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College of Policing

Chief officer misconduct in policing

An exploratory study

Gavin Hales – Institute of Criminal Policy Research, Birkbeck, University of London

Tiggey May – Institute of Criminal Policy Research, Birkbeck, University of London

Jyoti Belur – UCL Jill Dando Institute of Security and Crime Science, University of London

Mike Hough – Institute of Criminal Policy Research, Birkbeck, University of London

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Executive summary

Key findings

This study has examined cases of alleged misconduct involving chief police officers and staff. The aim was to describe the nature of cases that have come to light, examine the perceived pathways that led to misconduct, and suggest ways of mitigating the risks of misconduct. The study is based on interviews with key stakeholders and with investigating officers in chief officer misconduct cases since April 2008. These cases involved only a small minority of chief officers over the time-period in question.

What sorts of cases have come to light since 2008?

- Cases involving chief officer misconduct fell into two broad categories: those associated with professional decision-making, and those related to interpersonal conduct.
- Cases involving professional decision-making included: abuses of due process and other forms of misrepresentation; suppression of information and dishonesty; abuses of force procedures relating to recruitment and procurement; material/financial misconduct; and other forms of professional misjudgement.
- Cases involving interpersonal conduct included: bullying; expressions of racist or sexist prejudice; and sexual misconduct.
- In around a third of cases, no misconduct was found, reflecting levels of chief officer exposure to scrutiny, vexatious or unfounded allegations, and the collective responsibility they carry for their police force.

What are the routes into misconduct?

- The 'ethical climate' of a police force is a key determinant of chief officer misconduct. Ethical climate is shaped by leadership styles, the organisational ethos, training and selection procedures, styles of performance management, and wider social norms.
- Behaviour is shaped by individual vulnerabilities, including absence of ethical or emotional support, lack of challenge, exposure to corrupting influences, and cognitive failures in decision-making.
- In a number of cases those involved in misconduct believed that their role as leaders exempted themselves from organisational rules and regulations; this cognitive failure explains why, in several cases, those involved refused to accept that they had done anything wrong.

How can the risks of chief officer misconduct be mitigated?

- Ethical standards will improve with greater openness of debate on police ethics. Publication of the Code of Ethics (College of Policing 2014a) may help achieve this.
- There are differences between forces, and regulatory and oversight bodies about ethical standards and the thresholds between acceptable conduct, misconduct and gross misconduct, and how they are investigated. A key task is in creating a greater consensus on these issues, which requires open debate.
- Police organisational responses should be commensurate with proportionality and public interest; both of which have implications for the costs involved.
- Chief officers need to recognise the specific risks of cognitive failure that organisational leaders face, and the temptations of exempting themselves from rules and norms.
- It is important to encourage an organisational ethos in which leaders can be challenged, and in which leaders are given the right sort of support when faced with ethical challenges.
- There needs to be more recognition of the impact of selection and training processes, and of performance management systems, on the ethical climate of police organisations.
- It was clear that across chief officer ranks as a whole the appetite is very much for change. Indeed, it was clear that the very change interviewees spoke of had already started to embed itself among many chief officer teams around the country.

Background

The last decade has seen a growing number of high profile investigations into the conduct of chief officers (police officers and police staff holding a position equivalent to Assistant Chief Constable or above). In recent years, chief officers in England and Wales have been reprimanded, suspended, sacked and resigned – but also in a number of cases cleared of all suspicion. This apparent increase has taken place against a background of renewed and vigorous scrutiny of the ethics of policing.

Most misconduct involves police officers and staff from the more junior and more populous ranks. However, police leaders at chief officer level set the tone for their organisations and wider public perceptions, and are understandably held to a higher standard. Research on the topic of misconduct by police leaders is limited. However, there is an extensive body of literature on police misconduct and corruption amongst rank-and-file officers, and on organisational conduct more generally (which tends to focus on leaders).

There is a consensus in these two literatures that misconduct is a product of the 'ethical climate' of an organisation and the vulnerabilities of individuals. The ethical climate is affected by styles of leadership, and by other factors such as the performance management regime (and the ethical values it communicates and fosters), and the long-term impact of selection and training procedures. Whilst misconduct among chief officers shares some things in common with unethical behaviour among frontline officers, in some important ways chief officer misconduct is distinctively different:

- They are highly visible, exposed to multiple systems of accountability, and responsible for maintaining the reputation of their force.
- They have an extraordinary burden of responsibility for ensuring the effectiveness and integrity of police work.
- The precise nature of their role can also prove isolating, with limited preparation for the role, and a lack of both support and constructive challenge.

Research aims and methods

The project had four main aims:

1. To describe the nature of misconduct cases involving chief officers.
2. To explore the context in which the alleged unethical behaviour took place.
3. To identify the factors that may have contributed to those acts of wrongdoing.
4. To consider how best to mitigate the risks of misconduct.

The study relied on interviews with two main groups of respondent:

- **Key stakeholders** – people who were well-placed by virtue of their professional experience to talk about misconduct at chief officer level.
- **Investigators** – with direct experience of being involved in chief officer investigations.

We interviewed 11 key stakeholders, and 23 investigators. The interviews covered 40 cases, all but one over a six-year period (up to 2013) relating to 33 police officers and staff. These cases involved only a small minority of chief officers over the time period in question. Most of those who were interviewed were able to recall and discuss the detail of specific cases, and had well-developed perspectives on issues of chief officer misconduct. The sample of stakeholders was identified from the professional advice of College of Policing staff and our own knowledge of the field.

This report presents the findings of an exploratory study into a highly complex set of issues

around misconduct. It presents interviewees' perceptions of misconduct, and not an objective assessment. It was difficult to get a sense of the scale and nature of the issue. However, we have been able to draw on the insights of people who were well-placed to speak on the issues. Thus, the research provides a qualitative snapshot of the majority of chief officer misconduct cases that have come to light in England and Wales since 2008.

Contours of chief officer misconduct

Police misconduct and corruption has previously been categorised in many different ways. Our analysis of recent chief officer cases suggested three main types of misconduct:

1. Misconduct associated with professional decision-making:
 - Abuses of due process and other forms of misrepresentation, suppression of information and dishonesty
 - Abuses of force procedures relating to recruitment and procurement
 - Material/financial misconduct, associated with pay, perks, hospitality, travel and expenses
 - Other forms of professional misjudgement (e.g. mis-authorisation of police powers, disclosure of confidential information, email communication and use of social media)
2. Misconduct associated with interpersonal conduct:
 - Bullying
 - Prejudice and discrimination (e.g. racism, sexism)
 - Sexual misconduct (e.g. lewd remarks, sexually inappropriate behaviour)
3. Unfounded / vexatious allegations.

Routes into chief officer misconduct

We found that the perspective of previous research on misconduct formed a good fit with the cases that our interviewees told us about. Implicit – and sometimes explicit – in their accounts was the interplay between structural risk factors relating to the organisation's ethical climate and more specific individual risk factors.

Structural risk factors

Three deeply interwoven themes emerged as especially significant:

- political-cultural factors that shape organisational values;
- career progression processes; and
- a lack of challenge when misconduct is evident.

Cultural values

There were several recurring themes in interviews that related to values. Interviewees described how targets associated with crime and its detection had engendered a narrow emphasis on crime performance as the basis for evaluating professional ability and that this narrowly instrumental 'bottom-line mentality' had eroded public service values. We were told that some chief officers tended to see themselves as being more akin to 'captains of industry' than public servants – with all the entitlements and privileges that came with the CEO role. Several interviewees described a 'culture of entitlement' at chief officer level. It also appeared that in some areas, local governance bodies had themselves at times been complicit in fostering this culture.

If the idea of corrosion of previously more robust public values suggests a decline in standards, an equally common theme was that the culture of some forces had simply failed to keep up with improvements in ethical standards. A culture of entitlement among some leaders had become ingrained to an extent that rendered it impervious to the changing ethical landscape associated with 'austerity'.

Some interviewees suggested that policing has fundamentally lacked ethical values, offering various explanations. One was that the legalistic training of officers upon recruitment and the managerial pressures on middle and senior officers left little room for ethical considerations. Another was that policing 'doesn't value difference', and that officers felt under pressure throughout their careers not to 'step outside the mould'. A third was that there were values, but the 'wrong kinds' of values that stemmed historically from a command-and-control style of management and the toleration of bullying within a 'boys' club' culture.

Career progression

Career progression processes were often identified as contributing to misconduct. These processes were seen as highly competitive at senior level, creating both a narrow focus amongst candidates on 'gaming' the processes and – in those who succeeded – a sense of exceptional achievement and, thus, entitlement. Several interviewees described how the Strategic Command Course tended to create close mutually supportive and inward-looking networks. The training was thought to be light on ethical issues and on questions of values. It was also suggested that chief officers tended to select and appoint people 'in their own image', thus reproducing the ethical climate prevailing among police leaders. Some interviewees regarded high potential (accelerated promotion) schemes as sources of risk, suggesting that these officers gathered breadth of experience but not the depth of experience needed to develop robust ethical standards.

Lack of challenge

Challenging more senior ranks was widely considered to be career-limiting. In addition, several interviewees referred to an organisational failure to challenge misconduct at earlier stages of people's careers, and indeed a preparedness to ignore or tolerate misconduct either when selecting people for chief officer rank or when providing references on candidates. It was also suggested that integrity vetting (which has different levels of intrusiveness) could be inadequate.

Organisational vulnerabilities

Various other organisational vulnerabilities were identified, which related to organisational structures and processes. The main ones were as follows:

- The nature and demands of the chief officer role.
- Weaknesses and changes in governance arrangements.
- Weak internal processes.
- Issues relating to procurement processes.

Individual level risk factors

If features of the organisation provide the backdrop against which people make decisions that result in misconduct, individual factors are also of obvious importance for shaping conduct. Individual vulnerabilities include absence of ethical or emotional support, lack of challenge, exposure to corrupting influences, and cognitive failures in decision-making. Research unrelated to policing has suggested that leaders are prone to particular forms of cognitive failure – in failing to recognise that excepting themselves from organisational standards and

requirements is ethically problematic. Research on misconduct among organisational leaders in other sectors has distinguished between volitional and cognitive failures in decisions that lead to misconduct. We have defined these terms as follows:

- **Volitional failure** – defined by people knowingly acting unethically in their self-interest.
- **Cognitive failure** – where people know the standards that apply within their organisation, but do not accept or recognise that these standards apply to them, or justify why an exception applies in their case.

In our interviews, cognitive failure was much more evident than volitional failure, which might help explain how people get to the highest levels of police leadership, yet show a lack of integrity. There was a consensus among our interviewees that only a very small number of chief officers who have been involved in misconduct have done so for personal gain.

Where circumstances were less clear-cut – and this applies to more cases in our sample – one of two issues was evident. First, chief officers were reported to have disputed their behaviour constituted misconduct at all. Second, we were told of cases of exceptionalism, in that chief officers seemed to have understood the rules, but felt they did not apply in their particular case.

Individual vulnerabilities

It was clear in a number of cases that there were factors specific to particular chief officers that appeared to be relevant to their behaviour. Interviewees identified various individual weaknesses that they regarded as risk factors. Some suggested that arrogance is a corollary of decisiveness, which is considered a desirable and necessary attribute in chief officers. Lack of ability and incompetence was also mentioned – especially in the context of austerity cuts that required generalist senior officers to undertake specialist functions for which they were poorly equipped. A minority of cases in our sample hinged on relationship issues, including:

- complaints about professional conduct made by spouses or partners at the point the relationship had failed,
- claims for expenses incurred while officers conducted affairs,
- relationships that had not been disclosed to vetting officers, and
- inappropriate, and potentially predatory, sexual conduct towards junior colleagues.

Several cases illustrated the risks associated with chief officers approaching retirement and turning their attention to life after policing – involving improper use of time or resources while pursuing post-retirement job opportunities.

Investigating misconduct

Investigations into chief officer cases are conducted by police officers in-force, or third party forces, or independently by the IPCC. These are often complex and sensitive cases subject to public and political scrutiny. Like in any police investigation, officers have a great deal of discretion in conducting them. There are several crucial decision points in the process of establishing whether there is any evidence of misconduct, assessing its severity, allocating an appropriate investigator, deciding whether the evidence supports a 'case to answer', and finally authorising appropriate sanctions. In the case of chief officers, the Appropriate Authority and the investigating officers use their subjective judgement to make those key decisions. Rules, legislation and procedures of professional practice provide broad parameters within which these key actors make decisions, which are influenced by individual, organisational and wider socio-political factors.

The research revealed that the boundaries between ethically dubious conduct, misconduct,

gross misconduct and criminal conduct are often very blurred. The severity assessment of each individual case, at the beginning and the conclusion of any investigation is thus a matter of negotiation between the Appropriate Authority and the investigating agency and often the Independent Police Complaints Commission (IPCC).

- The decision about who is best suited to investigate these cases is also a matter of choice – either the Appropriate Authority decides to investigate it in-force or requests another force to do so on their behalf. We were told that “virtually any complaint relating to a chief officer will be referred to the IPCC” (Stakeholder), who in many cases then make that decision. There are, however, no transparent rules governing how this choice is made.
- The choice of which investigating officer is leading the investigation into the chief officer is made more complicated by the sensitive nature of the case and limited by technical competence, capacity and wider social factors.
- The investigating officers have a great deal of flexibility to negotiate the terms of reference and to shape the investigation in particular directions.
- Finally, after the Appropriate Authority has decided whether a case should go to a hearing, the misconduct panel decides if a case is proven and behaviour constitutes ‘misconduct’ or ‘gross misconduct’. The panel can also recommend a sanction, though this decision is made by the Appropriate Authority. There is little or no oversight of Appropriate Authorities’ decision-making.

