



**Lancashire
Constabulary**
police and communities together

JOINT MANAGEMENT BOARD

ITEM 2	DATE: 5 MAY 2015
IMPROVING POLICE INTEGRITY: REFORMING THE POLICE COMPLAINTS AND DISCIPLINARY SYSTEMS	
REPORT BY: SUPT J GOMMERY	

Executive Summary

The purpose of this report is to provide an update at the Joint Management Board on the latest announcements from the Home Secretary in response to the above consultation.

Recommendation

The Police and Crime Commissioner and Chief Constable are asked to:-

1. consider the three options when determining how they would like to structure their complaints system in the future;
2. Note the Government's intention to introduce a series of reforms to the:-
 - a. Police complaints system;
 - b. police disciplinary system;
 - c. whistle blowing procedure; and
 - d. IPCC.

Signature	Signature
Police and Crime Commissioner	Chief Constable
Date	Date

PART I

1. Background and Advice

Policing UK is facing unprecedented challenges and scrutiny of our professional integrity.

The expectation of the public is that police officers and staff are honest, fair and impartial. Sadly, many high profile police failures have called into question police practices and the integrity of some senior police leaders. In short, this is a risk to the public's trust and confidence. It is against this backdrop that the Government has spent the last six months reviewing the complaints system and the Police Conduct Regulations.

The Home Secretary published the Government's response to the public consultation on Police Integrity in March 2015. Overall, the response was in support of change and the Home Secretary has made it clear that she will take forward the majority of the proposals outlined in the consultation and will seek to legislate during the next Parliament.

These changes can be summarised under the following main areas:-

1. Enable Police and Crime Commissioners to take responsibility for public complaints.
2. Make the complaints system simpler and easier to understand.
3. Improve the police disciplinary system.
4. Strengthen protections for police whistleblowers.
5. Give the IPCC new powers.

1. Responsibility for Public Complaints

In this section of the Government's response it proposes that the Police and Crime Commissioner (PCC) may take responsibility for:-

- a) **Receiving and recording a complaint.** The definition will also be expanded and all complaints will be recorded.
- 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.** This will be in effect the function of Appropriate Authority.
- c) **Acting as a single point of contact and communication for the complainant,** including:- explaining the process to the complainant, acting as the main link between the complainant and the complaints system and also if the 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

- d) **Resolving complaints that are appropriate for local resolution, driving proportionate remedies such as an apology or independent mediation.** As part of this area the PCC will be able to direct the resolution

To ensure a consistent approach across the PCC's, it is proposed that the legislation will enable PCCs to implement one of three options when determining how they will structure their complaints system.

The models will depend upon how much of the functions A – D above, the PCC wishes to take responsibility for or wishes to remain within the police remit. The models are displayed pictorially on appendix one.

For example, if the PCC chooses to implement *Model One*, then the complaints functions described above in (a)-(d) will remain solely within the police force; status quo will remain.

However, other options will be available.

In *Model Two* a PCC can take 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 (functions A and B). The Police Force would then continue to act in the process for functions C and D.

Or finally, *Model Three*, a PCC can choose to own the full functions and receive/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 with local resolutions also being carried out by them or where necessary, function D to be carried out by the police force.

In addition, legislation will provide for the PCC to recommend to the force how that complaint should be resolved. Such a recommendation will not be binding on police forces, however, it is expected that a satisfactory outcome with the PCC would be achieved.

Legislation will also transfer responsibility for hearing complaint appeals from the Chief Constable to the PCCs, in cases dealt with through local resolution, where that local resolution is handled by the police. Unlike the flexibility in deciding the delivery of the functions (a)-(d) above, here the 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.

The HMIC will have additional remit to enable it to continue to inspect the efficiency and effectiveness of the way complaints are handled and resolved should the structural changes implemented locally by PCCs

2. The Complaints System

It is proposed that the Government will introduce a series of reforms to the complaints system that will improve the experience of complainants. This will include expanding the

definition of a complaint to cover policing practice and service failure, as well as the conduct of an individual police officer.

In addition, all complaints will be recorded and the term 'discontinuance' and 'disapplication' will be replaced by the description 'no further action', to make the system easier to understand for complainants and the general public.

There will also be a new "super-complaint" status. Super-complaints 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. Organisations will be able to make complaints, either on behalf of a single complainant or on behalf of a group of complainants affected by the same issue. There is thought that this will be 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.

