

NOT PROTECTIVELY MARKED



**THE INDEPENDENT POLICE COMPLAINTS COMMISSION  
RESPONSE TO:**

***POLICING IN THE 21<sup>ST</sup> CENTURY: RE-CONNECTING THE  
POLICE AND THE PEOPLE***

**20 SEPTEMBER 2010**

## **The Independent Police Complaints Commission**

The Independent Police Complaints Commission (IPCC) was established by the Police Reform Act (2002) and began work on 1 April 2004. The Police Reform Act sets out our statutory powers and responsibilities, and those of Chief Constables and police authorities, for the complaints system.

In April 2006, our remit was extended to include particular complaints made against the staff of the Serious Organised Crime Agency (SOCA) and Her Majesty's Revenue and Customs (HMRC). In February 2008, our jurisdiction was extended further to include serious complaints relating to officers and officials of the United Kingdom Border Agency (UKBA). We are independent. We make decisions independently of the police, government and interest groups, and by law none of our Commissioners can have worked for the police service in any capacity.

### **IPCC response to the consultation paper**

#### **Overview**

We have drawn on our expertise and have confined our answers to those questions which relate to the IPCC and/or the wider police complaints system.

Many of the proposals put forward in the Government's consultation paper will require changes to the Police Reform Act 2002. The introduction of the Police Reform and Social Responsibility Bill provides an opportunity to create a system which is less bureaucratic, more locally accountable and makes greater use of police professional discretion. The legislative changes proposed by the IPCC in this response would enable Police and Crime Commissioners to respond more effectively to local concerns.

We are concerned that without such improvements, the additional responsibilities the Government proposes to give the IPCC will add to the cost of the complaints system and to the already very high demand on the IPCC.

#### **Question 1**

**Will the proposed checks and balances set out in this Chapter provide effective but un-bureaucratic safeguards for the work of Commissioners, and are there further safeguards that should be considered?**

#### **IPCC Response**

We welcome the proposal that the IPCC should play a key role in ensuring appropriate checks and balances are in place in respect of Police and Crime Commissioners, and that the IPCC should be responsible for investigating allegations of misconduct that are referred to it by Police and Crime Panels. We are conscious this new responsibility will add to the already very high demand on the IPCC. We believe that amending certain aspects of the existing complaints legislation would not only help the IPCC meet its new duties in this regard, but

would streamline the wider complaints system, reduce bureaucracy, make the system more locally accountable and enable Police and Crime Commissioners to respond more effectively to local concerns. Details of our proposals for changes to the existing legislation are set out on pages 10, 11 and 12.

In addition we believe:

It will be important to make clear, both in legislation and to the public, who is responsible for dealing with different types of complaints and allegations against Police and Crime Commissioners.

There should be clear criteria setting out types of allegations that Police and Crime Panels must refer to the IPCC, as well as provision for panels to refer voluntarily matters which fall outside that criteria where they think it would be appropriate. This would:

- Align the procedures for referral of complaints against Police and Crime Commissioners with the procedures for referral of complaints against police; thereby helping to keep the complaints system as simple and easy for the public to understand as possible.
- Help to ensure that all Police and Crime Commissioners are subject to the same degree of scrutiny and that decisions about which types of allegations are referred to the IPCC are not made on a subjective basis by each Police and Crime Panel which could potentially weaken systems for effective scrutiny and undermine the public's confidence that appropriate checks and balances are in place.

There will need to be a simple system for keeping a record of all complaints / allegations made against a Police and Crime Commissioner. Without this it will not be possible to check that appropriate action is being taken when complaints and concerns are raised. Again, this could weaken systems for effective scrutiny and undermine the public's confidence that appropriate checks and balances are in place.

Consideration will need to be given to how the independence of Police and Crime Commissioners can be maintained and be seen to be maintained. This consideration may be particularly relevant if ex-police officers and staff are elected as Police and Crime Commissioners.

## **Question 2**

**What could be done to ensure that candidates for Commissioner come from a wide range of backgrounds, including from party political and independent standpoints?**

### **IPCC Response**

No response

### Question 3

**How should Commissioners best work with the wider criminal justice and community safety partners who deliver the broad range of services that keep communities safe?**

#### IPCC Response

We believe Police and Crime Commissioners could play an important role in driving forward improvements within the police service, and in encouraging stronger interagency working, using learning gained from the investigation of complaints and serious incidents involving the police.