The lack of consensus around how different conduct was defined – unethical behaviour, misconduct, gross misconduct and criminal conduct – could lead to a lack of objectivity in severity assessments and disagreement between the Appropriate Authority and investigators. Furthermore, according to our interviewees, the fact that Appropriate Authorities exercised wide discretion, and there was little or no oversight of their decisions, could result in considerable variation in disciplinary outcomes.

Responding to misconduct

While interviewees painted a rather bleak picture of the recent ethical health of **some** chief officers in **some** forces, it was clear that across chief officer ranks as a whole the appetite is very much for change. Indeed, it was clear that the very change interviewees spoke of had already started to embed itself among many chief officer teams around the country. Interviewees discussed the importance of policing with integrity and promoting strong and ethically intelligent leaders who value and encourage challenge, manage with integrity, and possess an ethical intelligence that imbues the chief officer team and, thus, the rest of the workforce. The future ethical climate needs to be consciously shaped not only by chief officers and staff but also by those that govern and provide oversight – the PCCs, the IPCC, the College of Policing, the Home Office and HMIC.

Reshaping the ethical climate in police forces

A clear theme to emerge is that the ethical climate of a police force is seen as a very significant factor in shaping the behaviour of both chief officers and rank-and-file. Our interviewees were unanimous about the centrality of ethical leadership in shaping the ethical culture of both the senior command teams and their forces. Respondents were clear that the ethical direction and moral health checks of chief officers need to come from within. Interviewees were clear that chief officers need to set out a clear and simple expectation of how they will behave, how they will challenge their peers who do not meet the standards expected of their office, and how they will protect the integrity of both their own force and the wider police service.

Several interviewees drew links between styles of leadership and models of performance management. The suggestion was that performance management systems that were overly mechanistic and narrowly instrumental would necessarily be in tension with some public service values. A number of interviewees believed that officers that adopt a commercial leadership model with narrowly defined goals will inevitably steer themselves into difficult moral territories.

A consistent theme was that the ethical climate within the organisation was closely linked to the workforce's experience of organisational justice. The value of pursuing organisational justice within a force is that it can help support an ethical climate within which chief officers themselves are likely to be less at risk of misconduct.

Selection and promotion

Many interviewees highlighted that the identification and selection of chief officers lacked transparency and rigour. A recurring theme was the tendency to support candidates for promotion who were unlikely to challenge the leadership style or question the status quo. The selection process needs to ensure that the best candidates are selected rather than the hand-picked convenient candidate who stands as a mirror image of their current chief.

Building a consensus on ethical standards

One of the most important themes to emerge from this study is that there are significant divergences of view about the ethical standards that apply to chief officers, and about the gravity of different forms of misconduct. Some of those we interviewed felt that the system could sometimes respond disproportionately to chief officer misconduct. Others felt that police leaders as a group still had a long way to go in developing coherent ethical standards. The development and introduction of a Code of Ethics is clearly important, but there remains a significant challenge to ensure there is a consistent outlook among individual chief officers, the National Police Chiefs' Council (the successor body to ACPO), College of Policing, PCCs, HMIC, the Home Office and the IPCC. In addition to a greater consistency in approach, chief officers need to actively promote and encourage a culture where ethics, integrity and values are at the heart of policing, not just within the chief officer team, but throughout the force.

Protecting against cognitive failure

One potential strategy for reducing the risk of this sort of cognitive failure would be to increase chief officers' awareness of the risks, and to encourage them to be more explicit about when and why they have excepted themselves from any ethical rules. Exposing their thinking in this way might enable them to test whether the exception is justified or not. Senior managers clearly need to be more sensitive to the consequences of ethical misjudgements. There may be scope for reshaping and broadening the dominant decision frames within which police leaders make decisions. On the issue of entitlement, many interviewees disclosed how the unethical reputations of some chief officers were common knowledge among their peers, but that these officers were left unchecked and unchallenged. Interviewees shared the opinion that offering protection to errant officers was a sign of weak internal governance.

Support and challenge

There are many practical things that can be done to mitigate the risks of chief officer misconduct. Chief officers need to ensure they have access both to support in their decision-making and to constructive challenge, and the barriers to challenge need to be addressed (for example, through whistle-blowing provisions). Organisational change in any large institution can take time, and is likely to require its architects and champions. In the eyes of our interviewees, these architects and champions already exist at the chief officer level.

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Gavin Hales¹
Tiggey May
Jyoti Belur
Mike Hough

¹ Gavin Hales is now the Deputy Director of The Police Foundation, London.

1. Introduction

I do solemnly and sincerely declare and affirm that I will well and truly serve the Queen in the office of constable, with fairness, integrity, diligence and impartiality... (The police attestation for England and Wales)

[A] good example set by the chief constable is vital in maintaining high standards (Her Majesty's Inspectorate of Constabulary (HMIC 1999: page 66)

Police decision-making always involves ethical considerations, whether explicitly or implicitly. From its inception, policing has always been vulnerable to corruption, unethical behaviour and the glare of public scrutiny when things go wrong. In the case of England and Wales, every decade over the last 50 years has seen scandals which have resulted in inquiries and reforms. It has been rare, however, for these scandals to touch the highest echelons of policing. In 2012, Sean Price of Cleveland Constabulary became the first chief constable to be sacked since Stanley Parr in 1977, having been found guilty of gross misconduct.

The last decade has seen a growing number of investigations into the conduct of chief officers², touching on, for example, allegations of unjustified expenses, interfering with recruitment processes, unethical commercial decisions and relationships with the media, bullying and sexual harassment, professional malpractice, and even allegations of criminal conspiracy. Broader concerns relate to the pay and conditions offered to (and taken by) a number of chief officers, at a time when budgets have been cut and the rank and file have seen their own pay and conditions of employment revised following the Winsor Review. Chief officers have been reprimanded, suspended, sacked and resigned – but also in a number of cases cleared of all suspicion. Two chief officers have committed suicide while being investigated. Over 40 cases of alleged chief officer misconduct since the early 2000s can be found in open source reporting, most relating to investigations since the start of 2008.

All of this has taken place against a background of renewed and vigorous scrutiny of the ethics of policing, particularly following the Leveson Inquiry (2012), the 'Plebgate' affair, the report of the Hillsborough Independent Panel (2012), and revelations about the undercover policing of domestic protest groups and the collection of information on bereaved families including the family of Stephen Lawrence (see, for example, Ellison (2014) and Creedon (2013; 2014a and b)). In 2013, the Home Affairs Select Committee (2013) published a report on leadership and standards in the police, and called for a new police code of ethics and integrity in England and Wales. A Code of Ethics for policing was subsequently published by the College of Policing (2014a), and laid as a code of practice by Parliament in July 2014.

The large majority of misconduct involves police officers and staff from the more junior and more populous ranks, and it is these ranks that have been the focus of virtually all previous research on police misconduct. However, police leaders at chief officer level necessarily set the tone for their organisations and wider public perceptions, and are understandably held to a higher standard. Policing depends for its effectiveness on public confidence, consent and co-operation, and when cases of misconduct involving chief officers come to public attention it is perhaps inevitable that these heighten public concerns about the integrity of the police. Chief constables have, after all, been promoted through the ranks and have, therefore, been

² For the purpose of this report 'chief officers' refers to sworn police officers and civilian members of police staff holding a position of – or equivalent to – assistant chief constable (commander in the Metropolitan Police) and above. As at March 2014, there were 204 chief officers in England and Wales (Home Office 2014: Table A), down from 216 in 2012 (Home Office 2012: Table A) and 223 in 2010 (Home Office 2010: Table A).

repeatedly tested and scrutinised over a typical career of two decades or more.³

The research reported here examines how a sample of chief officers came to be involved in, or accused of, misconduct. Through interviews with stakeholders, and police and other personnel who had investigated chief officer misconduct over a six-year period⁴ (up to 2013), a focus group with heads of police Professional Standards Departments (PSDs), as well as a review of open source material, the study seeks to identify perceived risk factors and routes into misconduct at chief officer level, and to discuss the implications for policy and practice.

With a focus on misconduct and unethical behaviour, we inevitably run the risk of engendering an over-pessimistic view of chief officer integrity. As authors, we are mindful of this issue and, therefore, draw the reader's attention to the thoughts of one interviewee in particular:

...when you're doing a piece of work like this and focussing on the negative bit, I think you could be forgiven for thinking, "Bloody hell, what are they all playing at?" Actually, I have to say, and you might expect me to say this, that while there are some examples of crass, criminal, corrupt, very poor leadership, there's loads of examples of good leadership. And I think that, by and large, the correct people are getting through. We've got some great people leading the service. (S/IO and Stakeholder)

The study does not seek to measure the extent of the problem of chief officer misconduct, nor to assess whether it is a growing issue.

Research aims and methods

Aims

The project had four main aims:

1. To document the range and nature of misconduct cases involving chief police officers and police staff equivalents.
2. To explore the context in which the alleged unethical behaviour took place.
3. To identify the factors that may have contributed to those acts of wrongdoing.
4. To consider how best to mitigate the risks of misconduct.

Sampling and data collection

Most of the information gathered in this study was collected through interviews with two main groups of respondent:

- **Key stakeholders** – people who were well-placed by virtue of their professional experience to talk about misconduct at chief officer level.
- **Investigators** – with direct, personal experience of being involved in chief officers investigations.

In total, 32 interviews were conducted with 34 respondents (including one on chief officer

³ In 2013, the average career length of successful candidates at the Senior Police National Assessment Centre (PNAC) was 23.5 years (College of Policing 2013: page 2).

⁴ The interviewees had all investigated a chief officer over the previous six years; however one case occurred in 2006. This case was discussed in some detail with an SIO who had investigated other chief officer cases in their force since 2008 and so was included in the sample.

vetting with a subject matter expert) and a focus group was held with a further 12 participants. The research was small-scale and qualitative, and four researchers shared the work.

Key stakeholder interviews

In its initial and final phases, we carried out in-depth interviews with stakeholders, identified by drawing on the professional advice of College of Policing staff and our own knowledge of the field. We interviewed a total of 11 stakeholders in the course of the study, three of whom had also investigated chief officers. These interviews were intended to take a more strategic view and did not generally focus on specific cases. Some cases were inevitably discussed as all but two of our stakeholders had been directly involved in investigating, analysing or responding to allegations of chief officer misconduct (including at a national, strategic level in at least five cases). The early interviews served to orientate the research team to the issues, while those towards the end of the study served to test out themes and ideas emerging from the fieldwork.

Interviews were semi-structured and the topic guides were tailored according to the interviewees' roles and background, but broadly covered the following topics:

- Misconduct trends.
- Identification, selection, recruitment and training of chief officers.
- The perceived causes and routes into misconduct (including wider organisational, cultural and career factors).
- Issues around accountability and challenge.
- Investigating and responding to misconduct.
- How misconduct might be tackled more effectively in the future.

We interviewed stakeholders in a variety of roles, including current or former representatives of police oversight bodies and staff associations, and police ranks, including:

- Three serving chief constables (two of whom had also investigated cases of misconduct).
- One former chief constable
- Four current or former chief officers serving in other roles.

In the early stages of fieldwork we also interviewed a force vetting officer to clarify procedural and policy details relating to chief officer vetting, and held a focus group with 12 senior officers from 11 PSDs, covering similar ground to the stakeholder interviews.⁵

Investigator interviews

The main phase of the research involved interviews with Investigating Officers (IOs) and Senior Investigating Officers (SIOs) who had investigated alleged chief officer misconduct. We interviewed 25 investigators in total:

- 14 had been IOs, including one chief officer.
- Nine had been SIOs, including six chief constables and two other chief officers.
- Two had been both IOs and SIOs.

Three of the SIOs were also interviewed as stakeholders.

The sample of IOs and SIOs was drawn from responses to a letter circulated by the College of

⁵ The focus group participants ranged from inspector to chief superintendent rank. Two of them were also subsequently interviewed as S/IOs in chief officer investigations.

Policing in late 2013 to all heads of PSDs in the 43 territorial police forces in England and Wales. PSD heads were asked to identify colleagues who had been appointed as investigators in misconduct investigations involving:

- Chief police officers (i.e. chief constables, deputy and assistant chief constables, and equivalent ranks in the Metropolitan Police Service and City of London Police) or members of police staff of an equivalent grade (typically directors of Human Resources (HR), finance or legal services).
- Any allegations of misconduct, where there was a 'case to answer' and where the misconduct process had been concluded or was ongoing.
- Misconduct investigations that had been initiated from 2008/09 to the present day (even though the alleged conduct might have dated back further).

A total of 30 cases were initially identified in this way, and we set out to interview either or both the IOs and SIOs in all the identified cases (with a preference for whoever was best informed about the details of the case). In a number of cases, the IO reported carrying out the bulk of the investigative work. Additional cases were identified once fieldwork had commenced, both from forces that had not responded in time to the initial request, and in two cases where interviewees drew our attention to cases that had not been identified in the initial response.

Unlike the majority of the stakeholder interviews, these interviews with SIOs and IOs focused on one or more specific cases of chief officer misconduct, and only towards the end of the interview were more general issues covered.⁶ The interviews were semi-structured in nature, meaning not all topics were covered in every interview. The main themes of the interviews were as follows:

- Details of the specific case(s) investigated, including:
 - How allegation(s) came to light.
 - Relevant dates.
 - The alleged misconduct and context in which it occurred.
 - The chief officer's misconduct history.
 - The investigator's perceptions of motive and causes.
 - The chief officer's response.
 - Key decisions made during the investigation.⁷
- Organisational learning from the case(s).
- Broader questions about chief officer misconduct in general.
- How misconduct might be tackled more effectively in the future.

In total, the interviews covered 40 cases of alleged chief officer misconduct involving 33 people (32 of whom were chief officers at the time of the investigation). These cases involved only a small minority of chief officers over the time period in question:

- 28 cases related to warranted police officers.⁸

⁶ The degree to which SIOs and IOs were able to offer broader insights into chief officer misconduct varied considerably, as their experience of cases was widely different.

