on to consider whether the Government could do more to streamline appeals. A variety of suggestions were made. The suggestions included removing a right of appeal against any local resolution, removing a right of appeal following any decision taken by a PCC (including a decision taken at appeal) and removing the right of appeal in cases in which a complaint has been upheld.

2.25 The consultation suggested two ways in which the appeals process could be streamlined. These were:

- a) Removing the need for the IPCC to hear appeals on cases that they have referred back to police forces to consider; and/or
- b) Handing appeals in misconduct cases that fall below dismissal to PCCs (rather than the IPCC).

2.26 Of the respondents who considered these two suggestions, a majority believed that (a) would help streamline the appeals system. However, (b) received less support. Most respondents who considered (b) believed that giving PCCs a role hearing appeals in misconduct cases that fell below dismissal would impact on operational independence.

The role of HMIC in a reformed system

2.27 The consultation sought views on an extended remit for HMIC in inspecting PCC staff playing a role in the police complaints system. A clear majority of respondents believed that, if the proposals regarding structural reform were implemented, it would be important to put in place some additional scrutiny arrangements to ensure the effective operation of the complaints system. Most respondents to this part of the consultation believed that it was appropriate to extend HMIC's remit to enable it to inspect staff working on complaints, whether they worked in police forces, for PCCs or for another organisation entirely. A large number of respondents who considered it appropriate to extend HMIC's remit believed that it was important that the complaints system continued to function efficiently and effectively and that HMIC was an essential part of achieving this aim.

2.28 Other respondents suggested that the IPCC, as the body responsible for the oversight of the complaints system, should ensure the efficiency and effectiveness of the complaints system locally, rather than HMIC. Some respondents believed that PCPs should play a role in scrutinising the way in which PCCs discharged their legal functions. One respondent suggested that PCCs be given freedom to establish their own scrutiny arrangements.

2.29 Some respondents did not believe that it was appropriate to extend HMIC's remit. Most, although not all, of these respondents were PCCs. These respondents believed that PCCs were held to account through the ballot box and that their democratic accountability should not be mediated by a third party. Some were concerned about whether an additional layer of inspection may have a detrimental impact on the service provided to the public, particularly given the

decisions that individual PCCs had taken regarding the size of their support staff. A small number of respondents considered that as HMIC's remit had not been extended following the stage two transfer arrangements,⁶ HMIC's remit should remain untouched even if the complaints system were restructured.

The Government's Response

2.30 The Government has reflected carefully on the points raised in relation to this part of the consultation. The introduction of PCCs has reinforced the link between the police and the community they serve. One of the main strengths of the PCC model is the increased transparency and accountability it has brought to policing, allowing PCCs the scope to reform, innovate and deliver policing more effectively based on the needs of their local communities.

2.31 As directly elected individuals, PCCs are best placed to respond to the needs of their electorate about the changes they should make to the complaints system. PCCs have been at the forefront of driving change on a range of issues such as mental health and violence against women. PCCs have been able to drive change because of their position, identifying issues of concern to their electorates and taking forward work with other agencies. It is because of the position of PCCs and their responsiveness to their electorate that they will be best placed to determine how the complaints system should be structured locally.

2.32 PCCs are best placed to respond effectively to the needs of their communities. To reflect the position of PCCs, the Government will seek to bring forward legislation to enable PCCs to take on responsibility for key parts of the complaints system at a local level. In particular, the Government proposes that PCCs take responsibility for:

- a) Receiving and recording a complaint.
- b) Assessing and allocating a complaint either for local resolution, local investigation or national investigation by the IPCC, taking account of the mandatory referral criteria.
- c) Acting as a single point of contact and communication for the complainant, explaining the process to the complainant and acting as the main link between the complainant and the complaints system, including where a complaint requires an investigation by the police. As part of this role, PCCs will be responsible for engaging with complainants early, explaining to them how their complaint will be handled as well as discussing with the complainant how the complaint should be resolved; and
- d) Resolving complaints that are appropriate for local resolution, driving proportionate remedies such as an apology or independent mediation.

⁶ 'Stage 2 transfer arrangements' refers to a process used to manage the transfer and allocation of police staff between police and crime commissioners and chief constables. It was designed to ensure there was a clear distinction between the role of the PCC and the role of the chief constable, and their respective members of staff. It corrected a historic oddity prevalent under the previous system of police authorities where police staff were technically employed by the police authorities but under the direction and control (and therefore de facto employment) of chief constables. A two stage process was used to allow the newly elected PCCs time to consider and manage the allocation of police staff between themselves and their chief constables. At stage 1 of the process, all police staff passed to the employ of PCCs from police authorities, shortly after PCCs were elected and police authorities disbanded. The second stage concerned the transfer of the majority of these staff to the chief constables with some staff remaining with PCCs to support their offices and role. The process was completed in spring 2014.

To retain the strength of the PCC model, the legislation will not be restrictive. The legislation proposed will be enabling: whether PCCs take on the functions described at 2.30(a)-(d) will be a decision for individual PCCs.

Ensuring consistency

2.33 The Government acknowledges the concerns raised by respondents that the changes proposed in the consultation could lead to a more fragmented complaints system, and the need to ensure a degree of consistency across the complaints system.

2.34 In order to strike the right balance between flexibility for PCCs and consistency in the way complaints are handled throughout England and Wales, the proposed legislation will enable PCCs to implement one of three options when determining how they will structure the complaints system locally. The models are as follows:

	Model 1	Model 2	Model 3
Receiving and recording a complaint	POLICE	PCCs	PCCs
Assessing and allocating a complaint	POLICE	PCCs	PCCs
Acting as single point of contact and communication	POLICE	POLICE	PCCs
Resolving complaints through local resolution	POLICE	POLICE	PCCs/ POLICE

Figure 1. Models of the complaints system that may be introduced locally

2.35 If a PCC chooses to implement model one, the complaints functions described in 2.32(a)-(d) will remain in the police force. If a PCC chooses to implement model two, he or she will take on responsibility for receiving and recording complaints as well as assessing complaints and allocating them either for local resolution, local investigation or national investigation by the IPCC. The police force will continue to act as a single point of contact and communication for complainants and deal with complaints through local resolution where appropriate. If a PCC chooses to implement model three, he or she will receive and record complaints, assess complaints and allocate them either for local resolution, local investigation or national investigation by the IPCC and act as single point of contact and communication for complainants. Local resolutions will be carried out by the PCC and, where necessary, by the police force. Further detail on local resolution is set out in paragraphs 2.38-2.40.

2.36 The legislation proposed will enable PCCs to take on responsibility for the functions described in 2.32(a)-(d) directly, leave those functions with the police, where they sit currently, or identify an alternative arrangement. Where PCCs wish to involve other organisations or locally appointed advisory panels, they will be free to do so. The legislation proposed will enable PCCs to establish the arrangements they believe most appropriate to improve the complaints system at a local level.

2.37 The Government's police reforms are underpinned by the principle that local police must be accountable to local people. The IPCC will retain responsibility for the system as a whole and its guidance and minimum standards will apply to PCCs as well as police forces and

any body established locally to take on a role in the complaints system. In keeping with the contract between PCCs and their electorates, PCCs will have a responsibility to explain *how* the complaints system in their force area works, *who* the public can approach to make a complaint and *what* will happen to that complaint once it has been received. This responsibility will replicate that held by PCCs to explain their policing and crime plans to their electorates.

Retaining police involvement

2.38 The Government acknowledges the issues raised by a number of respondents about the importance of the customer service element of policing and the link between that and the complaints system. The Government recognises the work that goes on in police forces every day to deal with public concerns and questions quickly and effectively, the majority of which takes place outside the formal complaints system. Regardless of which functions are taken on by PCCs, it will be important for there to be a strong coordination of complaints and resolutions that may involve police officers themselves.

2.39 However, in some cases, resolution may not need to involve the police force at all and, in such cases, the PCC should be able to take action to resolve the complaint itself. The Government will seek to introduce legislation to enable PCCs to deal directly with cases through local resolution, where appropriate.

2.40 Where the PCC believes that it is in the best interests of resolving a complaint quickly and effectively, the legislation will enable them to recommend to the force how that complaint should be resolved. The Government agrees with the National Policing Lead for Complaints and Misconduct, police forces and PCCs that the changes to the role of PCC cannot and should not impact on the operational independence of chief constables. The Government has been very clear that operational responsibility lies firmly with chief constables. That is why the Government introduced the policing protocol, setting out clearly the distinction between operational responsibility, which lies with chief constables, and strategic leadership, which lies with PCCs. As a result, any PCC recommendation will not be binding on police forces. However, the Government will expect forces to work with PCCs to reach a satisfactory outcome.

Appeals

2.41 The Government will also seek to introduce legislation to transfer responsibility for hearing appeals brought by complainants to PCCs in cases dealt with through local resolution, where that local resolution is handled by the police.

2.42 However, unlike the proposals to give PCCs flexibility in deciding who should deliver the functions described at paragraph 2.32(a)-(d), PCCs will not be able to decide to leave the appeal function with the police force. The choice open to PCCs will be either that they take on responsibility for appeals directly, or else identify an alternative arrangement that is independent of the police force.

2.43 The Government agrees with the IPCC that it is important that PCCs have the right powers to ensure that the appeals system operates effectively. In addition to the powers included in the consultation, the Government will also enable PCCs to direct chief constables to review the outcome of an investigation into a complaint in a limited range of circumstances. The Government will work with the IPCC, PCCs and the National Policing Lead to agree what those circumstances should be.

The role of HMIC

2.44 The Government has reflected carefully on the views it received regarding the proposal to extend the remit of HMIC. The Government has already taken steps to make the police more accountable to the public through the introduction of PCCs, who are accountable to their electorates locally. Chief constables are accountable to PCCs. In this structure, it is clearly appropriate for HMIC to inspect chief constables, and for PCCs to challenge chief constables on the decisions they take regarding the way they run the force. However, allowing HMIC to inspect PCCs would undermine the democratic accountability of PCCs to their electorate. The Government does not believe that accountability should be mediated by a third party and so the Government will not enable HMIC to inspect PCCs directly. Scrutiny of PCCs will continue to be provided by PCPs.

2.45 However, the efficient and effective operation of the complaints system is an essential element of ensuring public confidence in the ability of the system to hold police forces to account. HMIC's judgements on the efficient and effective operation of policing functions are at the core of the police's ability to improve the service they offer the public. Wherever the complaints function sits, whether in a police force, with a PCC or elsewhere, HMIC will continue to retain the ability to inspect the efficiency and effectiveness of that function.

Further reform of the complaints system

2.46 In addition to the structural reform of the complaints system, the consultation invited views on a series of changes that could be made to the system itself. The review of the complaints system found that its bureaucracy, decision points, language and lack of definition of key terms all currently serve to exacerbate the dissatisfaction of complainants. This increased dissatisfaction often served to generate appeals and, in some cases, further complaints.

2.47 To address these issues, the Government proposed to change some key aspects of the complaints system. Those changes were:

- a) To expand the definition of a complaint to include either or both policing practice or service failure, in addition to the conduct of a police officer.
- b) To record all complaints made against the police; and/or
- c) To replace the terms 'disapplication' and 'discontinuance' with a decision to end an investigation.

2.48 The consultation also invited views on what else could be done to make the system easier for the public to understand, as well as what could be done to make it easier to identify whether a complaint was vexatious or persistent. The questions and a summary of the responses are set out below.