Complaints and investigations into serious incidents can provide extremely useful information about which areas of policing are not working well, what improvements are needed, and where greater co-operation between the police and other services is required.

As a result of its investigations and handling of complaints, the IPCC often makes recommendations to the police service with a view to:

- improving standards and instilling best practice in policing
- helping the police service to learn from incidents where something has gone wrong (to prevent similar incidents occurring again)
- encouraging better working between the police service and other agencies

The IPCC makes these recommendations in its own reports on individual cases, and also collates and disseminates learning from across the complaints system through a multi-agency 'Learning the Lessons' committee. We believe Police and Crime Commissioners should take the lead in monitoring the implementation of any such recommendations that are likely to improve standards of policing and public safety.

### Question 4

**How might Commissioners best engage with their communities – individuals, businesses and voluntary organisations – at the neighbourhood level?**

#### IPCC Response

Police and Crime Commissioners will need to have an understanding of local concerns to be able to fully and effectively engage with their communities and respond to their needs. One of the ways in which they will be able to build an understanding of this is by familiarising themselves with the types of issues that are being raised in complaints. The IPCC proposal to change the definition of a 'complaint' to remove the current distinction between conduct, maladministration and service failure matters (page 10) will broaden the statutory complaints system so it is focussed on the complainant's concerns rather than on the conduct of an

individual officer. This will provide Police and Crime Commissioners with a more comprehensive indicator of local concerns.

### **Question 5**

**How can the Commissioner and the greater transparency of local information drive improvements in the most deprived and least safe neighbourhoods in their areas?**

#### **IPCC Response**

We believe that Police and Crime Commissioners and police forces should promote access to the complaints system. Evidence indicates that those most likely to have a grievance about police performance tend to be those least likely to register a complaint. This appears to be particularly the case for young people and ethnic minorities who tend to express a low level of confidence in the complaints system. However, complaints are a valuable source of information for driving performance and connecting the police with their local communities. Monitoring data can be used to assess whether or not improvements and learning recommendations are being effectively implemented.

### **Question 6**

**What information would help the public make judgements about their force and Commissioner, including the level of detail and comparability with other areas?**

#### **IPCC Response**

Information about complaints against a police force or Police and Crime Commissioner, and information gained through the investigation of complaints and serious incidents in which they are involved, is likely to help the public form a view on the standard to which they are carrying out their role.

Specific sources of information which the public may find useful include:

- Information about the number and nature of complaints about their local police force, together with information about the number and nature of complaints about other forces (to allow comparison with those most similar to their own)
- Information about the number and nature of complaints against their Police and Crime Commissioner, together with information about the number and nature of complaints against other Police and Crime Commissioners
- Publication of IPCC investigation reports into the conduct of their Police and Crime Commissioner

- Publication of IPCC investigation reports that concern police officers and/or staff from their local force where appropriate or summaries of these
- IPCC information regarding the number and nature of referrals received from their local force
- IPCC information regarding the number and nature of appeals received against the handling of complaints by their local force
- Evidence of how their local force and / or Police and Crime Commissioner have ensured IPCC or other recommendations (for example, in relation to organisational learning or best practice) have been implemented, and information as to why any recommendations have not been implemented

### **Question 7**

**Locally, what are examples of unnecessary bureaucracy within police forces and how can the service get rid of this?**

#### **IPCC Response**

The Police Reform Act 2002 built in safeguards which have over time become unhelpfully bureaucratic. We believe that our legislative change proposals will help to reduce bureaucracy both at a national and local level.

### **Question 8**

**How should forces ensure that information that local people feel is important is made available without creating a burdensome data recording process?**

#### **IPCC Response**

Information about complaints against the police, which is likely to be of interest to members of the public, is already recorded by forces for their own management purposes. The IPCC centrally collates this information and presents it so that forces and the public can monitor and compare forces with each other and with how they have performed in the past. In due course we would want to talk to Police and Crime Commissioners about how complaints data might be even more helpful at a local level.