⁷ We found it difficult to establish the outcome of misconduct process in all cases. Tracking down this information would have, in many cases, required access to the Appropriate Authority, but was not central to the aims of the study.

⁸ One of these cases occurred and was investigated shortly before 2008 and was, therefore, outside of the formal sampling criteria, but was included in the analysis as it arose in the context of a discussion of other cases from the same force that were in scope.

- Five cases related to police staff (including one member of police staff who was not a chief officer at the time, but whose senior role – as a head of a major department – fell broadly within the spirit of our sampling approach⁹).

Of the 33 chief officers against whom allegations had been made:

- 29 had been subject to one allegation.
- Two subject to two allegations (two investigations in each case).
- One to three allegations (two investigations).
- One to four allegations (two investigations).¹⁰

At least five chief officer cases were discussed in more than one interview.

At least 11 investigations in the sample referred to chief officer conduct that occurred prior to 2008/09 (the majority in 2006 and 2007). We included two cases where the officer was a chief officer when the investigation was initiated, but was not when the alleged conduct occurred. In one case, we did so because part of the allegation related to the officer's candour during the investigation. The other case related to a wider investigation (the details of which have been withheld to ensure anonymity). One case in the sample referred to alleged misconduct that was revealed during a force review of procurement practices rather than in a formal disciplinary investigation.

The sampling process was very time consuming, and a number of problems emerged. It turned out that:

- some cases were out of scope and were not, therefore, included in the interviews (e.g. where a chief officer had committed a criminal offence entirely unrelated to their work); and
- some IOs could not be located (e.g. because of retirement).

There was also some confusion in the way forces interpreted the request for police staff of chief officer standing, which resulted in a number of cases initially identified by forces having to be deselected as the police staff in question held relatively junior roles.

In a small number of cases, investigators declined to be interviewed as the cases were ongoing at the time. Any ongoing cases that were covered in interviews were discussed only in general terms.¹¹ The research team was aware that, in three cases where the investigation was undertaken by a third party force, the investigator sought the approval of the relevant Appropriate Authority before agreeing to be interviewed. Details about the approach taken to analysis, use of other data sources, and research ethics are described in Appendix A. In subsequent chapters, verbatim quotations have been included to illustrate and support the findings and conclusions, though care has been taken to protect the anonymity of research participants and the people they were discussing.

⁹ This case was identified outside our formal sampling process; details of the case arose in the context of a respondent discussing at least one other allegation of chief officer misconduct.

¹⁰ One chief officer in our sample was subject to a number of separate allegations that were not itemised. As a result, the overall number of allegations reported is likely to be an underestimate.

¹¹ The investigators are not always told the eventual outcome of cases they have investigated, which is a matter for the Appropriate Authority. This issue underlines the difficulty of using a rigid approach to sampling in this kind of research, where the reality can be quite fluid and uncertain.

The structure of the report

Chapter 2 summarises what previous research has had to say about organisational misconduct in general, and police misconduct in particular, before moving to an examination of misconduct at chief officer level. We present findings on the scale and range of chief officer misconduct. Chapter 3 presents findings on the perceived routes into chief officer misconduct, considering the structural and individual level risk factors that were thought to be associated with misconduct. Chapter 4 covers the investigative process, and the boundaries that existed between misconduct and ethically problematic behaviour that fell short of misconduct, and between misconduct and gross misconduct. Finally, Chapter 5 examines the implications from the research, looking in particular at how the police service and its oversight bodies can respond to the difficulties it faces.

2. Contours of chief officer misconduct

Key findings:

- Cases involving chief officer misconduct fell into two broad categories: those associated with professional decision-making, and those related to interpersonal conduct.
- Cases involving professional decision-making included: abuses of due process and other forms of misrepresentation, suppression of information and dishonesty; abuses of force procedures relating to recruitment and procurement; material/financial misconduct; and other forms of professional misjudgement.
- Cases involving interpersonal conduct included: bullying, expressions of racist or sexist prejudice; and sexual misconduct.
- In around a third of cases, no misconduct was found, reflecting levels of chief officer exposure to scrutiny, vexatious or unfounded allegations, and the collective responsibility they carry for their police force.

This chapter begins by considering what insights can be drawn from previous research about organisational misconduct. We first examine research that does not deal specifically with the police, and then focus in on misconduct within police institutions. The chapter concludes with an examination of findings from our interviews on the patterns of misconduct by chief officers.

What organisational research tells us about misconduct

Research on organisational misconduct beyond the police is extensive, and clearly relevant to this study¹². Previous research on police misconduct has tended to focus on frontline staff, who face a particular set of opportunities and temptations relating to the exercise of legal powers, from which chief officers are substantially insulated – even if they may sometimes be held accountable. By contrast, research on misconduct in other organisations has looked at all organisational levels – and, if anything, has a bias towards the ethical issues that have to be addressed by leaders.

Most researchers in the field employ conceptual frameworks that distinguish between individual, situational and organisational factors, the latter often differentiating between structural and cultural dimensions (see McDowall et al. 2015). Typically researchers have examined the explanatory power of these factors in shaping ethical decision processes. Thirty years ago, researchers tended to assume that ethical decision-making was a linear, rational process that started with an issue being identified as having an ethical dimension (Rest 1986). More recently, it has been recognised that much ethical decision-making can be intuitive and impulsive, characterised by instant judgements that are retrospectively rationalised (Haidt 2001; see also Kahneman 2011). Popular discussion of misconduct tends to be grounded in assumptions about individual vulnerability (the 'rotten apple' perspective) but misconduct research has tended to draw attention to the important mediating influence of organisational factors, including cultural and sub-cultural factors, the role of leadership, and the way in which organisational goals are specified and measured. Understanding of misconduct requires an appreciation of the nature of the 'barrel', not just the 'apples' it contains, and an understanding of the ethical climate within different organisations.

¹² This summary of research has drawn heavily on a recent and extensive systematic review of (un)ethical behaviour in organisations (Treviño et al. 2014).

Ethical climates within organisations

Evidence about the relationship between organisational ethical 'infrastructure' and behaviour is beginning to develop. Victor and Cullen (1988) developed an important conceptual framework built around the idea of 'ethical climate', which has been found to shape the development of people's capacity for ethical reasoning and thus to affect their involvement (or not) in unethical behaviour (Treviño et al. 2014). Although Victor and Cullen originally proposed a more extensive typology, there is a degree of consensus that there are five main types of ethical climate within organisations:

- The **instrumental climate**, where people consider the self-interest of the organisation or the individual (and which is associated with an increase in 'dysfunctional employee behaviour').
- The **caring climate**, where people think about care and concern for others (associated with employee commitment, satisfaction and positive ethical behaviour).
- The **independence climate**, where people make decisions based on their own principles.
- The **rules climate**, where people make decisions with reference to the organisation's rules.
- The **laws and codes climate**, where people base ethical decisions directly on their organisation's rules or society's laws and standards.

The studies on which this typology was based included those exploring private and public organisations. Nevertheless, the 'caring climate' would seem to equate with the 'public service ethos' and 'public service values' to which some of our respondents referred, though others talked more in terms consistent with the 'rules climate'.

Prior research has identified a range of factors that shape ethical culture, including formal systems and processes (e.g. selection, performance management) and informal practices. Reflecting the attention paid by staff to what gets rewarded and what gets punished, the nature of an organisation's performance management system and its goal setting processes have been found to be important in shaping ethical culture and individual level ethical decision-making.

Several studies (summarised by Colquitt et al. 2001; Colquitt 2008) have also found links between the presence or absence of 'organisational justice' within an organisation and its ethical climate. Research has identified key features of organisational justice as follows:

- **Fair outcomes**
 - Distributive justice (fair allocation of rewards and punishments).
- **Fair processes**
 - Procedural justice (fair decision-making).
 - Interactional justice (fair communication).
 - Interpersonal (respectful treatment, explaining, allowing voice).

This literature suggests, unsurprisingly, that organisations that score well on organisational justice not only secure commitment and motivation from staff but are also more likely to score well on staff commitment to ethical standards (Quinton et al. 2015; Bradford and Quinton 2014; Bradford et al. 2013; Stevens 2013; Wolfe and Piquero 2011).

The role of moral leadership is highlighted as being important to ethical climate, as is the positive influence of perceived shared values at a work unit level (or lower). Research has suggested that unit level culture mediates the relationship between ethical leadership and unethical behaviour. Historically, this influence has certainly been true within British policing,

with the evolution of very divergent values and norms in specialist branches. Extreme examples include the CID corruption scandal in London ('a firm within a firm') unearthed by The Times in 1969 (Cox et al. 1977), and the miscarriages of justice associated with the West Midlands Serious Crimes Squad in the 1970s and 80s (Kaye 1991).

Individual differences and interpersonal influences

The 'bad apple' metaphor that has permeated discussion of misconduct and corruption appeals to a kind of motivational or volitional failure – faced with choices between right and wrong, some people simply opt for the self-serving option. It is also clear that, sometimes, people do things in the full knowledge that they are wrong. Some organisational researchers have examined the personality traits that can be linked to unethical action (e.g. Reynolds 2008). This research has identified factors such as moral attentiveness, moral courage, moral ownership and moral identity as being relevant. There is also a literature on the developmental processes by which people 'drift' into misconduct, and the accompanying processes of rationalisation, neutralisation and self-justification (see Treviño et al. 2014).¹³

The organisational research reviewed by Treviño et al. (2014) found, unsurprisingly, that both peers and more senior staff exert a powerful influence on ethical behaviour. Where colleagues behave unethically, this has been found to have a permissive effect, and where colleagues articulate clear ethical standards, the reverse occurs. Clearly there are particular ethical risks in those organisations that tend to have tightly-knit units with which members strongly identify. More importantly for our purposes, there is good evidence that the quality of ethical leadership affects levels of organisational misconduct (see: McDowall et al. 2015; Porter et al. 2015). Leadership styles appear to matter. Transformational leadership styles which connect employees' sense of identity and self to the organisation's purpose promote ethical conduct. Transactional styles of leadership make greater use of conventional instrumental levers – of reward and punishment. There is a range of views in the police service about the merits of these two styles of leadership. The 'hearts and minds' dimension of transformational leadership is recognised as potentially powerful, but also risky in its capacity for manipulation. Management theorists refer to ethical or authentic leadership styles as a solution to this dilemma. Whatever the case, there are few advocates of autocratic leadership – illustrated by some variants of CompStat, which involve middle managers being 'grilled' on their performance in cutting crime. One might expect this leadership style to be ethically counterproductive.

Decision frames and cognitive processes

Work originating in Kahnemann and Tversky's (1979) prospect theory has found that the form of 'decision frames' that are available to decision-makers can affect ethical behaviour (cf. Kern and Chugh 2009; Greenbaum et al. 2012). Greenbaum and colleagues suggested that in some organisations decisions are framed within a 'bottom-line mentality' that involves "one-dimensional thinking that revolves around securing bottom-line outcomes to the neglect of competing priorities" (2012: 334). The 'bottom-line mentality' decision frame tends to exclude ethical considerations in decision-making. While the police service has no commercial objectives, there is an obvious equivalent to the 'bottom-line mentality' frame within policing in the form of an over-focus on quantitative crime reduction targets, as discussed in a Public Administration Select Committee (2014) report on crime statistics.

A more nuanced explanation that addresses the range of competing priorities confronting organisations can be found in Price's (2006) analysis, which is of particular relevance to this

¹³ This work clearly has echoes with the criminological theories of deviancy and drift, associated most closely with Matza (1969).

study given its focus on ethical failures of leadership. Price located the roots of misconduct in processes of cognition. He argued that misconduct by leaders was understood better as 'cognitive failure' than as 'volitional failure' – a failure of reasoning rather than a failure of motive:

- The volitional account is that leaders place their self-interest above ethical standards in the full knowledge that they are wrong to do so. They knowingly do wrong, and plan to get away with it.
- The cognitive account, by contrast, proposes that there are characteristic cognitive failures made by leaders which lead them to exempt themselves from the ethical standards that apply to the rest of their organisation.

Price suggests that it is the unique position of leaders in organisations that creates the risk of this sort of cognitive failure. That is, leaders fail to see that ethical – or even legal – standards apply to themselves as much as they do to those they lead. They may do things that are judged to be ethically wrong without appreciating that their behaviour is problematic. The pressures that create this form of cognitive failure are to do with leaders' sense of the particular importance of the collective task that their organisation is pursuing, and their role in ensuring that the tasks are achieved.

Leaders advance the interests of their organisation – or the goals being pursued by their organisation – and in so doing earn an entitlement to special rewards. For the most part, leaders' self-interest sits in comfortable alignment with the goals of the organisation. Leaders' perception of their special position places them at risk of making exceptions of themselves, as they see it, and excusing themselves from general ethical standards.

According to Price's cognitive account, leaders will typically not 'get it' – or will fail to grasp the nature of their ethical failure – when confronted with accusations of misconduct, because they will think that they were entitled, as leaders, to do the actions under contention. As will emerge, in our study this proved to be a consistent tendency across different categories of misconduct, and is not specific to cases involving pay, perks, allowances and expenses.

Some support for this perspective can be found in the common patterns of misconduct among leaders from a range of different sorts of organisation. Leaders, almost by definition, are entitled to a larger than average share of the rewards that organisations offer their staff. Arguably, the special entitlement of leaders is actually a way of signifying, and thus consolidating, their authority. The risk that this situation creates, however, is behaviour that reflects a sense of over-entitlement. Against this perspective, the scandals associated with leaders – whether in politics, business, or in large state bureaucracies such as the police, the military and the health service – tend to exhibit the theme of over-entitlement. During times of austerity, the 'public mood' (at least as reflected through, or created by, the media) is especially sensitive to cases where organisational leaders exceed their entitlement to organisational rewards. It should be stressed, however, that ethical failure in leadership can run far beyond issues of remuneration, and the common factor is the sense of entitlement to exempt oneself from the organisation's general rules and ethical standards.