3. Police Disciplinary System

Major-General Chapman commenced his review of the police disciplinary system ('the Chapman Review') in late summer. In February 2015, public consultation closed on his proposed 39 Recommendations to change the current Police Conduct Regulations. In essence his report covered the following areas:-

- Performance Improvement
- Time limits for disciplinary proceedings
- Holding police disciplinary hearings regionally
- Changing the way in which mitigations are handled

The Chapman Review concluded that the police disciplinary system is too lengthy, 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.

In response, the Government intends in the next Parliament to conduct a benchmarking exercise and from this guidelines will be produced which will include mitigating and aggravating factors for consideration. The benchmarking will also cover the act of police officers failing to co-operate as witnesses in investigations undertaken by the IPCC, which the Government will include in future police conduct regulations.

The Chapman Review also proposed for the Policing College to oversee any new police disciplinary system, and the Government intends to work with the College to determine what this could include in the future.

4. Police Whistleblowers

Here the Government proposes that officers who make a protected disclosure within the meaning of the Employment Rights Act (ERA) 1996 will be protected. A disclosure is only protected under the 1996 Act if, in the reasonable belief of the whistleblower, the information tends to show that misconduct or malpractice has occurred.

The ERA 1996, currently only offers a remedy to police whistleblowers when a detriment has been suffered. It is proposed that the principles of the ERA are incorporated earlier in the process, so that whistleblowers are protected, rather than being offered a remedy after the event.

Therefore the College of Policing is developing, with its work on Ethics, national guidance for forces on whistleblowing. The guidance is also expected to address issues including support and welfare, access to occupational health and assistance in relocating to another role where necessary.

Finally, the Government does not believe that there is sufficient evidence to justify any change to the existing provision for immunity from prosecution under the Serious Organised Crime and Policing Act 2005 (SOCPA).

Any mitigation offered by coming forward would still need to be weighed against the individual's level of involvement, and any damage caused by their failure to disclose at the time. There is a clear expectation that officers guilty of serious misconduct should be dealt with even if they do come forward with information.

5. IPCC

It is proposed that where possible, police involvement in IPCC investigations will end and the options of undertaking managed and supervised investigations will be legislated out. Falling from the Chapman Review, legislation will ensure that all investigations into disciplinary cases involving Chief Officers will be undertaken by the IPCC.

The review seeks to bring complainants clearer outcomes, to help improve public confidence, and also to improve the system for all parties by minimising repeat complaints. The Government therefore intends to develop a specific proposition for providing the IPCC with powers to recommend a wider range of actions (note, it would still be for the force to consider whether to take that recommendation forward).

Prior to this consultation, the IPCC was undertaking a significant programme of work to expand its capacity and capability so that it can investigate more serious and sensitive matters involving the police. It has taken on new regional offices, recruited over 100 new investigators and is expected to have doubled the number of independent investigations compared to the last financial year. Despite this, the IPCC will still require support, and a new legislative framework will be created that provides clarity on the extent to which police assistance can be sought.

It is clear that the proposals now strengthen the IPCC's position and the Government has asked the IPCC to continue to develop on its structural and governance work so as to present new proposals for further reforms and expansions by the end of this June.

Conclusion

The response document lists many more proposals for reforming both the complaints and disciplinary systems; but there is very little detail throughout the document around how the changes will be worked through.

The first milestone is June for the IPCC recommendations. Further legislation changes will probably be sought quickly after the election should this Government return. Their intention is clear that reforms will continue to be made to bring more accountability to our local communities.

2. Links to the Police and Crime Plan

The proposed changes to the handling of complaints are aimed at providing greater transparency and contribute to ensuring public confidence in the police, and thus will contribute to the effective delivery of the Police & Crime Plan.

3. Consultation

4. Implications

a. Legal

b. Financial

There will be no overall increase required to the revenue budget as a result of the proposed models described in this report.

Depending upon which model is chosen there will potentially be a movement of budget from the delegated constabulary budget in to the Commissioner's budget to follow any functions that transfer.

c. Equality considerations

5. Background Papers

6. Public access to information

Information in this form is subject to the Freedom of Information Act 2000 and other legislation.

Part 1 of this form will be made available on the PCC website within 3 working days of approval. Any facts/advice/recommendations that should not be made available on request should not be included in Part 1 but instead on the separate Part 2 form.

Officer declaration	Date
LEGAL IMPLICATIONS – As above	
FINANCIAL IMPLICATIONS – As above	

EQUALITIES IMPLICATIONS – As above	
CONSULTATION – As above	
<p>Director to the Office of the Police and Crime Commissioner (Monitoring Officer)</p> <p>I have been informed about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner for Lancashire.</p> <p>Signature.....Date.....</p>	