### **Question 9**

**What information should HMIC use to support a more proportionate approach to their 'public facing performance role', while reducing burdens and avoiding de-facto targets?**

### IPCC Response

We believe the information the IPCC produces can support HMIC by:

- providing an insight into the areas where the public expresses dissatisfaction
- allowing comparison of how complaints are handled by forces most similar to each other
- identifying through our investigations where there are problems in policing

### Question 10

**How can ACPO change the culture of the police service to move away from compliance with detailed guidance to the use of professional judgement within a clear framework based around outcomes?**

### IPCC Response

In our view one way in which ACPO could do this is by helping to embed within the service a culture of learning from the outcome of complaints and investigations.

### Question 11

**How can we share knowledge about policing techniques that cut crime without creating endless guidance?**

### IPCC Response

One example of a way in which knowledge can be shared without creating formal guidance is demonstrated by the work of the multi-agency 'Learning the Lessons' committee.

The committee was established by the IPCC to disseminate and promote learning from the complaints system across the police service and is made up of stakeholders who each have a role to play in enhancing the service the police provide.

The committee produces newsletter-style bulletins which are circulated to police forces and other bodies with constabulary powers several times a year. These bulletins use examples of real cases to highlight lessons that can be learned from the investigation of complaints or other serious incidents involving the police, and where particular issues relating to policing practice have been identified. (They can be viewed at [www.learningthelessons.org.uk](http://www.learningthelessons.org.uk))

The bulletins do not give prescriptive guidance to forces. Rather, they aim to support forces to learn from other forces' experiences and to consider how they

might apply any learning to their own organisation and improve their own policies and practices.

### **Question 12**

**What policing functions should be delivered between forces acting collaboratively?**

#### **IPCC Response**

We recognise there may be benefits to having certain policing functions delivered jointly by two or more forces. Whilst we do not have particular views we wish to put forward at this stage regarding which functions may be most suitable for joint delivery, we would like to highlight that we believe it is important clear governance and lines of accountability are maintained where any arrangements for joint working are put in place.

### **Question 13**

**What are the principal obstacles to collaboration between forces or with other partners and how they can they be addressed?**

#### **IPCC Response**

Our experience of cases, and research we have carried out, has highlighted that communication can be an obstacle to effective collaboration between police forces, and between police forces and other agencies.

For example, our research on the use of Section 136 of the Mental Health Act and on deaths in custody has highlighted problems in communication between the police and medical practitioners which can affect the level and appropriateness of care an individual receives. The lack of effective communication of information, and in particular risk assessment information, about a prisoner on their transfer from police custody to the prison service has also been identified as a problem in a number of cases. In other instances, confusion between forces over which force is responsible for progressing a matter, and a lack of communication and co-ordination between them, has led to significant failings.

In our view good communication between different partners and police forces, at all levels, is key to effective collaborative working. In addition, we believe it is important that the direction and control of individuals engaged in collaborative working is unambiguous and that lines of accountability remain clear.

### **Question 14**

**Are there functions which need greater national co-ordination or which would make sense to organise and run nationally (while still being delivered locally)?**

### IPCC Response

We believe complaint handling should be dealt with at a local level wherever possible. However, it is also important that there is a degree of consistency in the way forces deal with complaints and that certain minimum standards are met in order to both maintain the integrity of the complaints system and public confidence in it. Subject to approval from the Secretary of State, the IPCC produces Statutory Guidance on the handling of complaints to help forces achieve this.

We also believe it is important that learning from complaints and investigations is disseminated nationally so that forces are able to learn from each other's experiences.

As previously mentioned, while information about complaints against the police is recorded by each force for its own management purposes, the IPCC centrally collates and presents this information. This enables forces and the public to monitor and compare forces with each other and with how they have performed in the past.

### Question 15

**How can the police service take advantage of private sector expertise to improve value for money, for example in operational support, or back office functions shared between several forces, or with other public sector providers?**

### IPCC Response

Under the Police Reform Act 2002, the IPCC's remit extends to police staff as well as police officers. While we do not have particular views we wish to put forward at this stage regarding where the police service might want to make use of private sector expertise, we believe it is important that any private contractors carrying out policing tasks receive the same level of training and are subject to the same degree of scrutiny as police staff.