Research on police misconduct

There has been a great deal of research on police corruption and misconduct internationally, some of which has been conducted in the UK. Despite the age of much of this research, it yields a clear and coherent account of the general shape of the problem. As noted earlier, the literature focusses on frontline staff, and tends to counterbalance self-interested behaviour and ethical behaviour; and the forms of self-interested behaviour that are most prominent in corruption and misconduct among frontline staff are generally taken to be motivated by

financial gain. Thus, the typologies set out in the literature (e.g. Newburn 1999), tend to consist of the following categories:

- Perks (e.g. free meals).
- Kickbacks in return for passing on business.
- Theft from crime-sites.
- Accepting bribes in return for ignoring offences.
- Protection of illegal activities.
- 'Fixing' or undermining prosecutions.
- Participation in conventional criminal activities.

Those officers who engage in these forms of corruption can reasonably be assumed to have decided to do things that are wrong, in the full knowledge they are wrong. The research literature has fully rehearsed the balance to be struck in offering individual 'bad apple' explanations for misconduct or systemic 'rotten barrel' explanations that refer to policing sub-cultures, and the interplay of these cultures with the risks and opportunities that are structurally built into the policing role. The balance of opinion clearly favours structural rather than individual explanations.

Newburn drew largely on Roebuck and Carter (1974), but also took account of Klockars' (1980) discussion of the 'Dirty Harry' problem and Punch's (1985) discussion of 'noble cause corruption'. It is important to recognise that abuse of due process (such as planting or 'losing' evidence, or the use of excessive force) can often be motivated by factors other than personal financial gain. Police officers can do the wrong thing for the right reason – as in 'noble cause corruption' – or they can do the wrong thing for reasons that are not directly self-interested, to maintain the reputation of their force or unit, for example, or to meet performance targets. Noble cause corruption inevitably complicates the traditional account of police misconduct in recognising that 'bad motive' cannot in itself offer an exhaustive explanation.

Misconduct by chief officers inevitably bears some resemblance to that of frontline staff, but there are important differences. On the one hand, they are much less exposed to the opportunities for misconduct associated with material gain that exist for junior officers who are in routine contact both with members of the general public and with those who break the law.¹⁴ On the other hand, they are relatively free of the financial pressures that face their less well-paid junior colleagues. Unsurprisingly, therefore, bribes, shakedowns and kickbacks appear not to figure prominently (as our own findings also showed). As a corollary, our findings indicate that misconduct cases at chief officer level have tended not to involve behaviour that was unequivocally illegal. The perspective that has characterised most research on police corruption and misconduct – with its emphasis on flawed motivation arising from the situational inducements that are specific to the police role – may thus be less applicable to chief officers. It may be more helpful to think of chief officer misconduct as a specific example of the more general problem of ethical failure among leaders of organisations.

Distinctive features of police organisations

If chief officer misconduct reflects failures of leadership in other organisations, it may be worth reflecting on some of the distinctive features of police organisations.

First, it is relevant that police forces have some obvious similarities to military organisations, with an emphasis on authority that is communicated though, and reinforced by, the rank

¹⁴ Manning and Redlinger (1977) described how structural aspects of frontline police work can bring officers to the 'invitational edges' of corruption.

structure. If the police pay more than average attention to the importance of organisational status, police leaders may be more than usually prone to ethical failures that are associated with the 'trappings' of power.

Second, in common with other public service institutions, the goals of policing organisations run far beyond the boundaries of the organisation itself. For most commercial organisations, survival and profit sits reasonably at the heart of their organisational goals. Public service organisations by contrast are judged by their broader social impact. Moreover, the police (like other criminal justice agencies) have features that distinguish them from other public sector bodies, in that standards of probity and honesty go to the heart of 'good policing'. The criminal justice system embraces an unavoidably moral dimension – it establishes whether people are responsible for crimes, and punishes them. Failure to achieve standards of probity, thus, potentially carries more serious implications for the police than it does for other areas of the public sector, which are less concerned about establishing guilt.

Third, the police role is about the exercise of authority in a way that separates them from other public services, and they have a near-monopoly on the use of coercive force. As a corollary, the legitimacy of the police in the eyes of the public is a significant determinant of police effectiveness (for a summary of the literature see: Hough et al. 2010; Myhill and Quinton 2011). One potential consequence is that the police service tends to be acutely aware of the importance of effective reputation management. While commercial organisations also have to safeguard their 'brand', ethical failures in the police tend to be more visible and have the potential to be more damaging. There are correspondingly greater dilemmas in the handling of ethical failures when they threaten to surface.

Finally, there are features of police occupational culture that may be inherently in tension with ethical performance. It was an orthodoxy among policing academics in the 1970s and 1980s that the day-to-day pressures of policing create a grass-roots policing culture marked by cynicism, insularity and occupational solidarity (see: Reiner 2000; O'Neill et al. 2007). How true this was at the time – and whether this remains true today – is open to question (see, for example: Fielding 1989; Bradford and Quinton 2014). However, if true, some features of this occupational culture may travel 'upward' in the organisation as officers are promoted, and other features may be amplified as people pass through the particular processes of promotion to chief officer rank. As will be seen, some of our own respondents took a rather pessimistic view of the Association of Chief Police Officers (ACPO) as an inward-looking, self-interested, privileged cadre or club with its own rules and entitlements. The extent to which chief officer culture is characterised by mutual support and solidarity is questionable, however. Caless's (2011) account of police leaders describes the ACPO world as a highly competitive one, characterised by mutual distrust and cynicism.

The ethical climate of police organisations

As discussed, research on police misconduct has tended to focus on behaviour that is simultaneously illegal, against police regulations, and unethical. Of course, much misconduct is legal, breaching no criminal laws, and some unethical behaviour is not even covered by police regulations. The point here is that standards of ethical behaviour in policing cover rather more extensive terrain than police regulations and the criminal law; the terrain that is not covered by formal rules and regulations is governed largely by shared norms and standards – which flow from the ethical climate of the organisation.

This issue raises important questions about the 'drivers' of the ethical climate in policing organisations. Drawing on the wider research into misconduct, Figure 1 aims to summarise how organisational processes and structures might interact to shape the ethical climate in any given police force, which in turn shapes patterns of misconduct.

Figure 1. Individual, cultural and situational factors in organisational misconduct

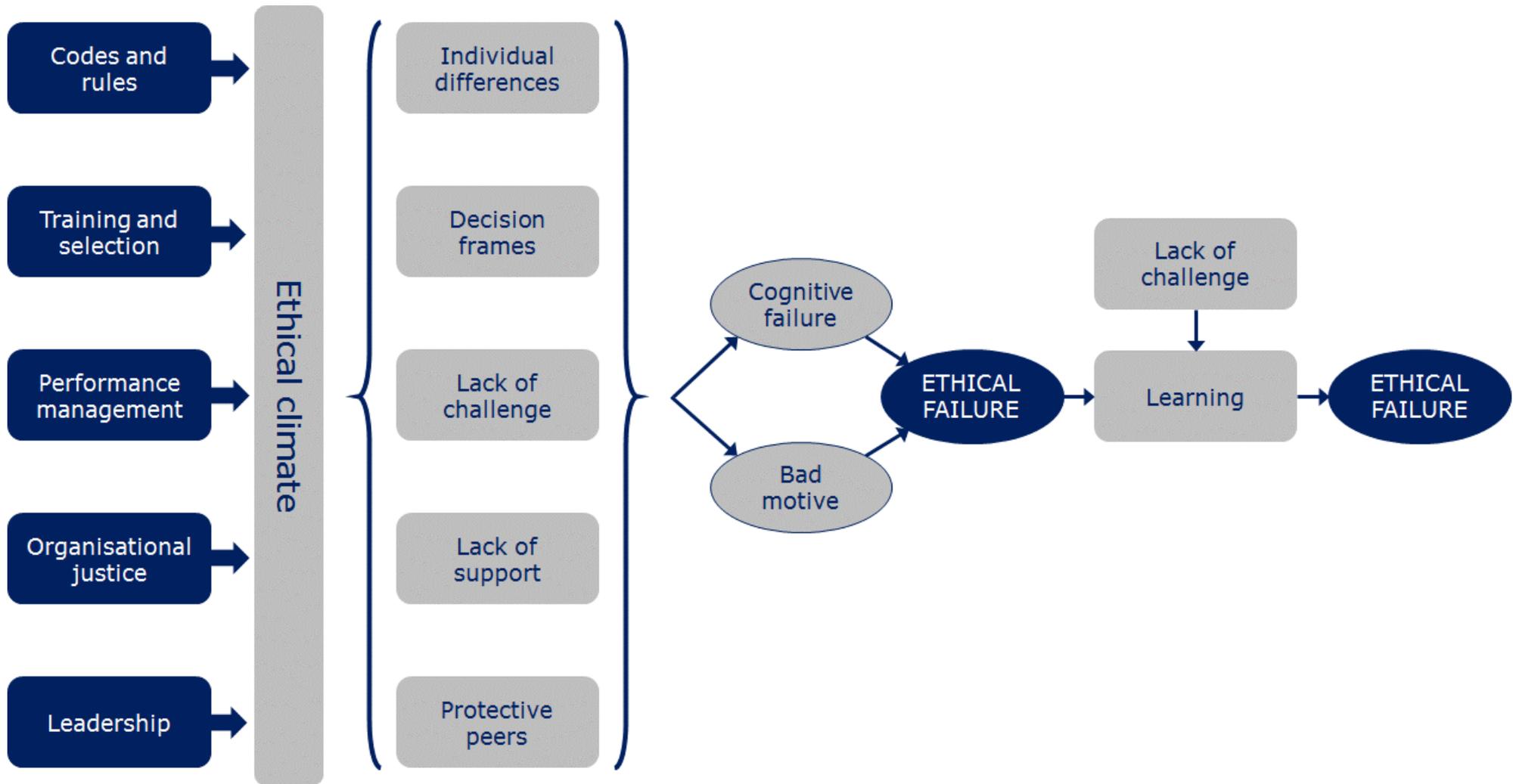


Figure 1 proposes that the ethical climate of an organisation is shaped by a number of organisational processes (the dark oblongs on the left). Formal codes of conduct and rules are an obvious and important shaping factor; so too are selection and training procedures, which determine the sort of people in the organisation, and how they go about their work. The systems for performance management and reward are likely to have a significant impact, as they embody and signify the organisation's values and culture. Finally the style of leadership can (but may not always have) a profound effect on the ethical climate.

The figure suggests that an organisation's ethical climate shapes individuals' ethical decision-making (the dark ovals on the right of the figure), but that this process is mediated by situational factors such as:

- Individual differences between decision-makers.
- The decision frames that have currency within the organisation.
- The presence or absence of ethical challenge and ethical support.
- The presence or absence of 'corrupting' colleagues.

On the far right-hand side of the figure, we have suggested that after an initial ethical failure, there is a dynamic process by which decision-makers can 'learn' from their experience in terms of whether misconduct 'works' for them, which may depend on whether and how their initial behaviour is challenged. This step in the model is an attempt to reflect the fact that some misconduct is not a 'one-off' lapse, and that patterns of unethical behaviour can develop over the course of a career if not challenged early on.

Figure 1 is a schematic device to show the sorts of factors need to be taken into account in examining misconduct at any level in police organisations. An account of the pressures to engage in misconduct that ignores these organisational and situational factors is likely to be partial and incomplete. However, the picture becomes more complicated when it comes to misconduct at chief officer level, as chief officers can exercise a degree of control over the organisational factors that generate the ethical climate of their organisation. However, this control is usually constrained – chief officers' decisions may both shape, and be shaped by, their organisation.

Trends in chief officer misconduct

This study does not aim to describe the trend in chief officer misconduct, and we have not gathered any data that would enable any firm conclusions to be reached.

However, it is clear that many misconduct cases involving chief officers have surfaced over the last ten years after a long period when very few cases were reported. Our trawl of open source material located over 40 cases, the majority of which relate to investigations that took place in 2008 or later.

We sidestep the question as to whether the emergence of this volume of cases reflects falling standards or increased scrutiny. It seems probable that, before the introduction of PACE¹⁵, when the police were effectively a closed institution, abuse of due process and corruption were widespread in some forces and in some squads. It also seems likely that misconduct stretched across the range of ranks. It is harder to say much about more recent trends. Several of the cases that have recently come to light are historic, while others are more recent. In aggregate, the recent cases – and their reporting by the media – may create an

¹⁵ The Police and Criminal Evidence Act 1984 (PACE) was introduced following the Scarman Report (1981) into the Brixton riots, and provided a new framework for regulating police powers. While PACE extended police powers, its codes of practice also increased police accountability (Reiner 2000).

impression among the public of an 'institution in crisis' that is facing growing ethical challenges. Some of our interviewees talked in terms of there being an 'ethical crisis' in policing. However, a large proportion also suggested that scrutiny of the police was intensifying, and that the ethical climate in policing was changing for the better.

A typology of chief officer misconduct

For the purposes of this report, we shall use the term 'misconduct' to be understood in its broadest sense, encompassing criminal behaviours but also those that do not meet the criminal threshold but are nevertheless in breach of formal regulations or in some sense unethical.

Organisationally, police forces tend to deal somewhat separately (in ascending order of seriousness) with:

- Grievances (i.e. workplace relations, management style and decisions).
- Professional standards (i.e. breaches of police regulations).
- Anti-corruption (i.e. criminal conduct).

In practice, however, it is clear that the boundaries are significantly blurred, and individual cases may cross into different categories.

In general, research on police misconduct has been concerned primarily with the 'rank and file', especially in public-facing and patrol environments. These environments are not especially relevant at the chief officer level. There are potentially fewer opportunities at this level for the classic forms of 'corruption' involving:

- The perversion of due process (whether for personal gain or for 'noble cause' motives).
- Abuse of suspects' rights.
- Soliciting of bribes.