5. DO YOU AGREE WITH THE PROPOSAL TO EXTEND THE DEFINITION OF A COMPLAINT TO COVER (A) POLICING PRACTICE, (B) SERVICE FAILURE, OR (C) BOTH?

6. DO YOU AGREE WITH THE GOVERNMENT'S PROPOSAL THAT ALL COMPLAINTS SHOULD BE RECORDED?

7. SHOULD THE TERMS 'DISCONTINUANCE' AND 'DISAPPLICATION' BE REPLACED WITH THE DECISION TO END AN INVESTIGATION INTO A COMPLAINT?

8. WHAT MORE CAN BE DONE TO MAKE THE SYSTEM EASIER FOR THE PUBLIC TO UNDERSTAND?

9. WHAT SHOULD THE GOVERNMENT DO TO MAKE IT EASIER TO DETERMINE WHETHER A COMPLAINT IS PERSISTENT AND VEXATIOUS?

Consultation Feedback

Extending the definition of a complaint

2.49 The majority of respondents believed that the definition of a complaint should be extended to cover both policing practice and service failure. Respondents offered a range of views as to the benefits an extended definition could bring, ranging from helping organisational learning to making it clearer about what a member of the public could complain.

2.50 Some respondents felt that while the definition should be extended, it was important to make sure that the new definition was clear. These respondents were unsure that 'policing practice' was a term that would be widely understood by the public.

2.51 Other respondents who supported the extension believed that care would need to be taken over how complaints about misconduct would be treated. They drew attention to the fact that some complaints about service failure may be linked closely to complaints about the conduct of an individual officer. In these cases, respondents were keen to ensure that it did not become more difficult to deal with complaints about misconduct as a result of the changes, as well as making sure that complaints did not take longer than necessary to resolve.

2.52 Some respondents did not believe that it was necessary to extend the definition of a complaint to cover either policing practice or service failure. A number were concerned about whether extending the definition could lead to abuse of the complaints system, including by organised criminals seeking to undermine policing tactics. Some highlighted the fact that the public currently raise concerns about service failure and that the most effective way of resolving these concerns was informally, outside the 'formal' police complaints system. These respondents felt that by encouraging concerns about service failure to enter the 'formal' system too early, the quality of service the public receive may decline.

Recording all complaints

2.53 A clear majority of respondents agreed with the proposal to record all complaints. While those in favour also agreed that it would be important to ensure that complainants' expectations were not raised unnecessarily, as well as ensuring there was a mechanism to deal with vexatious complaints effectively, they believed there would be positive benefits from recording all complaints. These benefits included increasing the amount of information available to police forces and PCCs about the issues causing the public the most concern, as well as increasing public satisfaction with the complaints system.

2.54 A number of respondents also provided information about issues that would need to be considered should the proposal be implemented. This included how complaints from individuals not involved in a particular incident (for example, those who might witness an incident on television) and those from off-duty police officers or family members of police officers should be dealt with. A small number of respondents suggested that the practice of recording all complaints should mean that each allegation raised against the police should be recorded as an individual complaint.

2.55 A small number of respondents did not support the proposal to record all complaints. Of these respondents, a number were concerned that requiring all complaints to be recorded would remove the ability of forces to deal with vexatious complaints quickly. Others were concerned about the potential to raise a complainant's expectations unnecessarily, suggesting to them that their complaint would be investigated when in fact there would be little or no investigation.

Replacing 'disapplication' and 'discontinuance' with 'a decision to end an investigation'

2.56 Almost all respondents supported the proposal to replace the terms 'disapplication' and 'discontinuance' with a decision to end an investigation. Most believed that the complaints system was difficult for the public to understand and that introducing clearer language would improve the public's perception of the system.

2.57 A number of respondents suggested alternatives to the description 'end an investigation'. These respondents were concerned with any potential implication that a complaint had been investigated, even in cases where it had not. Some highlighted the fact that the system would need a mechanism for dealing with 'invalid' complaints. As an alternative, these respondents suggested that 'disapplication' and 'discontinuance' should be replaced with the description 'no further action'.

Other measures to improve the complaints system

2.58 The Government received a large number of suggestions about further improvements to the complaints system. The most common suggestion focused on improving the explanation of how the system works to the public. Suggestions included simplifying the language used to describe key processes, issuing more public-friendly guidance, as well as providing a better explanation of the roles and responsibilities of organisations involved in the complaint system.

2.59 A number of respondents felt that there was more that could be done to improve the support for complainants after they had made a complaint. Suggestions included the introduction of a system of advocacy for complainants, involving complainants at the outset of any complaint, as well as better expectation management.

2.60 A number of respondents felt that the system could respond more effectively to complainants, including by extending the time limit for bringing a complaint.

2.61 Some respondents suggested that the system could be improved by reducing the number of different organisations involved in the complaints system. However, others felt that increasing the number of organisations, particularly those independent of police forces, could encourage more members of the public to come forward and make a complaint.

Vexatious and persistent complaints

2.62 The Government received a number of suggestions to make it easier to determine whether a complaint is vexatious and persistent. Some respondents believed that the structural reforms to the complaints system could provide a solution by allocating responsibility to PCCs to deal with persistent and vexatious complaints, leaving police forces to concentrate their resources on investigations into conduct matters. Some respondents, thinking ahead to the potential structural reforms of the complaints system, suggested that PCCs would benefit from better guidance on vexatious complaints and the introduction of a statutory definition.

2.63 A number of respondents suggested that there should be more scope to take a complainant's history into account. Some suggested that it should be possible to label

complainants as vexatious on the basis of previous complaints they had raised. Others suggested that, in the case of repeat complaints, there should be a greater burden on the complainant to provide new evidence as to why a complaint that had been previously considered should be reopened.

2.64 However, other respondents argued that it was important that each complaint should be judged on its merits. Although vexatious and persistent complaints could impose a burden on those dealing with complaints, a number of respondents considered that more could be done to improve joint-working with other organisations, close down issues quickly and take steps to identify vexatious complaints sooner. They felt the system should focus on these issues rather than move towards a practice of labelling complainants as vexatious.

The Government's Response

2.65 The Government believes that there should be reform of how complaints are defined and handled, as supported broadly by the responses to the consultation. The Government will introduce a series of reforms to the complaints system that will improve the experience of complainants.

2.66 The Government will expand the definition of a complaint to cover policing practice and service failure, as well as the conduct of an individual police officer. As the responses to the consultation show, the complaints system can be confusing for the public. A new, expanded definition of a complaint will make it clearer to the public what they are able to complain about, as well as the outcome they can hope to achieve once they have made their complaint.

2.67 The Government acknowledges the concerns raised by some about potential abuse of the complaints system, particularly by organised criminals seeking to undermine legitimate policing tactics. The Government will work with policing partners to ensure that an expanded definition does not mean that vital policing work cannot be carried out because of spurious complaints raised by organised criminals.

2.68 The Government will require all complaints to be recorded. The responses received during the consultation show that the current practice of recording a complaint is a source of dissatisfaction for the public. While decisions not to record a complaint may be taken for good reasons, the public may feel that their issues have been excluded on a minor, technical point, leaving the substance of their allegation untouched. Not recording complaints also deprives PCCs, police forces, the IPCC and the public from a valuable source of information about the issues causing the public most concern about the service they receive from the police.

2.69 The Government acknowledges the points raised by the IPCC about complaints received from off-duty police officers (as well as members of their family) and complaints made by individuals not directly involved in an incident, for example in cases where they have witnessed an incident on television. For off-duty police officers, the appropriate avenue for them to raise an issue they may have with the service they have received from a colleague is through the police disciplinary system, as is currently the case. The changes the Government intends to make to require all complaints to be recorded should apply equally to complaints made by individuals not involved in an incident. These complaints should be acknowledged since they are a useful source of information about the issues concerning the public most.

2.70 The Government received a number of suggestions regarding replacing the terms 'discontinuance' and 'disapplication'. On the basis of the responses it received, the Government believes these terms should be replaced by the description 'no further action' in order to make the system easier to understand for complainants and the general public.

2.71 The Government also received a number of suggestions as to how the complaints system can be made easier for the public to understand and how to make it easier to identify and deal with vexatious and persistent complaints. As it considers implementation of the structural reforms to the complaints system, the Government will work continue with policing partners on these issues.

Victims of Crime

2.72 Victims of crime are entitled to complain if they do not receive the level of service they expect. Those complaints are brought under the Code of Practice for Victims of Crime and are separate from complaints brought under section 12 of the Police Reform Act 2002. The consultation invited views on whether there were any improvements needed in the way the police deal with victims of crime. The question and a summary of the responses are set out below.

10. ARE ANY IMPROVEMENTS NEEDED TO THE WAY IN WHICH THE POLICE DEAL WITH COMPLAINTS FROM VICTIMS OF CRIME?

Consultation Feedback

2.73 Just under half of respondents stated that no improvements were required. A number of these respondents said that the Code of Practice for Victims of Crime already sets out the entitlements for victims of crime and is sufficient.

2.74 Some respondents said victims of crime should not be placed in a separate category to other complainants when they make a complaint to the police.

2.75 Almost a third of respondents stated that some improvements were needed when the police receive complaints from victims of crime. Some said that victims should be treated in a sensitive manner, they should receive clear explanations regarding their complaint and be given reasonable expectations about likely outcomes of complaints. Other suggestions made were that complaints should be logged, the complaints process should be simplified, complaints should be taken seriously, investigated honestly and fairly and victims should be supported throughout the process. A few respondents who stated improvements were required identified the importance of training for police officers in handling complaints from victims of crime.

2.76 The Government also received some suggestions as to how victims may receive a swifter resolution of their complaint. A couple of respondents suggested that victims may receive a more swift resolution if the police distinguished between a concern and a formal complaint. A few said that there should be clear guidance to victims on the differences between making a complaint under the Code of Practice for Victims and those under the Police Reform Act 2002. Additionally it was suggested that PCCs could play a role in dealing with complaints from victims of crime.

The Government's Response

2.77 The Government implemented a new Code of Practice for Victims of Crime ('the Victims' Code') in December 2013 which gives victims of crime clearer entitlements from criminal justice agencies. In particular, it provides that victims are entitled to be treated by service providers in a respectful, sensitive and professional manner. The Victims' Code also entitles victims to know who to contact and what to do next if things go wrong. Victims are entitled to make a complaint

if they do not receive the service they are entitled to, and to receive a full response from the relevant service provider.

2.78 On 15 September 2014, the Government published 'Our Commitment to Victims' which sets out a requirement for "criminal justice agencies to publish information by April 2015 on how they have improved services for victims – with the national Criminal Justice Board and Victims' Commissioner holding agencies to account for what they have done at a national level, and enabling Local Criminal Justice Partnerships to lead local initiatives to improve services for victims".

2.79 Some of the suggestions raised in the responses to this consultation, such as ensuring victims are supported and treated with respect and that there be training for staff who deal with victims, were also raised in the Victims' Commissioner's report, 'A Review of Complaints and Resolution for Victims of Crime', published in January 2015. The Government supported the Victims' Commissioner in carrying out this review, as it committed to in July 2014 as part of the Criminal Justice System Strategy and Action Plan. The Government agrees that more has to be done to support victims at such a difficult time and that is why it supports the recommendations the Victims' Commissioner makes in her report.