There is currently only limited provision within the Police Reform Act 2002 to bring contracted staff into the police complaints system. Specifically, only 'contracted out' detention and escort staff 'designated' by the force Chief Officer come directly within the PRA. We would suggest the IPCC should have jurisdiction over all private contractors carrying out policing tasks.

Some custody suites already have private contractors delivering services. The IPCC has investigated cases involving these suites and has found it is vital that any contracted staff have the relevant training of all other custody staff. Ultimately, whatever arrangements are put in place in a particular force, we believe safety in custody should always be paramount.

We are also of the view that contracts with private contractors may need to be flexible so that they can be adjusted both to meet the needs of the police service and to reflect national learning.

### **Question 16**

**Alongside its focus on organised crime and border security, what functions might a new National Crime Agency deliver on behalf of police forces, and how should it be held to account?**

### **IPCC Response**

The IPCC currently has jurisdiction over SOCA. We would expect to have similar jurisdiction over the National Crime Agency (NCA) and to be a key part of the accountability structure for it. We would also want to ensure we have remit over staff within the NCA who carry out Proceeds of Crime Act functions.

### **Questions 17-23**

The IPCC has not provided a response to questions 17-23 as the scope of this consultation response has been limited to the proposals which relate to the IPCC and/or the wider police complaints system.

## **IPCC proposals for changes to the Police Reform Act 2002**

As stated on page two of our response, the introduction of the Police Reform and Social Responsibility Bill will provide an opportunity to create a complaints system which is less bureaucratic, more locally accountable and makes greater use of police professional discretion. Our proposals, which broadly relate to three areas, are set out below.

### **Proposals**

#### **1. Complaint definition**

- (1) At present complaints about conduct and complaints about service failures are dealt with under different systems, with an appeal to the IPCC only available in the case of conduct complaints. We would propose that the definition of a 'complaint' is changed to remove the current distinction between conduct, maladministration and service failure matters.

In addition to unifying the complaints system, this would:

- be simpler for the complainant
- focus the complaints system on the complainant's concerns rather than the conduct of an individual officer
- bring the police complaints system into line with that applying to other public services.

- (2) In many cases, especially those relating to service failure, issues of unsatisfactory performance rather than misconduct arise. We propose that the IPCC should have the ability to direct that particular performance procedures are followed.

## **2. Dealing with complaints locally**

- (1) Currently, in cases where the complaint does not have to be referred to the IPCC, forces must either carry out a local investigation into the complaint or deal with it by means of a formal local resolution process. They can, however, only seek to locally resolve a complaint if the complainant agrees to that process. We propose that forces are given discretion as to how to deal with certain complaints locally.

This would:

- make it possible to respond to complaints in a more flexible and proportionate manner
  - give forces greater discretion
  - encourage handling of complaints at the lowest possible level, thereby speeding up the process and enhancing accountability.
- (2) In addition, forces must also currently apply to the IPCC for consent to dispense with or discontinue such complaints where it is considered (for one of a certain number of specified reasons set out in legislation) that it would not be appropriate to continue to deal with that complaint. We propose that forces should be able to decide not to record and then dispense with or discontinue certain complaints or particular matters without needing the consent of the IPCC. The complainant would have a right of appeal against the decision of the force to dispense with or discontinue a complaint.

This would:

- reduce bureaucracy and speed up handling of complaints by eliminating the need for forces to make applications to the IPCC
- simplify the process for both the force and complainant, while providing the safeguard of an appeal right for complainants.

## **3. Appeals**

At present all complainants have a right of appeal to the IPCC. They can appeal against the non-recording of a complaint, the process (but not the outcome) of local resolution of a complaint, and/or the outcome of a local / supervised investigation of a complaint. We would propose that the three current types of appeal right are replaced with one overarching appeal right against the handling of a complaint.

This would:

- simplify the appeals system
- focus resources on issues of most concern to complainants.

The right of appeal to the IPCC could also be restricted to serious complaints, while providing for a right of appeal to the relevant Police and Crime Commissioner in respect of other complaints.

This would:

- strengthen the accountability of the force to the Police and Crime Commissioner
- ensure that IPCC resources are concentrated where they add most value.