At the same time, chief officers operate in a distinctive environment that presents considerable risks, pressures and temptations, including:

- The 'temptations of the powerful'.
- Isolation and a lack of challenge.
- A lack of personal support.
- Being under tremendous scrutiny and, at the same time, paradoxically, under very little scrutiny.
- A greater emphasis on non-law enforcement professional managerial responsibilities (e.g. HR, finance, commissioning and procurement).

As will emerge in Chapter 3, there are two broad narratives for understanding chief officer misconduct that echo the academic analysis of frontline staff:

- The first focuses on structural risks and vulnerabilities relating to the nature of the professional task, selection and promotion processes, barriers to challenging misconduct, and weak accountability mechanisms and other processes.
- The second focuses on individual risks and vulnerabilities, including the impact of seniority on decision-making.

The typology shown in Box 1 draws both on the analysis presented in Chapter 3 regarding the perceived routes into misconduct for chief officers and on the open source material. The typology attempts to distinguish (somewhat artificially) between:

- Misconduct associated with professional decision-making (the substance of undertaking the responsibilities of police management).
- Misconduct associated with interpersonal conduct (the manner in which individuals are treated in the course of conducting those responsibilities).

The point about separating these types of misconduct – while acknowledging inevitable overlaps – is that:

- Interpersonal misconduct may exist on its own but not otherwise relate to the substance of professional practice (e.g. strategic or operational decision-making).
- Someone can commit misconduct while discharging their management responsibilities, without compromising their standards of interpersonal conduct.

A specific category of unfounded and/or vexatious allegations has been included in the typology to reflect the very high profile allegations of chief officer misconduct receive, even when ultimately they are found to be without merit.

Box 1. A typology of chief officer misconduct

1. Misconduct associated with professional decision-making

- Abuses of due process and other forms of misrepresentation, suppression of information and dishonesty
- Abuses of force procedures relating to recruitment and procurement
- Material/financial misconduct, associated with pay, perks, hospitality, travel and expenses
- Other forms of professional misjudgement (e.g. mis-authorisation of police powers, disclosure of confidential information, email communication and use of social media)

2. Misconduct associated with interpersonal conduct

- Bullying
- Prejudice and discrimination (e.g. racism, sexism)
- Sexual misconduct (e.g. lewd remarks, sexually inappropriate behaviour)

3. Unfounded / vexatious allegations

A summary of the 40 allegations against the 33 chief officers in our sample is presented overleaf in Table 1. Further detail is presented in Table A1 (Appendix A), which uses our typology to describe the alleged misconduct involved in each case, the rank of the officer investigated, and the outcome of the investigation (where known).

Table 1. Alleged misconduct cases in sample

Outcome of case	Nature of alleged misconduct					
	Interpersonal conduct			Professional decision-making		
	Bullying	Prejudice	Sexual	Financial / material	Procedures	Other misjudgement
Awaiting outcome	0	0	0	0	4	0
No misconduct found	1	1	0	2	8	1
Complaint withdrawn	0	0	0	0	0	1
Dismissed	0	0	0	0	2	0
Written warning	0	0	1	0	2	0
Words of advice	0	0	0	0	2	0
Management action	0	0	0	0	3	0
No further action	0	0	0	0	0	1
Retired / resigned	0	0	0	1	5	1
Unknown	1	0	0	0	0	2
Other	0	0	1	0	0	0
Total (n=40)	2	1	2	3	26	6

3. Routes into chief officer misconduct

Key findings:

- The 'ethical climate' of a police force is a key determinant of chief officer misconduct.
- Ethical climate is shaped by leadership styles, the organisational ethos, training and selection procedures, styles of performance management and wider social norms.
- Against the backdrop of this ethical climate, behaviour is shaped by individual vulnerabilities, including absence of ethical or emotional support, lack of challenge, exposure to corrupting influences, and cognitive failures in decision-making.
- There was evidence in a number of cases that those involved in misconduct believed that their role as leaders exempted themselves from organisational rules and regulations.
- This cognitive failure explains why, in several cases, those involved did not accept that they had done anything especially wrong.

In the previous chapter, we proposed that the ethical climate of a police force was likely to be a key determining factor in shaping levels of misconduct. We suggested that:

- The ethical climate was the product of a range of organisational procedures and processes, coupled with the quality of leadership.
- Its effects were mediated by:
 - Individual differences (reflecting the fact that some people are more prone than others to misconduct).
 - The decision frames that are available to decision-makers.
 - Levels of challenge and support from colleagues.
 - The presence or absence of 'corruptors'.

This chapter sets out our interview findings on the factors that were perceived by respondents as having drawn senior police leaders into misconduct. It should be remembered that different levels of question inevitably determine the level of explanation offered by respondents:

- Specific questions about the processes by which a person became involved in misconduct tended to elicit responses focused on individual and situational factors that rendered that person vulnerable.
- More general questions about the sorts of people who were vulnerable to misconduct tended to result in answers that focussed on the features that led to the development of a distinctive chief officer culture at force or service level.

The analysis in this chapter stitches together material from interviews with investigators and with stakeholders, along with insights from other formal sources (e.g. IPCC or third party force investigation reports that have been published), to examine the structural risk factors associated with chief officer misconduct (including questions of culture) and individual level risk factors evident in the cases discussed.

We should stress that this chapter presents interviewees' **perceptions** of risk factors, rather than an **objective** assessment of risk. Its value in pointing to ways of managing risks is dependent on the insightfulness of those we interviewed.

Structural risk factors

Structural risk factors relate to the context within which individuals work, which in policing terms may be their immediate team or even the organisation and regulation of policing at a force or national level. A clear divergence was evident in our interviews between:

- accounts that emphasised the vulnerability of chief officers to allegations of misconduct and disproportionate investigative processes (one chief constable interviewee was particularly forceful on this point); and
- the more numerous accounts that there was a 'lack of ethical values' in policing.

To some extent, these differences of opinion seemed to reflect the different experiences and organisational perspectives of the interviewees, for example where officers had:

- been asked to investigate unfounded allegations of misconduct;
- felt their own career progression had been hampered by what they perceived to have been unfair processes;
- a more strategic view of misconduct allegations; and/or
- been involved in examining more serious or blatant cases than might be considered typical.

The analysis below draws on the totality of the accounts provided in interviews and, in doing so, arranges the main themes into a necessarily artificial classification scheme that, in reality, is much more blurred and – as will become apparent – heavily overlapped. Not all of these risk factors will have been present in any one force, or at any one time. Thus, the findings are not a broad portrayal of policing; rather they present a narrower examination of the range of risks that have been identified by highly experienced and well-placed professionals from across the country. It is worth re-emphasising that the misconduct cases identified through our sampling and open sources involved only a small minority of chief officers over the period in question.

Three deeply inter-woven themes emerged as especially significant:

- political-cultural factors that shape organisational values;
- career progression processes; and
- a lack of challenge when misconduct is evident.

All three centre on the question of values: to what extent do people do the right things for the right reasons in the right way?¹⁶ The next three sections deal with these issues in turn.

Cultural values

There is an extensive literature on the subject of police culture – or more properly, a plurality of police cultures – of which the best known is arguably Reiner's (2000).¹⁷ It has to be acknowledged, however, that there is a strong emphasis in this research on frontline roles (particularly patrol), and the most senior tiers have been relatively under-researched¹⁸, especially in respect of ethics and integrity. It must also be noted that police culture is neither

¹⁶ The Code of Ethics for the policing profession in England and Wales identifies the following nine policing principles: accountability, fairness, honesty, integrity, leadership, objectivity, openness, respect, and selflessness (College of Policing 2014a).

¹⁷ Reiner (2000) identifies seven defining characteristics of police culture: a sense of mission, suspicion, isolation/solidarity, conservatism, machismo, pragmatism, and prejudice.

¹⁸ See, however, Caless (2011), Reiner (1991), Reuss-Ianni (1982) and Wall (1998).

monolithic nor (necessarily) consistent over time (Fielding 1989; Waddington 1999).

Changing management philosophy

Without prompting, several interviewees, who had a strategic view of the policing landscape over the past few decades, suggested that the changing prevailing management philosophy in policing – reflected in a changing senior management culture – was an underlying factor in some chief officer misconduct. These accounts focused in particular on the consolidation of New Public Management ideas in the public sector in the UK, particularly throughout the 1990s, linked to the advent of devolved budgets under chief constable control and the growing dominance of private sector managerialism in public sector settings.

I think that a turning point came with a kind of a foolish idea, and it is a very foolish idea, imported from the private sector, that the way to be a great chief executive of a police agency is to be more like the private sector in having a contract... performance-related pay, bonuses, all of those things... it sounds so very modern to do it and, in fact, it's actually quite wrong, because of the frame of reference it puts you in... When you get into top management, they default straight into the private sector... captains of industry... (Stakeholder)

In the accounts, two issues seem to be especially significant, and both relate to the 'lens' or decision frames given to prospective and substantive chief officers (and senior leaders in other public services, including Police Authorities).

The first is a narrow emphasis on crime performance (analogous to profit) as the principal basis for evaluating professional ability and service delivery (e.g. see Davies and Thomas 2003). As described by our interviewees, this issue is of broader relevance to the ethical health of police forces, at all levels of policing. It also ties in to themes explored below regarding the way that the promotion system in policing has allegedly prioritised narrow crime 'performance' over wider consideration of ability and values, with implications for the ethical health of forces.

The second issue relates to the trappings of the 'captains of industry' model, including hospitality, overseas travel, perks (e.g. executive cars), and the emergence of performance and retention bonuses. These factors are clearly evident in four cases in our sample, other examples from the open source research, and in broader comments by both interviewees (investigators and stakeholders) and focus group participants about the structural underpinnings of a number of recent and high profile cases of chief officer misconduct.

If we give them the wrong lens to look through, tell them to be more like the private sector, to be more entrepreneurial, to be more hard-nosed, to be more singular in their judgement and less compassionate and all that stuff, we must not be surprised if we then discover more who are operating in territory that the rest of us don't value, or we think they've separated from our values.
(Stakeholder)

So, there's the issue of bonus payments, there's the issue of cars and the way those are funded, there are forces that have paid gym membership and school fees for chief officers' children... I mean quite why on earth forces seem to find it necessary to pay gym membership for chief officers is extraordinary; I mean why would you do that? (Stakeholder)

One interviewee felt that the defining exemplar of the excesses of this period – which by his account permeated down the ranks – was the emergence of "...away days [that] became away overnights as well, and with some quite nice food thrown in" (S/IO). Interviewees

suggested these changes were significantly fuelled by the rapid growth of police budgets in the late-1990s and early-2000s, which made it possible to finance these 'perks'.

A culture of entitlement

One particular phrase that was used by a number of interviewees, which seems to reflect these developments, was 'a culture of entitlement', which was thought to have existed particularly at chief officer level. Some suggested that this was an ongoing problem, though several interviewees suggested that it was now on the wane as a result of increased scrutiny and changing values. This 'culture' extended to both chief police officers and senior police staff, and manifested itself in:

- Material terms – executive cars, first-class travel, and hospitality.
- Managerial terms – "I'm a chief officer; I can do what I like" (reported by a stakeholder who was also an S/IO).

Our focus group participants described staff at chief officer rank being provided with executive cars fitted with emergency equipment (i.e. blue lights, sirens), despite the fact they would not have been trained or authorised to use it, apparently motivated by the advantageous tax treatment available for emergency vehicles. This account is corroborated by at least one open source case in which an executive car fitted with emergency equipment was reported stolen by a police staff chief officer who was subsequently accused of misconduct relating to expenses. Other examples included:

- A police force reportedly paying the tax liability on chief officers' home-to-work mileage (described by a stakeholder).
- A chief officer, whose car and driver were taken away due to cuts, reportedly claiming for taxis to and from work on expenses (described by an investigator with first-hand experience of the allegation, but not directly related to a case in our sample).

It is notable that members of former Police Authorities and others involved in local governance were felt by some respondents to have been, at times, complicit in these decisions, either implicitly (by omission, for example failing to scrutinise the necessity of overseas travel) or explicitly (by active encouragement, for example in respect of offering and authorising bonuses). The following quotation, for example, relates to a discussion of the broader culture in a force that one stakeholder personally experienced (rather than a specific case of misconduct):

The Police Authority members were coming into the [chief constable's] office and having champagne on the taxpayers' expense, you know... I don't know how people thought, but it became okay to behave in that way and no one questioned [the chief constable]. (Stakeholder)

To some extent, the development of the culture that our interviewees described seemed to reflect trends in the public sector more broadly, especially in certain parts of the country. Several of our interviewees, in particular a couple of our stakeholders, were at pains to contextualise specific cases of chief officer misconduct with reference to general behaviour evident within both policing more broadly and the wider public sector at the time.

People will say in retrospect, 'Oh [a former chief officer] was, you know, it was appalling that he accepted [a large] retention allowance'. Well there are others, like [another former chief officer], who had a similar allowance... when he was in [named force] and it was part of that public sector, senior level – benefits and entitlements were pretty generous at the time. We were still in those sort of heydays of pre-recession and so on. So that was the sort of culture I think that

permeated. It wasn't, for me, corruption with a large C, but it was almost that there was a losing of the way of ethical framework and so on. (Stakeholder)

Look at how many people travelled first-class in the police service, all the way down to whatever rank it was; you go to the Home Office, there were people in the Home Office who said, 'It's my right to travel first-class', and they were [junior administrators] and, you know, you think where did all that come from? Something happened that just made this acceptable in the public domain, in the public office, and then MPs' expenses come along and there's more scrutiny and it's now changing, I mean people are recognising you can't do that stuff. (Stakeholder)

Another stakeholder commented on how the attitude of 'take what you can' from the employer was part of the wider social culture in one force area and officers sanctioned for gross misconduct of this kind continued to have public sympathy primarily because public opinion held that they had been 'effective' (i.e. had controlled crime) and had ostensibly done nothing 'wrong'.