2.80 The Government also recognise the concerns that victims have expressed in their responses to this consultation. The Government will therefore continue to work with the police and other criminal justice agencies to improve the way they handle complaints from victims of crime.

2.81 The Government will also consider other suggested improvements in its review, including whether Ombudsman services or other independent organisations need new powers to make sure victims get redress where they deserve it, as announced in 'Our Commitment to Victims'.

Super-complaints

2.82 There have been concerns about whether the police complaints system is able to identify systemic failures in policing and give sufficient voice to those individuals and groups who are not confident in their own ability to make a complaint. The Government believes that charities and advocacy groups could play a role in this regard by bringing systemic issues to light and acting on behalf of particular groups of people in bringing complaints.

2.83 To achieve this, the consultation invited views on the introduction of a system of super-complaints to enable designated organisations to:

- a) Identify trends and patterns of aspects of policing that might be harming the interests of the public; and
- b) Raise complaints on behalf of certain groups of people.

2.84 The consultation also invited views about whether super-complaints should be handled initially by the IPCC and what, if any, additional powers would be needed by the IPCC, HMIC and the College of Policing to respond effectively to super-complaints. This part of the consultation sought views on three questions. The questions and a summary of the responses are set out below.

11. SHOULD THE GOVERNMENT INTRODUCE A SUPER-COMPLAINTS SYSTEM FOR POLICING?

12. IS THE IPCC THE CORRECT BODY TO RECEIVE A SUPER-COMPLAINT?

13. WHAT ADDITIONAL POWERS WOULD THE IPCC, HMIC AND THE COLLEGE OF POLICING NEED?

Consultation Feedback

2.85 A large number of respondents considered that the introduction of a system of super-complaints would have positive benefits. Respondents believed that the system would enable the resolution of issues relating to policing to be dealt with outside the judicial process, and may help improve the under-reporting of complaints from some parts of society. To assist addressing issues of under-reporting, it would be important that the definition of a 'designated body' was not too rigid and that as wide a range of bodies as possible were able to raise a super-complaint. Some also suggested that it should be possible for complaints that had been made previously to be considered as part of any super-complaint.

2.86 Some respondents did not support the introduction of super-complaints for a variety of reasons. These reasons included concerns about organisations who have not had any contact with the police using the complaints system, the potential impact on operational policing tactics and the possibility that allowing other organisations to monitor patterns and trends in policing may undermine the role of PCCs.

2.87 All those respondents who supported the introduction of super-complaints recognised the need for roles for each of the IPCC, HMIC and the College of Policing in ensuring that issues identified in a super-complaint could be resolved effectively, either through investigation into the conduct of a police officer, inspection into the efficiency or effectiveness of policing, or wider learning to improve future police operations. A majority of respondents believed that the IPCC was the right body to handle super-complaints, although this was not unanimous and the IPCC themselves expressed reservations about this role. Other respondents considered that HMIC or the College might be better placed to handle super-complaints. Some believed that the Home Office should handle super-complaints owing to their potentially serious nature.

2.88 Although some respondents did not believe that any new powers were needed to enable the IPCC, HMIC and the College of Policing to investigate super-complaints, others suggested a variety of new powers. These included:

- a) The ability to investigate the role of other agencies, either by the IPCC or HMIC, or to call on other regulators/ inspectorates to support a multi-agency investigation.
- b) The ability to share information, and access all information and sites considered necessary for the purpose of investigating a super-complaint.
- c) Appropriate powers to resolve super-complaints, including requiring PCCs to respond to any report into the investigation of a super-complaint.
- d) The ability to extend the investigation of a super-complaint into any issue or any force related to the super-complaint but not made as part of the original super-complaint; and
- e) Compelling officers, staff and police forces to provide witness evidence.

2.89 Some respondents signalled an interest in a system of super-complaints, but wanted to know more detail about how such a system could work. Respondents were most interested in how investigations into super-complaints would be funded, and whether organisations which had received a super-complaint would be able to decline to investigate.

The Government's Response

2.90 As respondents acknowledged, there is considerable under-reporting within the complaints system. As the consultation set out, there is more to be done to encourage a greater range of people and organisations to bring forward their complaints.

2.91 To enable them to do so, the Government will seek to legislate to bring in a system of super-complaints. A system of super-complaints would allow complaints to be made about trends and patterns of aspects of policing that might be harming the interests of the public, as well as complaints to be made on behalf of certain groups of people. Data suggests that some people are more comfortable reporting their concerns to advocacy groups and other, similar organisations.⁷ By allowing those organisations to make complaints, either on behalf of a single complainant or on behalf of a group of complainants affected by the same issue, the complaints system will offer the public a choice as to who they are able to complain to, potentially allowing organisations to identify any wider context within which a complaint may be brought.

2.92 The Government acknowledges the variety of views put forward as to who should handle super-complaints, as well as the powers that bodies charged with investigating will need to ensure the system operates effectively. It is clear that there is a role for charities and advocacy organisations, but further work will be conducted to define which organisations should be able to complain on others' behalf.

⁷ Research by the IPCC (Public Confidence in the Police Complaints System, 2014, p23) suggests that 15% of people would go to the Citizens Advice Bureau to make a complaint about the police; 7% would go to their solicitor; 5% would go to their local council; 1% would go to a community based organisation or the Race Equality Council.

Chapter Three:

Reforming the Police Disciplinary System

3.1 Chapter three of the consultation document proposed a series of reforms to the police disciplinary system. Many of the proposals followed the recommendations made by Major-General Chapman in his review of the police disciplinary system ('the Chapman Review'). The recommendations focused on how the disciplinary system could be made clearer, more robust and objective, ensuring it is open, fair and transparent. The chapter also invited views on options for merging the police staff and police officer disciplinary systems, as well as the most effective way to ensure that police officers cooperate as witnesses during IPCC investigations.

3.2 These proposals were in addition to the changes to the Police (Conduct) Regulations 2012 which the Government proposed in its *Consultation on Changes to the Police Disciplinary System* launched on 18 November 2014.⁸ The Government has responded to that consultation separately.

Refocusing the police disciplinary system

3.3 The Chapman Review recommended introducing a principle of rehabilitation for cases that fall below the level where dismissal is appropriate, and suggested that the focus in such cases should be on an officer's development and improvement. The consultation sought feedback on refocusing the police disciplinary system so that it is clear how it should respond to different types of misconduct. The consultation proposed that the College of Policing should have a role overseeing the police disciplinary system. As part of its role, the College would be responsible for setting clear standards through a benchmarking exercise. All forces would be able to use this as a guide for taking decisions in cases of police misconduct.

3.4 The consultation invited views on the factors that should be considered during the benchmarking exercise. The consultation invited views on one question. The question and a summary of the responses are set out below.

14. WHAT FACTORS SHOULD BE CONSIDERED WHEN SANCTIONS ARE BENCHMARKED? – (I) SERIOUSNESS OF MISCONDUCT, (II) PUBLIC INTEREST, (III) INTENT ON BEHALF OF THE OFFICER INVOLVED, (IV) PREVIOUS CONDUCT OF OFFICER, (V) OTHER.

Consultation Feedback

3.5 In its response, the College of Policing agreed that benchmarking was 'something the College can progress on behalf of the service'. A sizeable majority of respondents agreed that the factors set out in the consultation were the right ones. Some respondents suggested additional factors that should be taken into consideration, including: remorse, the impact of the misconduct, any personal gain for the officer concerned and whether the officer admitted to the misconduct at an early stage. The IPCC suggested that the seniority of the officer concerned should also be taken into account. The National Policing Lead for Complaints and Misconduct, responding on behalf of his national policing portfolio, welcomed the proposal that the College of Policing should take on greater ownership of the police disciplinary system.

⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/375965/PoliceDisciplinaryWhistleblowingCon.pdf

3.6 Several respondents were in favour of producing guidance to support the new benchmarking system. Some respondents suggested that the guidance should set out mitigating and aggravating factors that should be taken into account by the disciplinary panel when taking a decision in a disciplinary case.

The Government's Response

3.7 The benchmarking exercise will begin in the next Parliament and guidelines will be produced with all policing partners including the IPCC and the National Policing Lead for Complaints and Misconduct. The work will consider whether the additional factors suggested during the consultation should be included in the benchmarking exercise. The exercise will be an ongoing process to ensure the guidelines remain up-to-date. The guidelines produced will include mitigating and aggravating factors. In the future, the benchmarking will also cover the act of police officers failing to cooperate as witnesses in investigations undertaken by the IPCC, which the Government will include in future police conduct regulations.

3.8 On the proposal for the College to oversee the police disciplinary system, the Government will continue to work with the College to determine what this could include in the future.

Streamlining the performance and misconduct systems

3.9 The Chapman Review found that the police disciplinary system is opaque and decision making across forces is inconsistent, with different outcomes for officers committing the same types of misconduct. It also found that the system is not always effective or efficient, and that procedures for managing underperformance are particularly unwieldy and difficult to use. Furthermore, while the importance of the police leadership maintaining ownership for improving performance and conduct was acknowledged, the entire system is currently managed at a purely local level by each police force, lacking independence and scrutiny.

3.10 The consultation also invited views on a series of proposals to streamline the disciplinary system. In particular, the consultation sought views on the following issues:

- a) Aligning the performance management system with the misconduct system.
- b) Delegating decisions in misconduct cases which fall short of dismissal to officers holding the rank of Inspector.
- c) Introducing time limits for disciplinary proceedings.
- d) Holding police disciplinary hearings regionally.
- e) Changing the way in which mitigations are handled and the potential impact on force welfare systems.
- f) Whether disciplinary appeal hearings should be held regionally or nationally.
- g) How lay members should be appointed.
- h) Whether dismissal with notice⁹ is justified in certain cases; and
- i) How long warnings should remain on an officer's record.

⁹ The minimum notice period is currently determined by those conducting a disciplinary hearing. If an officer is dismissed with notice, the minimum notice period is 28 days.

The consultation invited views on a series of questions. The questions and a summary of the responses are set out below.

15. TO WHAT EXTENT DO YOU AGREE OR DISAGREE THAT THE PERFORMANCE MANAGEMENT PROCESS SHOULD BE STREAMLINED, BRINGING IT INTO LINE WITH THE PROCESS FOR MISCONDUCT?

16. TO WHAT EXTENT DO YOU AGREE THAT INSPECTOR IS THE APPROPRIATE RANK AT WHICH TO TAKE DECISIONS ABOUT MATTERS BELOW DISMISSAL?

17. TO WHAT EXTENT DO YOU AGREE THAT TIME LIMITS SHOULD BE CONSIDERED FOR DISCIPLINARY PROCEEDINGS? IF YOU AGREE, HOW LONG SHOULD THE TIME LIMIT BE?

18. DO YOU AGREE THAT POLICE DISCIPLINARY HEARINGS SHOULD BE HELD REGIONALLY RATHER THAN LOCALLY?

19. GIVING THE PROPOSED CHANGES TO HANDLING MITIGATIONS, ARE THERE ANY ADDITIONAL SAFEGUARDS THAT WOULD NEED TO BE PUT IN PLACE?