These comments highlight the blurred boundary between prevailing normative cultures, notions of misconduct and governance failures evident in a number of recent chief officer investigations, particularly where they have centred on the likes of excessive expenses, bonuses, and overseas travel that were apparently authorised by former Police Authorities.

Not moving with the times

This section highlights the way in which the expectations and values that are engendered and encouraged by the prevailing political and economic climate can change over time and that this change can occur quickly (as shown in the controversy surrounding MPs' expenses following the advent of economic austerity). The introduction of the Freedom of Information Act (2000), and what one stakeholder described as the increasingly "open society" in which public officials operate today, exposes public services – and especially senior public servants – to increasing public scrutiny. However, with such change, there was a risk that some did not move with the times and were left 'exposed' as a consequence.

...fascinating for me is the [named force] case and there's something here around, if you like, almost a cultural lag of what was deemed to be acceptable in the early 2000s and what is now deemed to be acceptable... (Stakeholder)

It was blindness to the fact it had happened for so many years... it became so engrained in [the force] certainly and around the country from what I saw that that was kind of acceptable, you know, to behave like that. (Stakeholder)

These changes in management philosophy, transparency and broader societal attitudes are reflected in perceptions of misconduct (both within policing and attributed to the wider public) that have "palpably changed" (Stakeholder). Many interviewees described the sea-change that has occurred since the 1970s in ethical standards, and two illustrated this with reference to the television programme 'Life on Mars'¹⁹.

The possibility of shifting standards has particular resonance for historic cases of alleged misconduct that have become apparent in recent years, where behaviours that took place in an era with one set of norms and values are being judged against those of a different era

¹⁹ A drama about a present-day detective who, after a car-crash, awakes to find himself living in 1973 but still working as a detective. He is predictably wrong-footed by the routine rule-bending and rule-breaking and by the culture of his 'new' colleagues.

(though some of these cases are ongoing and were not part of our sample). Our interviewees very consistently reported that tolerance for unethical conduct is declining in policing, partly as the result of increased scrutiny and accountability, and that this is being accompanied with a change in leadership styles. While we were told that standards of conduct have generally improved, it was also clear that there are ongoing concerns about the values embodied in a number of areas of internal police policy and practice (including promotion and performance management). The difference is a subtle one, but potentially quite significant. A useful analogy might be the difference between acting in an overtly discriminatory way, and holding prejudiced views but not expressing them.

A lack of values?

Understood in part as a consequence of the dominance of performance management ideas, several interviewees (including two current chief officers, one a chief constable) claimed that policing has fundamentally lacked ethical values. They further said that this is a powerful explanation for many of the misconduct cases seen in recent years – especially where officers have been promoted to, and within, the chief officer ranks despite widely known ethical failings.

Questions need to be asked about the management ethos in policing, which has been characterised by a lack of values. (SIO)

I don't think values even feature... We have no values. We have no integrity. (Stakeholder)

The role of recruitment, training and selection is considered below, but the following comment resonated with these claims in asserting that values did not previously feature in the training of chief officers. (The stakeholder was referring to training a decade ago; a time when many of the chief officers in our sample would have been going through the transition to the chief officer ranks.)

In my training to go to ACPO, you go on the Senior Command Course and it was however long... Everything's changed now obviously, but there was nothing at all about values, about ethics, about behaviour, expectations, nothing, absolutely nothing about that. That kind of leadership by example bit, nothing. (Stakeholder)

Other observations implied that values have been treated as of secondary importance to other considerations.

[The chief officer would get his] chief superintendents into a room... and say, 'You're going to get the figures down and I don't care how you do it'. (Stakeholder)

A small number of interviewees specifically claimed that 'lip service' has been paid to integrity and that, in some forces, leaders have talked about integrity while not realising or resisting the idea that they were held to the same standards.

[Chief officers] talk about transparency, openness and integrity [but don't feel the] need to display it... [Issues] get swept under the carpet... you go round the various PSDs and we all meet and discuss things and you sit there and you wince at it... it's another rule if you're inspector and above, up to ACPO again you're treated differently. But PC, sergeant or PCSO, the book will be thrown at you, but not higher ranks. (IO)

[The chief officer] endeavoured without success to actually try and put himself

beyond lawful business monitoring [of email use]. (S/IO)

Three factors seem to be significant in explaining how values appear to have been compromised. The first, reflecting the 'bottom-line mentality' discussed in the previous chapter, was a sense that narrow instrumental objectives – especially crime performance and career progression – predominated, and could overwhelm ethical considerations. Moreover, it was implied that this effect was especially the case at senior levels. People at these levels have had to prove their ability to 'deliver performance' – which may create additional pressure to ignore consideration of ethical matters – and, in many cases, have also had to be conspicuously ambitious.

Second, and related to this point, were repeated assertions that policing 'doesn't value difference'. Interviewees described how, to progress professionally, officers have had to have a 'face that fits' and not to get a reputation for being a 'troublemaker' – the effect of which was the development of an unreflecting 'can do' culture.

[T]here's a mould that ACPO fits and if you step outside that mould you don't get the job. (Stakeholder)

Looking back, all the people that have been selected for PNAC [the Police National Assessment Centre] here in the past have been like for like. (SIO)

The ethical implications of career progression processes, including 'challenging upwards' are discussed in greater detail below.

The third factor is reflected in the point made by several interviewees that the formative stages of a police officer's career are characterised by highly legalistic training that, until recently, has paid limited attention to the role of values. This view is reflected in the comments of a former chief officer who described observing a public order operation in another force during which a tactic was used that he felt was "outrageous" in the circumstances, but which was justified by the senior commanding officer as both lawful and consistent with training.

...the interests that they are serving at this point in time are a very narrow, technical set of interests... public order training and the domination of the sort of technical view... (Stakeholder)

When this point was put to another chief officer interviewee, his response was to assert that, if something was lawful, then it could not be unethical; thus, ethical considerations were not important (which would seem to reinforce the point made about a narrow frame of reference).

Ethics have nothing to do with policing. Personal ethics are subsumed by the professional ethic which says this is what we do. We will do the right thing. The right thing is, if you like, what the law says is the right thing to do in these circumstances. (SIO)

This argument, however, would seem to ignore the discussion about legality and ethicality in other fields (e.g. the rightness of tax avoidance in a business context even though strictly legal).

The 'wrong kinds' of values

Unethical behaviours such as bullying and sexism have been well documented in research on police cultures (Brown 1998, Lynch 2002), but appeared in small numbers in our sample – two cases of bullying (one an unfounded allegation) and at least one case of sexism. Both

featured in broader discussions of organisational ethics. Sexism was rarely mentioned, although it was described as being pernicious at chief officer level in at least two forces at the time of investigations. There were also several references to there being “boys’ club” cultures. A number of accounts described inappropriate sexual behaviour towards junior staff in the workplace (rather than sexism), including two cases in our sample and three further cases reported in open sources.

Bullying was described as a feature of an increasingly outdated authoritarian ‘command-and-control’ management style that, we were told, nevertheless persists, particularly around performance management, and especially in larger urban forces where a more ‘muscular’ leadership style was said to be prevalent.

What has been valued is ‘silverback’ leaders who are charismatic, have big egos and drive performance, over those who are more thoughtful and who deliver in a wider sense... [The force] is defined by a macho, arrogant, bullying culture and it tends to recruit a particular kind of candidate in that mould... Being a large force it is possible to shove people around, move them into other roles, and this is used as a threat to force a particular approach, particularly around performance management. (SIO)

I formed the view over many years of close involvement with police... that you emerge from training school and all your way up to chief superintendent by degree, which is largely down to what posts you have and your character and who else is around, you are bullied. You then go on the [Strategic] Command Course. You succeed on the Command Course. You get your first chief officer appointment and you suddenly wake up and think, ‘I can be the bully’... The bullying still continues because, of course, the chief will be bullying the ACCs, but it’s lesser at that level than it is back down the chain. So one of the underlying factors for me about what happens specifically with chief officers is this sudden new dawn, ‘Oh I can do this, I can do that in a way I couldn’t when I was a ranked officer’. (Stakeholder and S/IO)

Bullying of subordinates was also evident in one case in our sample that hinged on a lack of professional competence on the part of a chief officer.

Career progression

A central responsibility of senior leaders in any organisation is the identification and nurturing of talent. Unlike many sectors, however, policing is unusual in having (until very recently) an immutable rule that every warranted officer must work their way up from the bottom. In combination with the 30-year career profile, this rule tends to create a relatively insular system, which is reinforced by the way that police work – dealing with risk and responding to emergencies – places a high premium on trust between colleagues. So how do people with a ‘faulty’ moral compass reach the highest echelons of hierarchical institutions that test and assess suitability at each rung of the ladder? In addressing this question, the interviews dealt with a broad range of issues related to career progression, including recruitment and selection, training, vetting and reference processes. The central point comes back to one of values.

Fast track and high potential schemes

Processes exist to identify and develop chief officers from among more junior ranks with ‘high potential’ in the form of various fast track promotion schemes. A small number of interviewees raised concerns about the risks of engendering a sense of entitlement in participants who have been identified at a very early stage in their career as being ‘destined’

for senior leadership positions, referring to several specific cases. Focus group participants highlighted perceived weaknesses in the initial selection process, in particular the low priority that was said to be afforded to integrity and values at that early stage in individuals' careers, with the risk that the process may set the wrong kinds of people on the path to senior management. An IO suggested that the investment in fast tracked participants has, in his view, also meant that values and integrity have not been closely scrutinised later in the careers of fast track scheme participants.

And once on that merry-go-round, spiral upwards, whatever, we have probably invested too much time, effort and energy in people to then at a later stage actually ask, 'What's your personal integrity like? Where are your personal ethics and values?' ...there's a lack of any objective scrutiny placed at a lower level. (IO)

A slightly different claim is that fast track schemes encourage an upward-looking performance delivery perspective that also places little emphasis on values.

...they appear to be more concerned about what people above them are thinking of them rather than the people they are responsible for. And that doesn't give people a huge grounding in integrity... (IO)

It was also claimed by a non-fast tracked chief constable that high potential schemes may leave officers exposed by a rapid ascent through the ranks that can prevent them from developing a depth of knowledge, experience and professional competence.

If you track an awful lot of the chief officers who have been under investigation – and this goes back longer years than you've looked at – under investigation, suspended even, or are currently under investigation, or have been in that wrongdoing camp, you track them... well they've been head of this, they've been head of that and then you look, an awful lot of them, not a few, an awful lot are really rapid high flyers... their career has been one of non-stop advancement and success, almost unparalleled and unchallenged, and they've got there rapidly and, in doing that, they've taken commands very briefly. They haven't got a bedrock of experience, they haven't understood the nuances and challenges of their rank, they haven't understood the consequences of their decision-making... and suddenly they get to a position, you know [where they are scrutinised and that shows] that their integrity is challenged. (Stakeholder)

We also heard the view, most clearly expressed by two chief officer stakeholders, that these schemes have been instrumental both in forging mutually-supportive networks of officers who have been able to assist each other to progress through the ranks, and in laying the foundations for the 'culture of entitlement'.

Networks were formed long before people got [to the Strategic Command Course]. Long before. You could almost have plotted out who was going to get a job where. And there were a couple of times jobs came up and I said to HMIC, 'I'm not even going to bother because I know who is going to get it'. And [sure enough] they got it. And those are the networks that almost carry these people through the system. (Stakeholder)

A lot of these friendships and relationships have been formed quite early on in the service and people, all of the same mould, have come together... You default to the people that you know and trust... 'We're old pals. We know what you're like, you'll do for the job.' (Stakeholder)

It was suggested by another interviewee that, in considering promotion and career

progression more broadly (and it is reasonable to assume this is most acute in the case of fast track schemes), the emphasis that has been placed on performance ignores the much broader demands of senior leadership roles and may even inhibit their development.

I think there's an element of you've got to be good at performance, at delivering performance, otherwise you're not going to get supported for that position and, of course, that's right, but performance and delivery of performance doesn't necessarily require the characteristics that I think are required at chief officer level. What you require are things like integrity, a degree of honesty, being able to make decisions for the right reason and being kind of cognisant [of] the culture that you're promoting, those are important characteristics of chief officers. But to get to chief officer... It's about getting the job done, often come what may. It's about driving teams where you don't necessarily need to worry so much about the culture of the team. (IO)

At least two stakeholders reported that a notable proportion of chief officers involved in misconduct in recent years had been on a fast track scheme, and thought this apparent association merited further examination. The nature and scope of the study meant we were unable to assess the validity of this claim, or whether those who had been on a fast track scheme were any more or less likely to be involved in misconduct than those who had not been.

Promotion to, and within, chief officer ranks

Those responsible for the selection and appointment of chief officers must observe the three principles of merit, fairness and openness. (College of Policing 2012: 7)

To become a chief officer, police officers in the superintendent ranks must:

- Get onto, and pass, the Senior Police National Assessment Centre (PNAC).
- Attend the Strategic Command Course (SCC).²⁰

Reflecting previous comments, on balance, our interviewees suggested that the SCC and Senior PNAC had not given sufficient consideration to values and integrity, which had both reportedly been assumed about candidates in the past.

I think only now in policing are we truly talking about values and how they would feature in any selection process. (Stakeholder)

We were told the SCC has included modules on integrity and values – especially in more recent years. However, an IO and at least two stakeholders with some experience of recent training (albeit prior to recent changes to the SCC) suggested that this may not always and consistently have been the case.

It was also claimed that there was a disconnect between the rhetoric about ethics and integrity on the SCC, and the 'real world' in which some chief officers operated.

...the SCC in fact, for those people who are into the trappings, has been regarded as naïve, looking at the world through rose tinted glasses etcetera, as opposed to get real. What the world's really like out there is negotiate your package as best you can when you get out there. (S/IO and Stakeholder)

Two points were identified as potentially relevant.