20. ARE THERE ANY CONSEQUENCES FOR FORCE WELFARE SYSTEMS?

21. SHOULD DISCIPLINARY APPEAL HEARINGS BE HELD REGIONALLY OR NATIONALLY?

22. TO WHAT EXTENT DO YOU AGREE THAT THE PROPOSED WAY OF APPOINTING LAY MEMBERS IS THE MOST EFFECTIVE? IF YOU DISAGREE, WHAT ALTERNATIVE APPROACH SHOULD THE GOVERNMENT CONSIDER?

23. ARE THERE ANY PRACTICAL REASONS WHY DISMISSAL WITH NOTICE IS JUSTIFIED IN CERTAIN CASES?

a) Aligning the performance management system with the misconduct system

Consultation Feedback

3.11 The majority of respondents agreed that the existing performance management process is under-used because it is cumbersome, bureaucratic, inconsistent and lacks credibility. Merging the performance management and misconduct systems would be simpler for forces and police officers, and would enable issues to be tackled more easily. However, the police staff associations, along with some other respondents, thought that the existing, separate systems already enable forces to tackle issues effectively.

3.12 Some respondents noted that care should be taken not to lose the distinction between misconduct and under-performance in any future system, since tackling them can require different responses. Some respondents thought that a streamlined performance management and misconduct system could lead to more challenges by officers if the under-performance in question is due to medical issues. Some respondents thought the new system should apply to chief officers.

The Government's response

3.13 The Government welcomes the strong support for aligning the performance management system with the misconduct system. The Government will seek to introduce legislation at the

earliest opportunity to strip away the current three-stage process and create a simpler model that aligns with the misconduct process. This will consist of an internal meeting for issues that would not lead to dismissal and a disciplinary hearing for those that could lead to dismissal. This will ensure that under-performance is tackled more effectively, and will reduce the burden on police forces in the process.

- b) Delegating decisions in misconduct cases which fall short of dismissal to officers holding the rank of Inspector

Consultation Feedback

3.14 There was strong support for reducing the level of decision-making to help speed up the process. Some felt that middle-ranking officers are likely to have a more up-to-date understanding of operational aspects of an officer's role and are therefore better placed to make decisions. This could therefore increase police confidence in the system. Some respondents who disagreed with the proposal thought it could lead to greater inconsistency. However, others believed that any issues relating to inconsistency could be addressed by requiring Heads, or Deputy Heads, of Professional Standards Departments to ratify certain decisions to promote consistency and fairness. Decisions that would need to be ratified included initial assessments of the severity of conduct allegations and decisions on whether to refer cases to formal proceedings. Respondents were clear that outcome decisions should always be taken by an officer who is one or two ranks above the officer subject to investigation.

The Government's response

3.15 The Government acknowledges the support for delegating decisions appropriately and shares some of the concerns about the need to ensure consistency and fairness. The Government will seek to bring forward legislation to allow Inspectors to take decisions. This will apply in all cases, rather than just cases below dismissal as was originally proposed in the consultation, as respondents were clear that it would be appropriate for forces to have the discretion to delegate decisions in most cases. To ensure consistency and fairness in the decision-making process at key stages of the system, certain decisions will still need to be approved by Heads or Deputy Heads of Professional Standards Departments. This will apply specifically to initial assessments of the severity of conduct allegations and to decisions on whether to refer cases to formal disciplinary proceedings.

- c) Introducing time limits for disciplinary proceedings

Consultation Feedback

3.16 There was a great deal of support for reducing delays and speeding up investigations into police misconduct. However, the majority of respondents opposed introducing any form of statutory time limit and thought that such a limit would not be workable. Many of those who opposed the introduction of a time limit, including the IPCC, highlighted the fact that delays can occur for a variety of legitimate reasons and it depends on the individual case.

3.17 Some respondents suggested other ways in which the pace of disciplinary investigations could be accelerated. A number suggested guidance setting out a clear expectation that steps should be taken to improve the timeliness of investigations. Others suggested that forces should be required to produce an explanation as to why a case was taking longer than expected to conclude. Further suggestions included extending the current fast-track system to include cases of misconduct in which an officer is willing to admit guilt early and receive a written warning.

The Government's response

3.18 The Government is clear that investigations should be undertaken swiftly without unnecessary delay and that therefore there should be a time limit. However, the Government understands some of the concerns that have been raised around the workability of time limits for investigations and the risk of creating perverse incentives in the system. The Government will therefore seek to bring forward legislation and set out in guidance a clear expectation that disciplinary investigations should usually take 6 months in standard cases and a maximum of 12 months, unless the cases are particularly complex or linked to criminal proceedings. The Government is clear that forces should be accountable for delays in concluding investigations, to ensure public confidence in the system. Therefore in any case where a force fails to meet the time limit of 12 months the chief constable will be required to write to his/ her PCC to explain publicly why the delay is necessary and what steps the force is taking to conclude the investigation as swiftly as possible.

d) Holding police disciplinary hearings regionally

Consultation Feedback

3.19 Some respondents agreed that holding police disciplinary hearings regionally, rather than locally at force level, could help to improve consistency and increase efficiency. Some police forces indicated they are already looking at the potential for collaboration across forces at a regional level and would therefore support a move to regional hearings. Some respondents supported the proposal in principle, but said that they would be unable to commit until a cost-benefit analysis had been undertaken.

3.20 Some respondents were concerned that holding disciplinary hearings regionally could increase the cost of the disciplinary system, particularly through increased travel expenses. Some also noted that holding disciplinary hearings regionally may dissuade members of the public from attending. A few expressed concern that the officer's police force would not be directly represented. These respondents were concerned that this may deprive the panel of important contextual information and operational expertise from the police force when making its decision.

3.21 The Government received a small number of responses from members of the public. These respondents did not hold strong views, but were concerned that the panel hearing a disciplinary case should have sufficient public representation.

The Government's response

3.22 As there was a mixed response to this proposal, with some police forces in favour and others yet to be persuaded of the potential benefits, the Government does not intend to mandate regional hearings at this stage. The Government will seek to bring forward legislation to give forces the discretion to arrange hearings in the most cost-effective way possible.

3.23 The Government will work with forces that elect to take a more collaborative approach to understand better the potential costs and benefits of broadening the approach in the future. The Government would like to see the College of Policing taking on greater responsibility for ensuring high standards and consistency in the disciplinary system. The College could play a key role by providing guidance to forces on standards for disciplinary investigations, and support forces to collaborate to reduce costs to the system. For example, the College could support the disciplinary proceedings process by helping to administer hearings and regional appeals.

- e) Changing the way in which mitigations are handled and the potential impact on force welfare systems

Consultation Feedback

3.24 The consultation invited views as to whether disciplinary panels should have the discretion to disregard or place less weight on any mitigation raised by a police officer that the panel believe could have been raised earlier. There was broad support for this proposal. Many respondents suggested that disciplinary panels should have discretion to decide how much weight to place on the mitigations provided and any reasons an officer may give for failing to declare the mitigations sooner. Some suggested that guidance would be needed to ensure some degree of consistency in decisions about how the weighting is given. The IPCC and staff associations believed that the existing provisions for dealing with mitigations were sufficient and did not require change.

3.25 Some respondents thought that the proposal would lead to an increase in the workload of welfare systems as a result of an increase in the number of officers reporting minor issues in support of any mitigations those officers may offer at a later hearing. Some respondents suggested that there should be improved information sharing between forces and staff associations. They suggested that some officers may not wish to disclose all mitigations, particularly any relating to medical issues, to their force. It was suggested that allowing confidential referrals to the disciplinary panel, for example from medical practitioners, could help to address any issues an officer may have about disclosing mitigations.

The Government's response

3.26 The Government has listened carefully to the concerns raised during the consultation, particularly the potential for increased workloads within force welfare systems, and accepts that there is a need for clear guidance to panels on how to use its discretion fairly and consistently. The Government will therefore provide a clear framework to panels through a combination of guidance and the benchmarking process (which will set out mitigating and aggravating factors) to assist the panel in utilising its discretion to decide whether to place less weight on or completely disregard mitigations. We consider this approach provides sufficient safeguards but are interested in exploring the need and feasibility of the suggestion of confidential referrals to the panel chairs direct from medical practitioners and staff associations.

- f) Whether disciplinary appeal hearings should be held regionally or nationally

Consultation Feedback

3.27 The majority of respondents were in favour of holding disciplinary appeal hearings regionally. Some respondents considered that a system of regional disciplinary appeals would align better with a system of regional disciplinary hearings. Others suggested that regional disciplinary appeals would be less removed from local police forces than holding appeals centrally.

3.28 Some respondents did not agree with either option and considered the existing arrangements to work well. Respondents who did not agree with either option did not believe they would achieve value for money and were likely to increase the costs of the disciplinary system, particularly through increased travel costs for officers and witnesses.

3.29 Some respondents supported the option to hold disciplinary appeal hearings nationally. They believed national hearings could work well if they were administered by a central body, such as the College of Policing.

The Government's response

3.30 The Chapman Review was clear about the need to introduce greater independence into the police disciplinary system, including removing local forces from the hearings process where possible. The Government has considered the concerns around the additional travel costs that may result from holding appeal hearings further from forces. However, the Government considers that greater consistency and collaboration will help to raise standards of conduct across forces. Greater centralisation is also likely to achieve economies of scale and reduce administration costs. The Government will therefore work with policing partners to identify the best way to ensure that appeal hearings are held regionally.

3.31 Regional appeals will also align with the flexible approach the Government will introduce for disciplinary hearings, as outlined above. It will be for PCCs to agree a host force in each region to lead the regional hearing centres and manage administration and logistical arrangements. PCCs already have the ability to transfer budgets to another force. It will also be for relevant PCCs to agree a model for sharing the costs of the hearings.

g) How lay members should be appointed to disciplinary appeal panels

Consultation Feedback

3.32 The majority of respondents strongly supported the proposal for lay members of appeal panels to be appointed nationally. They would be added to a centrally-held list that regional administration teams could draw on for arranging appeal hearings. However, many respondents were concerned that local people would not be involved in the appeals process and that this differs from the approach taken for hearings, where lay members are recruited locally.

3.33 The Government received a number of suggestions about how it can ensure that lay members have the appropriate skills to contribute effectively to appeal hearings. These included holding open and independent recruitment competitions, providing training for lay members once appointed. Some respondents also suggested that PCCs should recruit lay members to preserve their independence from the force.

The Government's Response

3.34 The Government is clear that lay members should replace retired officers on appeals panels. This will ensure the public interest is represented. Operational expertise will be provided by the serving officer on the panel. The Government has considered the suggestion that local people should be involved in the process in line with the current process for hearings. As appeals will be held regionally, and in order to reduce the burden of the recruitment process, forces will be able to use lay members recruited locally to sit on appeal panels. To ensure greater independence the Government agrees with the suggestion that lay members should be appointed by PCCs, in line with the current practise for hearings. A list of those lay members will be collated regionally and used for both hearings and appeals. This will ensure that local people play an important role in the appeals process, as they do in the hearing process.

h) Whether dismissal with notice is justified in certain cases.

Consultation Feedback

3.35 The overwhelming majority of respondents thought that there were no circumstances in which dismissal with notice is justified. A few respondents provided examples of when dismissal with notice may be justified, including situations in which an officer is required for a criminal trial while on a final written warning or where an officer is the sole carer of a dependent. However, even in those circumstances, respondents suggested dismissal with notice is rarely used.