²⁰ Police staff may also attend the SCC, though it is not always required for them to be a chief officer.

- First, until recently, the SCC has not been pass/fail and, as such, there may have been little scope for it to act as a filter.
- Second, there was a question as to whether the SCC should have a role in “inculcating those values” (S/IO and Stakeholder), or whether it was too late by that point.

In the case of Senior PNAC, candidates have (until recently) needed to be supported or sponsored by their chief constable (secure a “ticket to the dance”). This requirement immediately focuses attention on two points:

- The values existing chief constables have brought to bear in selecting suitable candidates.
- The need for potential candidates to have ‘curried favour’ with senior ranks.

The latter point goes some way to explain a consistent theme, which was raised repeatedly during the fieldwork, about how it was perceived to be possibly career-limiting to challenge the behaviour of others, especially senior ranks. A different point that was raised, which related to the efficacy of Senior PNAC in acting as an ethical filter, and indeed the integrity of the process itself, was that some (but not all) forces have reportedly provided funding for Senior PNAC candidates to be coached, typically by former PNAC assessors, in order to maximise the chance that they pass. It is impossible for us to say whether these claims had any direct bearing on the cases we examined.

A very consistent view was that chief officer selection was highly conservative, in that it tended to replicate particular styles of leadership; one implication of this approach was thought to be that highly capable candidates deselected themselves from the process.

...we have quite a big culture of ‘promotions like me’ where chief officers will seek to surround themselves by people who actually operate in the same way that they do. And we have [seen] a couple of individuals in the last 12 months who are high performing, both products of the accelerated promotions scheme, both young into the superintending ranks, both of whom have left the service because they didn’t fit. They were not seen by their respective chief officers as being in their camp particularly... [they were] in that hinterland where they are different. (Stakeholder)

Some of our interviewees implied that people’s decisions to deselect themselves were understandable:

I used to go to meetings... about who we were going to select to go on the Senior Command Course to ACPO and it wasn’t about ability. (Stakeholder)

We were told that this included chief constables bringing on candidates who would not question them (with implications about challenging chief constable conduct and future leadership). A more general concern related to the emergence, in one or two cases, of local chief officer cultures in which it seemed to have become acceptable to ‘push the boundaries’ into ethical grey areas (e.g. around pay and perks). Moreover, these cultures had reportedly permeated to other forces as chief officers circulated to different posts in the region as they progressed through the ranks, with career paths repeatedly overlapping.

...when you looked at the movement of officers around those... forces in that area, they, you know, they all went around together and got promoted together, so they all kind of behaved in the same way. (Stakeholder)

In this regard, an important observation concerns the way unethical behaviour can be transmitted and even normalised.

...we need to bear in mind, a lot of this is cultural behaviour occurring within organisations and it's inductive in a way. So you come in and [think], 'Ooh that doesn't feel right, I'll ask'. And you get told everything's fine and then you believe it. (Stakeholder)

One interviewee (a stakeholder and SIO), for example, described how one chief officer was "fundamentally a good bloke" who got "sucked in" to accepting the beliefs of a senior officer whose sense of entitlement had been left unchecked for a number of years.

After completing the SCC, candidates must apply for and secure a chief officer post, and this process is evidently subject to similar dependencies, not least around sponsorship and patronage. Several interviewees described a highly subjective and informal process.

...when you look at how people get senior jobs it's invariably word-of-mouth. They'll go through a process, but you can [be pretty certain that] the chief will ring the next chief and say, 'What about this person?' ...It is that networking and placing. (Stakeholder)

In this regard, it would seem from the accounts of interviewees that some forces have or, at least recently, have had cultures clearly defined by patronage at chief officer level.

Sponsorship is another important thing in policing that you'd have to understand, that you don't get into positions – and it skews the behaviour, which is partly why it's a closed culture – because if you haven't got people pulling for you, you don't get through the processes. You don't get the recommendations. (Stakeholder)

One interviewee described the risks of processes that were not meritocratic, but which he felt had clearly been visible in the recent past in his force.

You see people that get to a chief officer position because they've demonstrated a high degree of integrity, a high degree of competence in their role and are confident in their role, because they've shown that they can do it. And I think those people largely are the ones that don't sort of fall foul of misconduct. I think you've got a different type of people [whose] career path is not necessarily founded on competence. It's founded more on internal politics and perception and presentation, and I think those are less confident often in their own ability, but also it's a shakier foundation... you don't get that support and you don't necessarily have the level of competence. Because it's a massively hard job, of course, being a chief officer and doing that job well, but if you've got there not through a kind of meritocracy, you're in a vulnerable position. (IO)

Promoting alleged misconduct

We were told of named examples which involved people reportedly 'known' to have acted without integrity, nevertheless, having been promoted ("waved through") through the ranks despite that knowledge. These cases included one in our sample and a further four from the open source list (which were also discussed during interviews). At least three of these officers were said by respondents to have been given 'glowing' references, and the question marks regarding their integrity were said to have not been passed on between forces.²¹ The five cases reportedly included three chief officers whose alleged unethical behaviour when they were superintendents (or before) was reported to have been 'well known' to force colleagues

²¹ It was beyond the scope of the study to verify these claims, although different interviewees and open source reports provided corroboration.

and, in some cases, more widely. We heard, from an interviewee with first-hand knowledge of the case, of a chief constable refusing to consider a chief superintendent for promotion to ACC in the same force because of integrity matters, but supporting their promotion to another force. (This case was not included in our sample, but was identified from the open source material and discussed by three interviewees).

The issues for which he was under investigation [as a chief officer] were matters that he was involved in as a superintendent and those matters were known by people who supported him to become a senior officer. (SIO/Stakeholder)

We were told by an interviewee, who claimed personal knowledge of the case, that the appointing chief constable was made aware by others of the concerns (apparently outside of the formal appointment process), but appointed the officer anyway, reportedly on the basis that the new chief officer was a 'high performer' and that an allegation had not been substantiated at the time. (It was later substantiated). This situation motivated an allegation of hypocrisy by one interviewee.

I get really annoyed, these are the people that will stand and pray and preach to me about integrity and ethics. They haven't got a clue. (SIO)

In another case that was not named, we were told about concerns being raised by a force PSD that were ignored, again reportedly on account of the fact that the chief superintendent (as the officer was at the time) was considered to be someone who could 'deliver performance'. In both this and the previous case, the allegation made by interviewees was that performance was put before integrity by chief officers making appointment and promotion decisions.

[He] was put in a particular place to improve the performance. So he brought his mates with him and the compensation for his mates who were having to travel [further to work] was that they got extra overtime or they got to take the work half home. We said this is wrong and it needs dealing with, this behaviour is inappropriate. But that individual was still put forward for the Strategic Command Course – twice. Despite the fact that we were saying this isn't the right behaviour... [and] he was a fairly misogynist individual and all the senior women just left ...[but] he had so much top cover and he pleased his bosses [so much] that they ended up either turning a blind eye, or disbelieving what we were saying, or saying we were being disproportionate in what we were doing. (Stakeholder)

Finally, we were told about a chief officer who was reportedly allowed to apply for promotion while the subject of an on-going investigation into a serious allegation where criminal charges were being considered, while at the same time more junior ranks in a similar position were apparently told by the same chief officer they could not do likewise. Such double-standards may undermine the credibility both of those in senior leadership positions and efforts to improve integrity.

These matters are not 'black and white', however, particularly given:

- The potential for vexatious or malicious complaints.
- The fact that some roles reportedly attract more complaints (notably the head of PSD and chief constable according to numerous interviewees in those roles).
- The potentially long timescales that may be involved in complex investigations (several years or more).

One stakeholder explained that employment regulations meant it was not possible for them,

in reference letters, to openly discuss concerns about potential chief officers or allude to disciplinary matters/sanctions beyond the specified time frame for which they were in place. It was suggested that the tension between, on the one hand, regulations and the principles of natural justice and, on the other, the flagging of integrity concerns at promotion (given the sensitivity and responsibility associated with being a chief officer) needed to be resolved with debate and discussion at a wider organisational and systemic level.²²

Vetting

Vetting is a due diligence process intended to satisfy a force about an individual's honesty, integrity and reliability, and to identify whether that individual might be vulnerable to compromising the integrity, security or reputation of the force.²³ All personnel working for forces (including contractors and consultants) are required to undergo vetting when initially recruited, periodically thereafter, and when changing roles (sometimes) and forces. We were told by an experienced force vetting officer that these transfers were much more likely at chief officer level, and that there were potential vulnerabilities in the vetting process. Particular issues reportedly were:

- The reluctance of some PSDs to talk to HR departments (which typically deal with transfers between forces).
- The familiarity that exists with officers transferring between posts within a force – “the grandfather argument in a way of we've known them for years, they're fine, why do we need to?” (Force Vetting Officer).

Vetting can be 'refreshed', or a 'full re-vet' can be carried out. A number of different levels of vetting exist and some roles, including those undertaken by chief officers, require more intrusive and rigorous vetting.

In the case of officers whose integrity was reportedly 'widely known' to be in doubt before promotion or transfer to chief officer level, it seems possible that the vetting process fell short in some way, perhaps by:

- Being insufficiently intrusive.
- Accepting information provided by the person being vetted at face value.
- Not following up on character references (in the case of Developed Vetting – see below).
- Not being refreshed on a sufficiently regular basis.²⁴

A more general and consistent theme to emerge from the interviews was the view that vetting was not a panacea (even at its most intrusive level), and can be subverted by the person being vetted if they are not completely candid.

...it's impossible to know everything about an individual's private life and it depends on the honesty of the individual, the honesty of their referees and what can be easily verified by external sources. (Force Vetting Officer)

For chief officers, the most intrusive form of security clearance – Developed Vetting (DV) – is a process overseen by the Home Office (though we understand responsibility for this process

²² The stakeholder further claimed that the formal restrictions on reference processes had, in some cases, been circumvented by informal conversations between PSDs, but had resulted in PSD staff “getting into trouble”.

²³ See ACPO (2012).

²⁴ The BBC (2013a) reported that the vetting status of 23 chief officers in England and Wales was not up to date in early 2013.

will be changing). We were told, however, that the Home Office had never declined DV status for a chief officer but had 'come close' in the past. We also heard that the Home Office was supposed to conduct an annual 'health check' of chief officer vetting, but that they "don't have the resources to do it, so they don't" (Force Vetting Officer). It was reported that some forces did so instead (which might imply others did not). Concerns about a chief officer's vetting would also be referred to the Home Office by forces, though it was reported that different institutional views have existed concerning what was an acceptable level of risk.

There is a duty of candour on the part of vetted personnel, meaning that a change of circumstances that may be materially relevant to vetting must be disclosed. A discrepancy emerged during the interviews in that some interviewees reported that their forces treat a 'failure to disclose' by anyone (chief officers or otherwise) as prime facie evidence of misconduct, while others reported that their forces take a more permissive approach that requires proof of 'intentional dishonesty'.

Barriers to challenging misconduct

...we have a culture where challenge is not encouraged. (Stakeholder)

...if nobody's challenging them they don't see it as anything wrong.
(Stakeholder)

'Challenge' can involve a person actively raising concerns about another person's conduct through formal reporting mechanisms (which may require the person to account for their actions) or a more reflective style of peer relations. This idea was a 'golden thread' that ran throughout our interviews and the analysis in this report.

We heard examples of chief officers who 'encourage' challenge from their colleagues by promoting transparency and openness, apparently motivated in part by the recognition that positive or proactive challenge can be a constructive process, which can protect them, and mitigates the risk that they are only told what people think they want to hear (the 'Emperor's New Clothes' phenomenon).

There's a value in building a team around you where there is challenge where you've got that diversity of opinion, where you've got people who don't necessarily agree with what you're saying but you can trust them to do a very professional job because they've got their own mind and mind-set which is exactly what the force needs. (IO)

One current chief constable, for example, asks the head of PSD to scrutinise all of his expenses before they are submitted. It seems likely that this kind of openness and confidence is a corollary of professional competence. It also seems to signify a break with more traditional 'command-and-control' styles of leadership. We also heard of examples where chief officers were very clear that fellow chief officers would be subject to the same investigations as others when allegations surfaced, which in turn empowered more junior staff to conduct effective investigations.

...it was only because the chief [constable] was near insistent that this gets dealt with properly that we kind of followed that through. (IO)

More generally we heard a lot about challenge that was less positive, including the impact of a culture of deference, chief officers deterring and resisting challenge, and the widespread belief that challenge is 'career-limiting'.

Culture of deference

...there is that difficulty of, 'My God, it's the chief'. (Stakeholder)

The hierarchical structures of the police encourage deference to rank, moderated by the ability of officers to use their discretion, and subvert, ignore, misunderstand or frustrate the intentions of their seniors. Rank deference largely reflects the operational demands of key police functions: in the midst of policing a riot there is neither the scope, nor would it be desirable, for consultative and consensual styles of leadership. Senior commanders need to be able to direct their resources without having to justify or explain their strategy and tactical decisions at the time. Interviewees suggested that the adoption of a 'command-and-control' leadership style was an issue in larger, more complex forces, and in a climate of 'driving performance'. In the past, but also persisting today, we were told that this approach has resulted in chief officers being seen as 'beyond reproach', in some cases borne out of fear.