The Government's response

3.36 The Government considers that where an officer has been found guilty of misconduct and that the view of the panel is that the extent of the misconduct is such that the officer should not continue to be a police officer, keeping the officer in the force for a further 28 days to serve a notice period following that finding would be perverse. Having carefully considered the responses and the examples highlighted of the rare cases when the sanction is currently used, the Government is satisfied that it is appropriate to remove the sanction of dismissal with notice.

i) How long warnings should remain on an officer's record.

Consultation Feedback

3.37 The majority of respondents suggested warnings should remain on record for between 2-5 years. Many respondents, including the IPCC and National Policing Lead for Complaints and Misconduct, suggested that the length of time a warning should remain on an officer's record should depend on the nature of the disciplinary offence.

3.38 Some respondents suggested that the length of time a written warning should remain on an officer's record should be consistent across all sanctions.

The Government's Response

3.39 The Government has carefully considered the responses and supports the suggestion that panels should have a certain amount of discretion in deciding how long warnings should remain on record. However, the Government is also clear that a minimum time should be established to ensure that previous misconduct is appropriately taken into account. The Government will seek to bring forward legislation to ensure that all warnings remain live on an officer's record for 2 years. The Government will also allow panels to have discretion to extend the timeframe up to a maximum of 5 years, where it is appropriate to do so.

Bringing the police officer and staff disciplinary systems together

3.40 The consultation invited views on merging the police officer and police staff disciplinary systems. The consultation offered two options: either moving police staff into the regulated police officer system; or de-regulating the police officer system and replacing it with that used by police staff. The consultation invited responses on two questions. The questions and a summary of the responses are set out below.

25. TO WHAT EXTENT DO YOU AGREE OR DISAGREE WITH THE PRINCIPLE OF BRING TOGETHER THE STAFF AND POLICE DISCIPLINARY SYSTEMS INTO ONE SINGLE SYSTEM? IF YOU AGREE, WHICH OPTION DO YOU PREFER?

26. WHAT ISSUES SHOULD THE GOVERNMENT CONSIDER BEFORE DECIDING WHETHER IT SHOULD IMPLEMENT OPTIONS ONE OR TWO?

Consultation Feedback

3.41 The vast majority of respondents agreed with the principle of bringing the systems together. The majority of respondents preferred the option of bringing police staff into the regulated police system.

3.42 Some respondents disagreed with the proposals, including the police staff associations. They considered that, since the roles of police officers and staff differed, so too should their disciplinary systems. Respondents also highlighted the fact that the existing police officer misconduct system already allows for staff to appear at a misconduct hearing alongside an officer, where appropriate. Others were more supportive of moving more public-facing staff into the regulated system in recognition that their role is different to 'back-office' functions.

3.43 Respondents highlighted that considerable work would need to be carried out before the Government could decide which, if either, option should be implemented. Concerns were raised about the importance of preserving the Office of Constable, as well as ensuring fairness for both police officers and staff and how a single system would treat contractors. Respondents considered that any changes to the police officer and police staff disciplinary systems would require further consultation with police staff associations and trade unions. Many felt that it would take a considerable period of time to work through all the issues that would need to be addressed before the Government could take a decision.

The Government's Response

3.44 The Government believes there is merit in the principle of aligning the police officer and staff systems. If the disciplinary systems used by the police to hold officers and staff to account are to retain the confidence of the public, it is essential that misconduct is treated the same whether committed by a police officer or member of police staff. The Government believes that reform is needed to enable misconduct to be dealt with effectively.

3.45 The Government has considered carefully the strength of feeling on this issue and the complexity of the issues that require resolution before it chooses whether to merge the disciplinary systems for police officers and staff. The Government will continue to work with policing partners, particularly staff associations and trade unions, to address the issues identified during the consultation, as well as any others that emerge during discussions with policing partners, to determine whether and how the police officer and police staff disciplinary systems can be merged.

Compelling police officers to answer IPCC questions

3.46 The consultation invited views on how to ensure a robust link between the expectation that police officers will answer IPCC questions where they are called upon as witnesses, and the sanctions available for failure to do so under the disciplinary system. The consultation invited views on one question. The question and a summary of the responses are set out below.

27. WHICH OPTION FOR COMPELLING POLICE OFFICERS TO ANSWER IPCC QUESTIONS DO YOU THINK THE GOVERNMENT SHOULD PURSUE? A) MAKING IT A SUMMARY ONLY OFFENCE FOR A POLICE OFFICER TO REFUSE TO ANSWER A REASONABLE QUESTION POSED BY THE IPCC, B) INTRODUCING A DISCIPLINARY SANCTION, OR C) ENABLING THE IPCC TO ISSUE DISCLOSURE NOTICES.

Consultation Feedback

3.47 A large number of respondents did not support the principle of compelling officers to answer a reasonable question posed by the IPCC and expressed strong concerns against it. Responses from individual police officers and members of the public preferred enabling the IPCC to rely on disclosure notices.¹⁰ Responses from representative bodies expressed a strong preference for a disciplinary sanction, but were strongly against the other options.

3.48 Respondents raised a number of concerns about the options, including that all the options were contrary to the principles of natural justice and that any answers provided would not be admissible in any subsequent criminal proceedings. The IPCC did not support the introduction of a criminal offence. Instead, its preferred approach was for a duty of candour to encourage police officers to cooperate with its investigations, backed-up by a disciplinary sanction available to forces should an individual fail to cooperate appropriately. The police staff associations disagreed strongly with all three options and raised a number of additional concerns. These included the potential of the proposals to restrict an officer's right not to answer questions, as well as the potential impact on the police's ability to recruit officers to particular policing functions, such as firearms. The police staff associations felt that because officers will, in the vast majority of cases, provide a statement at least, any change was unnecessary.

The Government's Response

3.49 As the Government stated in the consultation, it is important that the IPCC is able to carry out its investigations into the most serious and sensitive cases effectively. While statements from officers who witness an incident are an important part of the IPCC's ability to carry out an investigation, statements may in some cases be insufficient. Refusal to cooperate further has a serious impact on the ability of the IPCC to carry out its investigations and can, in some circumstances, prolong a case to the detriment of the public and those under investigation.

3.50 The Government acknowledges the strong objections to the proposal to introduce a summary only offence for officers who refuse to answer a reasonable question posed by the IPCC. The Government does not believe it would be proportionate to introduce a criminal offence.

¹⁰ The notices would be enforceable through the courts. If an officer failed to comply they would be liable to a maximum of 6 months imprisonment and/ or a fine. The notice would need to be linked to an existing offence.

3.51 On the basis of the views put forward during the consultation, the Government believes that the most effective and proportionate means of ensuring that police officers answer IPCC questions is through the police disciplinary system. The Government will, therefore, introduce a duty of candour to ensure police officers understand their obligations to cooperate fully with any IPCC investigations. Alongside this duty, the Government will also amend the police conduct regulations to introduce a specific act of failing to cooperate with an IPCC investigation. Forces will have the discretion to take whatever disciplinary action is appropriate to the circumstances. The independent benchmarking process by the College of Policing will help to determine the appropriate level of sanction that should apply in such cases.

Chapter Four:

Strengthening Protections for Police Whistleblowers

4.1 Chapter four of the consultation proposed a series of measures to strengthen protections for police whistleblowers. The chapter proposed strengthening the IPCC's ability to deal with issues raised by whistleblowers, changes to the police disciplinary system regarding whistleblowers, and requiring organisations dealing with the issues raised by whistleblowers to consult whistleblowers and provide feedback at key parts of the process. The chapter also invited views on whether whistleblowers should be offered anonymity or immunity from prosecution.

4.2 These proposals were in addition to the changes to the Police (Conduct) Regulations 2012 which the Government proposed in its *Consultation on Changes to the Police Disciplinary System* launched on 18 November 2014.¹¹ The Government has responded to that consultation separately. In addition, the College of Policing is developing national guidance on police whistleblowing.

Giving the IPCC new powers to deal with whistleblowing

4.3 The consultation invited views on whether the IPCC should be given new powers to enable it to investigate allegations brought by whistleblowers more effectively. In particular, it sought feedback on proposals to give the IPCC the power to manage the early stages of a case brought to its attention by whistleblowers and to introduce sealed investigations. Sealed investigations would restrict the number of people who know about an investigation and the level of information they are given to prevent the possibility of collusion, destruction of evidence or pressure being applied to the investigation. The consultation asked for responses to three questions. The questions and a summary of the responses are set out below.

28. TO WHAT EXTENT DO YOU AGREE THAT THE IPCC SHOULD HAVE THE POWER TO MANAGE THE EARLY STAGES OF AN INVESTIGATION BROUGHT TO ITS ATTENTION DIRECTLY BY A WHISTLEBLOWER BEFORE INFORMING THE FORCE?

29. HOW SHOULD CASES REPORTED BY WHISTLEBLOWERS TO THE IPCC WHICH FALL BELOW SERIOUS AND SENSITIVE BE DEALT WITH?

30. TO WHAT EXTENT DO YOU AGREE THE INTRODUCTION OF SEALED INVESTIGATIONS WILL INCREASE THE ABILITY OF THE IPCC TO CARRY OUT INVESTIGATIONS AND PREVENT THE POSSIBILITY OF COLLUSION, DESTRUCTION OF EVIDENCE OR PRESSURE BEING APPLIED TO AN INVESTIGATION?

Consultation Feedback

4.4 A clear majority of respondents agreed the IPCC should have the power to direct the early stages of an investigation. Support was greatest among individual officers and PCCs.

4.5 There were lower levels of support from police forces for the proposal that the IPCC should have the power to direct the early stages of an investigation. Responses received from police forces highlighted the fact that the IPCC would need to contact the force to obtain a basic level

¹¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/375965/PoliceDisciplinaryWhistleblowingCon.pdf

of information at an early stage in the process. In particular, they pointed out that the IPCC would need to obtain details of the whistleblower's history, as well as whether there were any existing investigations into the matter reported by the whistleblower.

4.6 Some respondents suggested that whistleblowers should be able to report their concerns to organisations other than the IPCC. The College of Policing suggested that police officers and members of police staff should be able to approach it with concerns. It considered that a joint assessment involving the College, the IPCC and HMIC may provide a more effective response to organisational issues raised by whistleblowers.

4.7 There were a number of responses to the question regarding how the IPCC should respond to cases reported by whistleblowers that were not judged to be serious and sensitive. The most common response was that the IPCC should refer matters reported to it that were assessed as below the threshold for serious and sensitive back to police forces.

4.8 The Government received a number of other suggestions about how the IPCC could respond to cases not assessed as serious and sensitive. Some suggested such cases reported to the IPCC should be referred back to a single point of contact in the force, such as someone in the chief constable's office or someone trained to support whistleblowers. PCCs suggested that they should also receive information about cases raised directly by whistleblowers with the IPCC, to monitor where officers have felt internal force reporting mechanisms could not address their concerns. Finally, some respondents suggested that all allegations raised by police whistleblowers with the IPCC should be investigated by an independent body.

4.9 The majority of respondents agreed that the IPCC should be able to carry out sealed investigations. There was particularly strong support for this proposal from individual police officers and PCCs.

4.10 Some respondents did not believe that sealed investigations were necessary, since similar investigations could already be carried out by police force anti-corruption units. Some respondents said that, since the IPCC is already involved in some of these investigations, it would not need new powers to carry out sealed investigations.

4.11 Some respondents focused on practical issues that would need to be considered ahead of implementation. Some raised issues regarding the IPCC's capability to carry out covert investigations more generally. Other respondents were concerned about who would hold responsibility for any risks to both the whistleblower and any single point of contact in force. Finally, some respondents also expressed an interest in the sanction for breaching a sealed investigation, if such a sanction were to be introduced.

The Government's Response

4.12 The Government has reflected carefully on the responses it has received on the proposals to give the IPCC more powers to deal with issues brought to its attention by police whistleblowers. While the IPCC already receives a number of reports from whistleblowers and has launched investigations as a result, it is essential that any organisation that receives reports from whistleblowers is able to provide a fully independent response from the start.

4.13 In the majority of cases, the Government expects that police officers and members of police staff will choose to challenge inappropriate behaviour directly, or raise concerns about misconduct and malpractice through their line management chain or to the force's professional standards department (PSD). The Government expects those in receipt of such reports to respond to allegations of police misconduct and malpractice quickly and effectively.

4.14 However, it is essential that police whistleblowers have an alternative outlet to report their concerns if they do not trust these routes. The Government will seek to introduce legislation to give the IPCC the powers to manage the early stages of an investigation brought to its attention directly.

4.15 The Government acknowledges the concerns raised during the consultation about the need for the IPCC to contact forces for information, including about the officer making the report and any investigations into the issue either already underway or previously concluded. The Government agrees that the IPCC will usually need to obtain some information from forces in order to launch its own investigation. In order to retain the confidence of the whistleblower, obtaining information from police forces will be at the discretion and direction of the IPCC.

4.16 Where the IPCC receives reports from police whistleblowers that are not assessed as serious and sensitive, the Government agrees that the IPCC should refer these cases back to forces for consideration and, where necessary, investigation. This will ensure the IPCC is able to continue to direct its resources where they are needed most, as well as preserving the ability of the chief constable to retain responsibility for investigating the conduct and discipline of officers and staff in their force in all but the most serious and sensitive cases.

4.17 While the Government will not legislate to make PCCs the single point of contact for matters reported by whistleblowers, these proposals retain flexibility for PCCs to take a more active role in receiving allegations from whistleblowers, providing allegations are passed to the PSD for formal action. These proposals will continue to allow PCCs to monitor or dip-sample the force's response to such allegations, subject to local agreement with the force.

4.18 Some of the cases reported to the IPCC directly by police whistleblowers may require use of covert capability as part of any investigation. The Government agrees with some of the respondents to the consultation that, where necessary, existing covert capability and expertise in police force anti-corruption units should be used.

4.19 However, in the event that a different approach is required, the Government will seek to introduce legislation that will enable the IPCC to direct a sealed investigation, to provide a level of certainty that information may not be disclosed. Any decision by the IPCC to direct a sealed investigation must be necessary and proportionate, but should not be linked to a specific type of offence. There may be circumstances in which a lower-level offence that appears to be widespread may require the IPCC to direct a sealed investigation.

Involving police whistleblowers

4.20 The consultation invited proposals on how whistleblowers could be involved once they have come forward. In particular, the consultation invited views about whether whistleblowers should receive feedback and whether whistleblowers should have a right to be consulted by the IPCC on the following issues:

- a) Whether they wish to make their report anonymously, in confidence or overtly.
- b) Whether the matter should be referred back to the force to be recorded.
- c) Whether there are any parts of the force that might compromise the effectiveness of an investigation or lead to the whistleblower's identity being exposed; and
- d) Whether they should be given the right to comment on the findings of the investigation, as well as the force's response to those findings.

In addition, the consultation also invited views on whether whistleblowers who are subject to disciplinary proceedings should be given an opportunity to request an independent review of any decision that they have a case to answer regarding their conduct. This part of the consultation invited views on three specific questions. The questions and a summary of the responses are set out below.

31. AT WHAT POINTS IN THE PROCESS DO YOU THINK A WHISTLEBLOWER SHOULD HAVE A RIGHT TO FEEDBACK?

32. FOR EACH OF 4.21(A)-(D), PLEASE STATE WHETHER A WHISTLEBLOWER SHOULD, OR SHOULD NOT, HAVE A RIGHT TO BE CONSULTED BY THE IPCC.

33. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO GIVE WHISTLEBLOWERS THE OPPORTUNITY TO REQUEST AN INDEPENDENT REVIEW OF ANY DECISION THAT THEY HAVE A CASE TO ANSWER REGARDING THEIR CONDUCT?

Consultation Feedback

4.21 Almost all respondents supported the proposal to give whistleblowers feedback after they have made a report. The police staff associations said in their response that failure to consult whistleblowers fully during an investigation and provide them with feedback during the progress of the investigation was a common source of concern among police whistleblowers.

4.22 The most common response was that whistleblowers should receive feedback at set intervals (some respondents suggested that whistleblowers should be updated every one or two months) and at key decision points. Some respondents believed that the Code of Practice for Victims of Crime was a suitable model that could be used to identify when and how frequently a police whistleblower should receive feedback.

4.23 Some respondents felt that the decision to give a whistleblower feedback should be made on a case-by-case or discretionary basis, rather than require all whistleblowers to be given feedback.

4.24 The majority of respondents agreed with the proposal that whistleblowers should be consulted on each of the points listed at paragraph 4.20(a)-(d), providing that the IPCC had the discretion to make the final decision.

4.25 There was strongest support for consulting whistleblowers about whether they want to reveal their identity. Some respondents suggested this should be extended to include any risks to the whistleblower.

4.26 A small number of respondents were concerned that consulting whistleblowers may interfere with the independence of an investigation or the whistleblower's evidence. As a result, some did not agree that whistleblowers should be consulted on whether a report made directly to the IPCC should be referred back to the force to be recorded or parts of the force that should not be involved.

4.27 A number of respondents did not agree that a whistleblower should have the right to comment on the findings of an investigation. Many felt that whistleblowers should only have the right to be notified of the findings.

4.28 Some respondents believed that whistleblowers should be consulted when they have reported a concern to their force, not just the IPCC.

4.29 A majority of respondents agreed with offering whistleblowers an independent review of a decision that they have a case to answer, before disciplinary proceedings were instigated.

4.30 However, some respondents were concerned about this proposal. A significant proportion thought it would be overly bureaucratic and increase costs. These respondents believed that issues relating to whether a whistleblower has a case to answer could be better resolved through disciplinary hearings, appeals and employment tribunals, rather than through an alternative mechanism. Some respondents suggested that PCCs or another force could carry out an independent review of a decision rather than the legally qualified chair of a police disciplinary panel.

4.31 Some respondents also identified issues that would need to be considered ahead of implementation. Some were interested in whether decisions by the IPCC that a whistleblower had a case to answer regarding their conduct could be reviewed. Some suggested that there should not be a time limit between any disclosure made by a whistleblower and a decision that they have a case to answer regarding their conduct to prevent abuse of the protections.

The Government's Response

4.32 The Government acknowledges the strong support it received during the consultation for the proposal for whistleblowers to receive feedback on the progress of any investigation into a report they have made. The Government believes that the proposal to base a system of feedback on the Code of Practice for Victims of Crime is one that could work for police whistleblowers. This would require whistleblowers to be updated at key points in an investigation, as well as receive regular updates on the progress of any investigation.

4.33 The Government will work with policing partners to identify the points at which whistleblowers should be updated. The Government acknowledges the concerns expressed in the consultation that any requirement to provide feedback should not compromise the investigation or duties of confidentiality inappropriately. The Government will take this issue into consideration during its work with partners when deciding how whistleblowers should receive feedback.

4.34 In addition to receiving feedback on the progress of an investigation, the Government also believes that whistleblowers should be consulted on the points listed at 4.20(a)-(d). Consulting whistleblowers on these points will increase confidence in how their report will be handled.

4.35 The Government agrees that it is important that consulting whistleblowers on these points should not have any impact on an investigation or prosecution. As a result, the Government will consider what exceptions might be appropriate before implementing this proposal.

4.36 The Government will also introduce a right for whistleblowers to seek an independent review into any decision that they have a case to answer regarding their conduct. While the legally qualified chairs being introduced to misconduct hearings would be best placed to provide the necessary independence and expertise, other options may be appropriate on agreement by both the force and whistleblower.

4.37 This right will apply only to decisions taken by police forces. Where the IPCC has decided that a police whistleblower has a case to answer, the whistleblower will have no right to request an independent review of that decision.

4.38 The Government agrees with the points raised during the consultation that giving whistleblowers a right to request an independent review should not create an opportunity for

whistleblowers to abuse the disciplinary system and seek to delay proceedings against them or create an unnecessary burden on police forces. The Government will, therefore, work with partners on how giving whistleblowers a right to request an independent review can be introduced with the least impact on the efficiency of the police disciplinary system.

Offering whistleblowers anonymity and immunity

4.39 The consultation also invited views on proposals to offer whistleblowers a guarantee of anonymity or immunity from prosecution. The questions and a summary of the responses are set out below.

34. TO WHAT EXTENT DO YOU AGREE OR DISAGREE THAT THE IDENTITY OF A POLICE WHISTLEBLOWER SHOULD BE PROTECTED BY LAW?

35. ARE THERE CIRCUMSTANCES WHERE GUIDANCE SHOULD RECOMMEND THAT PROSECUTORS CONSIDER THE SERIOUS ORGANISED CRIME AND POLICING ACT 2005 (SOCPA) PROVISIONS FOR POLICE WHISTLEBLOWERS WITH INFORMATION ABOUT SERIOUS CRIMINALITY IN THEIR FORCE?

Consultation Feedback

4.40 A majority of respondents agreed that guaranteeing to protect the identity of a whistleblower would encourage more police officers and staff to come forward. The staff associations, in particular, identified a lack of confidence in the confidentiality of systems used in forces as one of the reasons that prevented police officers and members of police staff coming forward.

4.41 Some police forces expressed concern with the proposal to protect the identity of a whistleblower. Although they agreed that there was merit in protecting the identity of a whistleblower, they believed it should be adopted as good practice only, rather than a guarantee that might limit flexibility.

4.42 A number of respondents considered that protections might not be appropriate if it emerged that the whistleblower under protection was involved in wrongdoing themselves, or that the allegation they had made was false.

4.43 The majority of respondents also agreed with the principle that offering whistleblowers immunity from prosecution could be beneficial in encouraging whistleblowers to come forward.

4.44 Very few respondents identified any circumstances specific to the police that would warrant special provision being made for police officers or police staff beyond the existing provisions in guidance on the Serious Organised Crime and Policing Act 2005 (SOCPA). Some suggested that reports against senior police officers, in cases in which an individual officer may be acting on the orders of the senior officer, may warrant a guarantee of immunity, particularly if the public was at risk, or there was a miscarriage of justice or an abuse of policing powers.

4.45 Others considered that the existing provision, although used very rarely, was sufficient. Others disagreed with the principle and felt that the role police officers were expected to play should mean that they could not be offered immunity from prosecution under any circumstances.

The Government's Response

4.46 It is important, given the power that the police hold, that whistleblowers who may have information about police misconduct or malpractice should be protected from repercussions if they come forward.

4.47 The Government has already committed to introduce measures that will go some way towards protecting the identity of whistleblowers, both in this consultation response and elsewhere. The requirement to consult whistleblowers before taking a decision that may result in their identity being revealed will ensure that whistleblowers can have confidence in the ability of the IPCC to protect them appropriately. Equally, the national guidance on police whistleblowing to be published by the College of Policing will set out best practice for police forces regarding how they should protect the identity of whistleblowers.

4.48 However, the Government intends to go further. HMIC's recent *Police Integrity and Corruption*¹² report found that police officers lacked trust in confidential reporting systems used by police forces. HMIC expressed concerns that corruption might be going unreported as a result.

4.49 The Government will therefore consider extending the duty to consult a whistleblower over any action that might reveal their identity to cases where whistleblowers make their report to the police force. Evidence from forces in response to this consultation suggests the majority of police officers choose to report their concerns overtly to their force. However, in those cases where officers need to use a confidential reporting mechanism, a statutory requirement for forces to consult the whistleblower may increase confidence. The Government will work with stakeholders to consider what exceptions might be appropriate, for example to allow the duty to be waived where individuals are found to have provided deliberately false information or to be involved in wrongdoing themselves.

4.50 Further consideration will be given to how any duty to consult could be extended if proceedings reach a misconduct hearing or criminal court. However, anecdotal evidence suggests that once sufficient evidence has been gathered to bring a case to formal proceedings, whistleblowers are more likely to agree to reveal their identity.

4.51 The Government has reflected carefully on the responses it received during the consultation to the proposal to offer police whistleblowers immunity from prosecution. On the basis of the responses it has received, the Government does not believe that there is sufficient evidence at this time to justify the need for special consideration of immunity from prosecution for police whistleblowers.

4.52 The Government agrees that the existing provisions in guidance on SOCPA are sufficient at the current time.

¹² HMIC's report can be found here:

<https://www.justiceinspectors.gov.uk/hmic/our-work/police-integrity-and-corruption/>

Chapter Five:

The Role and Powers of the IPCC

5.1 Chapter five of the consultation invited views on proposals to reform the IPCC. Those proposals included changes to clarify the IPCC's functions, strengthen its powers and reform its structure.

5.2 The IPCC is currently undertaking a significant programme of work to expand its capacity and capability so that it can investigate all serious and sensitive matters involving the police. The proposals in the consultation were designed to support this work and to strengthen the IPCC's ability to secure and maintain public confidence in the police complaints system.

5.3 The responses to the consultation confirmed the need for an independent organisation at the heart of the complaints system that can provide oversight, scrutinise police complaints handling and investigation and, where necessary, take on investigations to ensure the highest levels of independence and transparency. The majority of respondents, including the IPCC, also recognised the need for change – not simply to support the IPCC's development into a larger, more investigation-focussed body, but also to address other issues of concern, including gaps in the IPCC's powers and allocation of resources.

5.4 In parallel to this consultation, the Government carried out a triennial review of the IPCC focussing on its governance and operational efficiency. The findings of the triennial review, published on 12 March 2015, have also informed this response.

Clarifying the functions of the IPCC

5.5 The three main functions of the IPCC are its oversight of the complaints system (primarily complaints handling and investigation by forces), its position as an appellate body (considering appeals in relation to complaints) and its role as an investigative body (for serious and sensitive cases).

5.6 With regards to oversight of the complaints system, the IPCC's role will necessarily change to reflect changes to the overall structure of the police complaints system, set out in Chapter 2 of this document. In a reformed system, PCCs will have the option to take on responsibility for referring cases to the IPCC, to act as a single point of contact for complaints and take a greater role in resolution. In such cases, it is clearly appropriate for the IPCC to examine the decisions made by PCCs and to publish performance data. The Government agrees with the IPCC that, as a minimum, there needs to be a clear framework for information-sharing between PCCs and the IPCC.

5.7 With regards to the IPCC's role as an appellate body, the Government is not proposing to widen the IPCC's role. The Government proposes giving PCCs a greater role in considering appeals, but expects the overall proportion of complaints in the system generating appeals to fall as a result of the reforms set out elsewhere in this response. The Government has sought views on giving the IPCC greater powers to recommend remedial action following consideration of appeals, similar to the powers of an ombudsman. This discussion is at paragraph 5.28.

5.8 The IPCC's function as an investigative body is expanding, giving the IPCC the capacity to take on many more independent investigations than it currently does. In light of this, the consultation sought views on what complaints (and other serious matters involving the police)

should be referred to the IPCC to consider, and on the types of investigation that the IPCC can undertake.

5.9 Forces and PCCs are required to refer matters to the IPCC that fall within the mandatory referral criteria. The Government believes it is of the utmost importance that the IPCC is afforded the opportunity to consider a range of complaints or matters that could require independent investigation, even if this means that a proportion of cases referred are sent back to forces to investigate. To ensure this system works as smoothly as possible, the mandatory referral criteria need to be set at the right level and be clear. The Government invited responses to the following question and a summary of the responses is set out below.

36. ARE FURTHER CHANGES NEEDED TO STRENGTHEN OR CLARIFY THE MANDATORY REFERRAL CRITERIA?

Consultation Feedback

5.10 The majority of respondents who gave a view on this question thought the current criteria did not need to be changed. Importantly, the IPCC believe that the criteria are sufficient, provided they continue to be rigorously applied.

5.11 Of those who did feel that change was needed, the majority indicated that the current criteria could be clarified, rather than strengthened. Very few respondents gave specific clarifications, but the general implication was that the IPCC needs to continue to work with forces and PCCs to make absolutely clear what types of cases it expects to see referred.

5.12 With regards to strengthening the criteria, a small number of respondents suggested additional criteria, and there was support for strengthening the criteria to cover a wider range of allegations of corruption against senior officers.

The Government's response

5.13 The consultation responses broadly indicated that the current criteria are sufficient and the Government is content that no major change is needed. However, while the Government is keen to avoid regular changes that could make it more difficult for forces to maintain their understanding of the criteria, where there is a clear case for change the criteria should be amended. Following the introduction of a definition of police corruption in the Criminal Justice and Courts Act 2015, the Government will seek to amend the criteria relating to corruption as soon as practicable.

IPCC investigations with police support

5.14 Currently, when a case is referred to the IPCC, in addition to deciding to investigate the case itself, the IPCC can also decide to allow a force to investigate the case, but with a degree of IPCC involvement – either providing direction and control (a managed investigation) or within prescribed terms of reference (a supervised investigation). The Government believes that this gives rise to confusion, particularly for the complainant or potential victims of police misconduct, around the degree of independence. Given the transfer of resources to the IPCC to undertake more independent investigations, the Government sought views on narrowing the options available to the IPCC to create a clearer distinction between IPCC and police investigations. The Government invited responses to the following questions and a summary of the responses is set out below.

37. WHAT ARE THE PRACTICAL IMPLICATIONS OF REMOVING THE OPTION TO CONDUCT MANAGED AND SUPERVISED INVESTIGATIONS?

38. IN WHAT CIRCUMSTANCES SHOULD THE IPCC BE ABLE TO SEEK POLICE SUPPORT TO ASSIST THEM IN THEIR INVESTIGATION?

Consultation Feedback

5.15 The questions posed in the consultation resulted in a diverse range of views on both the principle of ending managed and supervised investigations and the practicalities of doing so.

5.16 A majority of respondents agreed with the principle that police involvement should be kept to an absolute minimum in IPCC investigations – both from the principle of ensuring greater clarity about the independent nature of such investigations, but also from the practical impact such involvement has on police resources. A minority thought that there should be no police involvement and that all investigative work in such cases should be undertaken by the IPCC. Most respondents were of the view that it would be impossible, and for some undesirable, for the IPCC to conduct investigations without some input from the police. A significant minority, including the IPCC and the National Policing Lead for Complaints and Misconduct, felt that there was no longer a case for supervised investigations, but that managed investigations were necessary in some cases. Of those respondents who provided a view on the practical impact of ending managed and supervised investigations, the majority thought that the main implication would be one of resourcing for the IPCC.

5.17 Of the respondents who believed that some police input was necessary, there were a range of views as to what this should entail – a sizeable minority thought that there should be no constraints on the type of police involvement while others thought that the IPCC should only be able to call on police assistance in specific circumstances, such as for covert surveillance or accessing records. A number of respondents felt that the IPCC should not use police resource as a substitute for its own.

The Government's response

5.18 The responses to the consultation largely support the Government's basic position – which is that, where possible, police involvement in IPCC investigations should be kept to an absolute minimum. The Government will, therefore, seek to legislate to end the option of undertaking managed and supervised investigations.

5.19 The Government recognises that there will be some instances where the IPCC cannot conduct a thorough investigation without some police support. Nonetheless, the Government believes that, where the IPCC deems a case serious or sensitive enough for it to have a role in the subsequent investigation, the starting point should be that the IPCC should undertake as much of that investigation as possible – not just providing management or supervision. In terms of the type of support the IPCC will be able to require from forces, the Government will continue to work with the IPCC, policing bodies and forces to develop a legislative framework that provides clarity for the public on the extent to which police assistance can be sought.

5.20 Following the recommendation from the Chapman Review, the Government also intends to seek to legislate to ensure that all investigations into disciplinary cases involving Chief Officers are undertaken by the IPCC. The IPCC already investigates the majority of such cases, but in the future all such investigations will be independent of the police.

Strengthening the powers of the IPCC

a) Giving the IPCC a power of initiative.

5.21 To be able to secure and maintain public confidence in the police complaints system, the IPCC needs robust powers that enable it to take swift and proportionate action to take up and respond to complaints or conduct matters. The consultation sought views on a number of specific, additional powers that the Government proposes to confer on the IPCC.

5.22 The IPCC can direct a force to refer a matter to it. However, this process can take time and, particularly where a matter has gained public profile, this delay in the IPCC starting an investigation can diminish confidence in the IPCC and the system as a whole. More fundamentally, the IPCC is reliant – in its own words – on “*the organisations we oversee to enable us to look into matters that are of concern*”. The Government sought views on giving the IPCC powers of initiative or ‘own motion’ powers to launch an investigation where no referral is made. The Government invited responses to the following question and a summary of the responses is set out below.

39. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO GIVE THE IPCC A POWER OF INITIATIVE?

Consultation Feedback

5.23 A clear majority of respondents were in favour, with over two-thirds of respondents, who expressed a view, either agreeing or strongly agreeing. Where respondents provided further detail on their position, a number stated that the process needs to be transparent – for the force and parties affected by the matter. The IPCC believe that this power should be limited to issues of police conduct as opposed to wider perceived issues with a force.

The Government’s response

5.24 The consultation responses demonstrate a considerable degree of support for this proposal. The Government will undertake further work with stakeholders on the scope of this power, including how it relates to protections for whistleblowers and super-complaints, and will seek to legislate at the first available opportunity.

b) Clarifying the IPCC’s ability to determine complaints effectively.

5.25 For complainants, the expectation at the end of the complaints process is that they will receive a clear decision or determination about whether their complaint was justified or not. Where a complaint leads ultimately to a disciplinary hearing, that hearing will provide a clear outcome – that an officer is found guilty of misconduct or not. However, the IPCC is concerned that a recent court judgment has indicated that there is no legal basis for upholding or not upholding a complaint, including where the complaint does not allege misconduct (and there are no additional proceedings that could be prejudiced).¹³ Therefore, in many cases the complainant cannot be provided with a clear outcome. The Government invited responses to the following question and a summary of the responses is set out below.

40. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO CLARIFY THE IPCC’S ABILITY TO DETERMINE COMPLAINTS EFFECTIVELY?

¹³ Chief Constable of West Yorkshire v Independent Police Complaints Commission [2014] EWCA Civ 1367 – Court of Appeal

Consultation Feedback

5.26 A clear majority of respondents were in favour, with over two-thirds of respondents who expressed a view either agreeing or strongly agreeing. Very few respondents provided further detail on their views, but the most common point raised was that the IPCC should not be able to uphold complaints relating to conduct (and so potentially prejudging the outcome of a future hearing).

The Government's response

5.27 The consultation responses show that there is considerable support for ensuring that the IPCC, where possible, can uphold or not uphold a complaint. The Government will seek to amend the relevant legislation when legislating for wider reform of the complaints system. Allowing the IPCC, police and PCCs the ability to uphold complaints following investigation or appeal will help deliver the wider objective of a more complainant-focussed system.

c) Strengthening the IPCC's power of remedy.

5.28 A successful complaints system relies not just on complainants receiving a clear outcome, but being assured that, on their complaint being upheld, some action will be taken. In the police complaints system, in many cases, where failings are identified, positive action will be taken to address issues that have been identified by a complainant or during the course of an investigation. Part of the IPCC's role is identifying what action should be taken following an investigation or an appeal. However, the IPCC has limited powers in this respect, confined to recommending (or directing in some cases) disciplinary proceedings or improvements to relevant force practice. The Government invited responses to the following question and a summary of the responses is set out below.

41. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO STRENGTHEN THE IPCC'S POWERS OF REMEDY?

Consultation Feedback

5.29 This question prompted strong views from respondents. Of those expressing a view, there was a fairly even split between respondents who agreed and those who disagreed. Some respondents agreed that the IPCC should have stronger powers of remedy, but not if this included recommending financial compensation. This question attracted further comments from many respondents. The IPCC suggested a number of possible remedial actions it could recommend that forces carry out:

- an apology or explanation;
- the payment of modest financial remedy (in line with HM Treasury Guidelines on managing public money);
- that a complaint be referred to formal mediation; and
- that evidence of learning/service improvement be shared with a complainant.

A number of respondents believed that these powers should not apply where the IPCC conducted the investigation – as this would make it 'judge, jury and executioner'. Some supported further powers on the proviso that the IPCC would only be making a recommendation. A sizeable minority had concerns with the idea of allowing a recommendation of financial compensation as this could motivate people to complain – and that civil courts already provided a route for redress.

The Government's response

5.30 A key part of reforming the police complaints system is to give complainants clearer outcomes, to help improve public confidence, and also to improve the system for all parties by minimising repeat complaints. The Government intends to develop a specific proposition for providing the IPCC with powers to recommend a wider range of actions (it would be for the force to consider whether to take forward). These powers should apply in cases where the IPCC is considering an appeal. The Government will consider whether the powers should also apply where the IPCC undertakes the investigation. The Government notes the concerns of respondents about the IPCC recommending financial compensation, and is minded to consider powers constrained to non-financial remedies.

d) Giving the IPCC a power to present cases at disciplinary hearings.

5.31 At present, if a police force disagrees with the IPCC's opinion that there is a misconduct case to answer, the IPCC can direct the police force to take the case to a hearing. However, in such cases, it is the police force that presents the case at the hearing. The Government proposed to allow the IPCC to present such cases – in line with Major General Chapman's recommendation. The Government invited responses to the following question and a summary of the responses is set out below.

42. TO WHAT EXTENT DO YOU AGREE WITH THE PROPOSAL TO GIVE THE IPCC THE POWER TO PRESENT CASES AT DISCIPLINARY HEARINGS?

Consultation Feedback

5.32 A clear majority of respondents expressing a view agreed with this proposal, with almost three-quarters agreeing or strongly agreeing. There was clear support for this proposal from forces, PCCs and stakeholders, including the IPCC.

The Government's response

5.33 The Government expects that there will only be a very small number of cases where the IPCC will end up presenting. Nonetheless, it is important to avoid situations where forces present cases about which they hold serious reservations. The Government will seek to legislate for this as soon as practicable.

Reforming the structure of the IPCC

5.34 The expansion of the IPCC's remit to allow it to undertake independent investigations into all serious and sensitive matters involving the police requires major organisational change. The IPCC has already grown significantly in the past 12 months – taking on new regional offices and recruiting over 100 new investigators – and is expected to have doubled the number of independent investigations compared to the last financial year.

5.35 The organisational structure of the IPCC was not designed to support the level of growth now expected of it. The IPCC has already taken a number of steps to improve its governance and to change the way it works to take on more investigations. However, the Government is concerned that the current statutory framework does not allow the structural changes that are needed for the IPCC to operate more effectively as a larger organisation.

5.36 In parallel with this consultation, as part of its public sector bodies reform agenda, the Government has undertaken a triennial review of the IPCC, which included an examination of the IPCC's governance arrangements.

5.37 The triennial review, published on 12 March 2015, noted that, in a number of ways, the IPCC's current governance arrangements do not always comply with expectations for good public sector governance. The main concern was the fact that Commissioners are responsible for governance but are also operational decision-makers. There is a risk that lines of accountability are not as clear as they should be and any difficulties that arise could be exacerbated by expansion.

5.38 In addition to considering the recommendations of the triennial review, the Government sought views on structural change as part of this consultation. The Government invited responses to the following question and a summary of the responses is set out below.

43. WHAT CHANGES TO THE ORGANISATIONAL STRUCTURE OF THE IPCC WOULD SUPPORT THE IPCC TO INCREASE ITS CASELOAD AND PUBLIC CONFIDENCE IN THE COMPLAINTS SYSTEM?

Consultation Feedback

5.39 There were a wide variety of responses to this consultation question. The most common view was that the IPCC should be able to determine its own structure and governance arrangements, subject to principles agreed by Parliament. Other respondents thought that IPCC's structure should be regionalised or that there should be clearer links between Commissioners and specific forces and PCCs. Others commented on the resourcing of the IPCC, with a minority calling for more resources to be diverted to the IPCC. Some respondents commented on the need for the IPCC to develop greater expertise, perhaps through closer working with police. The IPCC set out the steps it has already taken to make changes within the current statutory framework, but noted that it is *"aware that, within that framework, the lines of governance, accountability and decision-making are not as clear as we would like or as are needed within a considerably larger organisation"*.

The Government's response

5.40 The Government welcomes the findings of the triennial review and the views put forward by respondents to the consultation on this issue. It also recognises the steps that the IPCC has already taken to allow it to adapt to its expansion and welcomes the early thinking the IPCC has done around future structural reform.

5.41 As concluded by the triennial review and many respondents, including the IPCC, there is a clear need to revisit the IPCC's governance and structure to ensure that an expanded IPCC can function as effectively and efficiently as possible. The Government believes, in line with many respondents, that the IPCC is best placed to lead on further work to develop a future model, in keeping with its duty to consider modification of current arrangements (see paragraph 5.37), taking into account the views of its stakeholders. These changes should be considered alongside the work the IPCC is undertaking on its future operating model and must not jeopardise the delivery of its change programme.

5.42 In undertaking this work, the Government is clear that the IPCC should take account of the following principles:

- Good governance – the governance of the IPCC should adhere to the Cabinet Office’s guidelines for good corporate governance. This will mean changes to the composition of the IPCC’s board.
- Visible independence – the IPCC should consider how a future model can ensure that, as now, key decisions are made or can be influenced by individuals who have never worked for the police.
- Clear lines of accountability – a future model needs to ensure clear accountability for decision-making. The IPCC will need to consider what structure can best deliver effective and consistent decision-making.
- Scalability – the IPCC should make sure that its organisational structure is responsive to increasing the number of investigations it takes on, allowing it to take on all serious and sensitive cases.
- Relevance to wider system – the IPCC needs to ensure that it is organised in a way that allows it to secure public confidence in a reformed police complaints system. The IPCC should consider how it can best work with, and influence, forces and PCCs engaged in the majority of complaint handling and resolution. The IPCC will also need to consider whether changes are needed to make best use of the new powers proposed in this consultation; for example, the power of initiative.

5.43 It is important that any changes are made in a timely manner to support the expansion of the IPCC and to ensure the IPCC is best placed to perform its vital functions in a reformed complaints system. The Government would like the IPCC to build on its work to date and to present proposals for structural reform by the end of June 2015.

Annex A

Respondents to the consultation included:

- Association of Policing and Crime Chief Executives
- Association of Police and Crime Commissioners
- Baroness Newlove of Warrington, Victims' Commissioner for England and Wales
- Bedfordshire Police
- British Transport Police
- British Transport Police Authority
- Cambridgeshire Constabulary
- Cheshire Constabulary
- Chief Police Office Staff Association
- College of Policing
- Committee on Standards in Public Life
- Crown Prosecution Service
- Cumbria Police
- Durham Constabulary
- Dyfed-Powys Police
- Gloucestershire Constabulary
- Greater Manchester Police
- Gwent Police
- Hampshire Constabulary
- Her Majesty's Inspectorate of Constabulary
- Hertfordshire Constabulary
- Humberside Police
- Independent Police Complaints Commission
- Kent Police
- Leicestershire Police
- Local Government Ombudsman
- Mayor's Office for Policing and Crime
- Merseyside Police
- Metropolitan Police
- Ministry of Defence Police Committee
- National Policing Professional Complaints and Misconduct Portfolio
- News Media Association
- Norfolk Constabulary
- North Wales Police
- Nottinghamshire Police
- Police Action Lawyers Group
- Police and Crime Commissioner for Avon and Somerset
- Police and Crime Commissioner for Cambridgeshire
- Police and Crime Commissioner for Cheshire

- Police and Crime Commissioner for Cleveland
- Police and Crime Commissioner for Cumbria
- Police and Crime Commissioner for Derbyshire
- Police and Crime Commissioner for Devon and Cornwall
- Police and Crime Commissioner for Dorset
- Police and Crime Commissioner for Essex
- Police and Crime Commissioner for Gwent
- Police and Crime Commissioner for Hertfordshire
- Police and Crime Commissioner for Humberside
- Police and Crime Commissioner for Kent
- Police and Crime Commissioner for Leicestershire
- Police and Crime Commissioner for Lincolnshire
- Police and Crime Commissioner for North Wales
- Police and Crime Commissioner for North Yorkshire
- Police and Crime Commissioner for Northamptonshire
- Police and Crime Commissioner for Northumbria
- Police and Crime Commissioner for Nottinghamshire
- Police and Crime Commissioner for South Wales
- Police and Crime Commissioner for Surrey
- Police and Crime Commissioner for Sussex
- Police and Crime Commissioner for Thames Valley
- Police and Crime Commissioner for Warwickshire
- Police and Crime Commissioner for West Mercia
- Police and Crime Commissioner for West Midlands
- Police and Crime Commissioner for West Yorkshire
- Police Federation of England and Wales
- The Police Foundation
- Police Superintendents Association of England and Wales
- South Wales Police
- South Yorkshire Police
- Suffolk Constabulary
- Sussex Police
- Thames Valley Police
- Warwickshire Police
- West Mercia Police
- West Yorkshire Police
- West Yorkshire Police and Crime Panel
- Which?
- Wiltshire Police
- Wiltshire Police and Crime Panel
- Victim Support

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