...the culture within the police service around chief officers – particularly chief constables – is that nobody challenges them and when they make mistakes they're covered up and they're not acknowledged ...it's more a case of, 'If we go into that we'll expose the chief, so let's not go into that.' ...you've got the atmosphere of the chief being treated almost like a god, you know, like a person apart. (IO)

[He] was a great [chief constable] in many ways, but everyone was so shit scared of him, you know, no one would challenge him. (Stakeholder)

I remember when I first got promoted, I'd only been a superintendent a matter of weeks and the first [Superintendents'] Association meeting I went to, there were discussions around the table of going to the Police Authority to complain about the behaviour of the chief constable in terms of his threatening and bullying and generally aggressive behaviour, certainly towards under-performance and it got to this and I went, 'Well, hang on a minute, I know I'm only new here, but surely we've got to let him know first. We can't just go to the Police Authority and say, 'By the way, here's a load of evidence about your chief constable'. Surely we've got to go and say, 'Boss, we need a chat'. But they were in absolute fear of the man. If that's how a group of superintendents feel around raising an issue about a chief officer, one of the things that dawned on me during this was, if that had been a secretary or maybe a junior female manager who wants to complain about some sexual harassment, have they got the confidence to raise that and be supported? (SIO)

A particular concern, evident in one of the cases in our sample and also several open source cases, is where the person best placed to challenge unethical conduct is the most junior person present (for example clerical support staff being asked to countersign invoices). From several accounts, it was clear that this kind of asymmetrical power relationship represented a particular vulnerability, which may be exploited (for example in respect of recruitment decisions). One case in our sample, and another on the open source list, involved chief officers forwarding CVs to colleagues in HR; in both cases, it was clear HR felt that this was not a neutral act, and that they were effectively being asked to find people jobs.

It should be said that one of our stakeholders mentioned a chief officer in a scrutiny role going "under the wheels" of an investigation for not having "the courage and presence of mind" to challenge others, implying that vulnerabilities are not only defined by differences of hierarchical status.

The lack of challenge was not universal. Interviewees also described examples of chief officers' behaviours being challenged by junior colleagues or their peers, either directly or by concerns being raised to third parties (e.g. PCCs/Police Authorities or HMIC).

Deterring and resisting challenge

A few interviewees alleged that some chief officers have promoted people who would not challenge them. In a handful of cases described by interviewees, however, the barriers to challenge were reported to have gone beyond reluctance on the part of junior personnel, to more active resistance by chief officers (which reportedly included the oppressive and bullying treatment of staff).

I think there's two cases in the last two years [from separate forces], where the chief superintendent running PSD has [personally reported] wrongdoing by their ACPO. They've done that and then their lives have been made a hell, so much so that both of them just left the police service. (Stakeholder)

...from having been somebody who was a bright, thrusting individual who was likely to progress quickly through into chief officer ranks, that individual [having challenged chief officers] is now on the border of being put on unsatisfactory performance procedures. There is a huge amount of power vested within individuals; some use it very, very wisely, others do not. (Stakeholder)

...he was getting a lot of pressure to remove that reference [criticising the chief officer in a report] because [the chief officer] was very upset and angry... and other people were passing these comments back to him you know, other senior officers. And [there] was kind of this weight of expectation, 'Oh you've got to take that out, you can't have that in, that criticises the chief'. (IO)

One interviewee described undertaking two investigations where he felt "there was an expectation that favours would be given" (S/IO). In his view, the chief officer being investigated clearly expected to be exonerated by a process that was not expected to look too closely at the evidence. (If such conduct was intended to subvert the integrity of the formal processes, it too might reasonably be described as misconduct).

More blatantly, we were also told by an investigator that a chief officer in our sample grabbed a junior colleague "by the throat" when directly challenged about a decision. Furthermore, at least two instances were described where chief officers threatened people with legal action if they repeated the allegations of misconduct that had been made against them. In one case that followed – in the view of the investigator – the failure of the Appropriate Authority to hold the chief officer to account, despite strong evidence to support a finding of misconduct, which meant the officer was able to claim they had been exonerated. It was also reported that, in at least five cases in our sample, chief officers who were under investigation used "every trick in the book" (Stakeholder and S/IO) to defend their positions by making full use of their knowledge of the legal process and the level of legal representation to which they had access. Doing so arguably reflected poorly on the integrity of the officers concerned, even though their action may be understandable given the possible outcome of misconduct investigations.

Challenge as career-limiting

Perhaps the most consistent message we heard during the interviews was that challenge, particularly upward challenge, was high risk as it was considered to be potentially career-limiting. We heard repeatedly that an officer's willingness to challenge (especially if they were the head of PSD) was heavily contingent on them approaching retirement or having no promotion ambitions. It was suggested that these issues were particularly salient in forces where there were 'in-crowds' and elements of patronage – where challenging one person might imply challenging a wider network. Conversely, in cases where networks were less obvious, it was suggested people may be reluctant to challenge officers with a reputation for misconduct out of a concern for who their 'sponsors' may be – the implication being that the

person of questionable integrity must have powerful backers if they had made it to a senior position. Similarly, we heard an example of a force with a weak Police Authority where a senior officer in a finance role felt unable to challenge allegedly 'blatant' unethical behaviour by a chief officer as they were convinced no action would result, which would have left them severely exposed. It was claimed that these issues also presented a significant barrier to chief officer misconduct investigations as they could result in a lack of cooperation.

...when I actually go in to see witnesses and try and get the evidence, those witnesses are working... the chief constable has got total power over them and their careers. A lot of the witnesses are career-minded, looking to go up the ladder... [A] lot of them will [ask] you... 'But what happens if I give you evidence?' Because in this day and age everything's disclosed to the defence, so they're going to know. 'What happens if you don't succeed, or if the investigation doesn't have the outcome and the chief officer remains? I may as well leave.' And this is what you work under. Trying to get evidence off people who think if they give it to you their career will end. (Stakeholder and S/IO)

The availability of anonymous reporting lines and support for whistle-blowers (e.g. the protections offered in the Code of Ethics (College of Policing 2014a)) may go some way to mitigating the problem, but the consistent message that 'challenge is career-limiting' is an issue that needs to be addressed if chief officer are to be routinely held to account for their conduct.

Institutional vulnerabilities

The following institutional vulnerabilities – which related to organisational structures and processes – were identified during the study:

- The nature and demands of the chief officer role.
- Weaknesses and changes in governance arrangements.
- Weak internal processes.
- Issues relating to procurement processes.

The chief officer role

In discussing the misconduct risks confronting chief officers, we heard claims that chief constables were exposed to greater scrutiny, and were particularly vulnerable to allegations of misconduct, because of the 'unique demands' of their role. These demands included:

- Being the 'public face' of the force.
- Assuming responsibility for the history of the force.
- Being exposed to a particularly high, and increasing, level of public accountability.
- Being responsible for taking a number of significant decisions.

One chief constable (an SIO) highlighted the lack of preparation available to prospective chief constables and the sense of exposure once in that position.

There is no support network for chief constables at all. There is no training to be a chief constable. There is a broad brush national course, a Strategic Command Course, [which] gives you ability and tries to broaden people to becoming chief officers, but there is no training to be a chief constable... unless you get an informal [offer of support], or there's a bit of mentoring that goes on, there is nothing that tells you. Nothing prepares you for this job. Nothing. I was a deputy for over three years. There is nothing like walking in this office for the first time... The ampage of being a chief is different, by a factor of 20, at least to

being a deputy. Because of the public figure side. So understanding the weight of your words, the weight of that position, that individual one. (SIO)

It was claimed that the demands included the way that chief officers – and particularly chief constables – assumed some responsibility for the history of the force, in addition to their own actions. This responsibility could, we were told, present a considerable challenge for chief officers in forces that have experienced high profile scandals in the past, implying a much greater level of scrutiny and a much lower tolerance of ‘new’ mistakes: “The new chief is held accountable for the old and is given maybe one chance” (SIO).

A different perspective on the chief officer role in relation to misconduct risk was presented by one of our stakeholder interviewees. They suggested that, in general terms, the autonomy chief officers had by being ‘at the top’ of the command chain, coupled with the relative lack of day-to-day checks and balances associated with seniority, might help explain a number of recent misconduct cases, especially where problems had emerged that were not previously evident when the officers were at lower ranks. This view was at odds, however, with the more consistent perception that heightened scrutiny, transparency and accountability at chief officer levels were significant in explaining the apparent differences between the ranks.

Scrutiny, transparency and accountability

Scrutiny, transparency and accountability were much more general themes that emerged during the interviews. In particular, they were reflected in comments about the perceived increase in the number of chief officer misconduct investigations reported in the media, despite overall standards of conduct and integrity having reportedly improved greatly in recent decades. Interviewees described the increasing level of transparency expected of chief officers, associated with significantly increased levels of scrutiny.

I think that the level of accountability that we hold as public servants has increased in the last 30 years beyond recognition. (SIO)

We were told that chief officer transparency had been driven, in large part, by the Freedom of Information (FOI) Act 2000, the creation of the IPCC, and the introduction of PCCs.

An FOI request 30 years ago might have got you two letters. The minutes of a meeting have never reflected what was said in the meeting – never have. If that’s all you’ve got, okay where do you go? But when an FOI request can bring you back every email from the last five years – that allows for a level of accountability, but it allows for a level of a lack of context and a lack of tone. (SIO)

It was clear that the reliance on email, the volume of work confronting chief officers, and the level of public and media interest in chief officers represented an especially challenging set of circumstances. This combination of factors was evident in several cases in our sample and the open source material, particularly where allegations hinged on evidence obtained through FOI requests.

Unfounded allegations

Thirteen cases of misconduct in our sample related to ultimately unfounded complaints made by members of the public or former police officers. There were, in particular, several cases where a complaint against the police subsequently led to years of investigations and further complaints that eventually reached chief officer level.

We were told by a number of our interviewees (notably several current heads of PSDs) that most PSDs have at least one “serial complainer” (IO) who would make an initial complaint

and then seek to escalate the matter if it was not resolved to their satisfaction. A fictitious example, based loosely on several cases in our sample, might start with a complaint about contact with a low ranking officer, which the complainant felt was not dealt with properly. The investigation, which might have had some procedural flaws, would then form the basis for new complaints. A review of the investigation may uphold some of these complaints, but itself may contain some procedural mistakes, which then form the basis for further complaints. These complaints may end up touching upon the PSD, ACC, and DCC who has overall responsibility for professional standards, before finally encompassing the chief constable for, say, allegedly failing to effectively manage his or her force.

Several interviewees expressed frustration at the inability of forces to dismiss these complaints. In these cases, there seemed to be a feeling that a third party force investigation was necessary to curtail the cycle of complaints and investigations, by demonstrably injecting a degree of objectivity and transparency into the process. At least one case in our sample, however, demonstrated that such an approach did not always succeed as the third party force investigation was also subject to a complaint.

A different issue, raised by a couple of interviewees but which did not feature in our sample of cases, concerned more straightforward malicious allegations made against chief officers.

[On the confidential reporting line] mainly it's aggrieved, people being asked to retire early and not getting what they want out of it, so they put complaints in about the chief constable's, you know, car, or holiday, or how can they afford this, or how can they afford that? (Stakeholder)

Other cases – and one open source case in particular – related to unfounded allegations that had arisen through internal channels (e.g. concerns raised by colleagues). Some interviewees and one stakeholder in particular, reminded us of the complexity of motive that can lie behind challenges to senior managers, including by whistle-blowers. They suggested that inviting challenge from officers and staff had to be done in a way that also rigorously tested the allegations that were made.

All of these cases based on malicious or unfounded allegations presented a particular risk. There was potential for the original allegation to receive publicity, especially in the event of a chief officer being formally suspended, though the eventual outcome of the case may remain relatively obscured.

...they wanted to put out a public release about it. It was on the basis of an allegation made by one individual... My feeling then was 'if this is right, great' in one sense [but] 'if this is wrong, terrible', because we will destroy that [officer]. You will not be able to rescue them, because they will forever – on Google – have this stuff. It will follow them around until the day they die. (Stakeholder)

Disproportionate processes

It was also apparent from the interviews and open source material that chief officer investigations are much more likely to be placed on a very formal footing, particularly since the introduction of PCCs. More generally, Appropriate Authorities were reportedly formalising the process (or "sending the balloon up") in response to the increased levels of scrutiny they themselves are under, and the need to be seen to be acting transparently and objectively. Respondents raised numerous concerns about decision-making by the IPCC, which alleged, for example, that certain decisions of theirs had been politically motivated.

In a small number of cases, it appeared that relatively minor and ultimately unfounded allegations (e.g. a complaint about an email, which did not withstand even cursory scrutiny

according to the third party force IO) could have been dealt with at a local level, without the publicity and reputational damage that accompanied third party force investigations. It was suggested, by at least one interviewee, that the relative inexperience of PCCs in dealing with misconduct matters reduced the likelihood that allegations would be resolved locally and proportionately. It was also suggested, for example by a stakeholder, that PCCs were publicising misconduct allegations against chief officers by default.

Chief officer responsibilities

The responsibilities held by chief officers were said to present a range of risks relating to misconduct allegations. Three particular vulnerabilities confronting chief officers were raised, namely that:

- Some decisions have to be taken or authorised at the chief officer level (often on the basis of advice received from others).
- Responsibility is necessarily delegated, in some cases, to more junior officers (e.g. because of work volumes).
- Chief officers may be held accountable for the actions of more junior personnel.

Because of the nature of the job of chief officer, you get complaints about your decisions... [it] comes with the territory. We do unpopular things and we have to take very, very difficult decisions. (SIO)

Examples of decisions taken at chief officer level that resulted in complaints and investigations included:

- Authorising some public order powers.
- FOI refusals.
- Redundancy decisions.

In some cases, concerns were apparently well-founded, while in others they were without merit. In addition, there are a number of 'direction and control' issues concerning how a force is run, relating to processes such as criminal records disclosures and firearms licensing decisions. One recent change has been that complaints relating to direction and control have become recordable, resulting in increased scrutiny of chief officers.

Post November 2012, direction and control matters became recorded complaints and indistinguishable in respect of recording matters [from conduct]... prior to November 2012, it was perhaps convenient for forces to determine complaints [concerning chief officers] to be direction and control matters rather than conduct matters. Many forces used direction and control sparingly; others tended to use this whenever and wherever possible. Now, there is much more uniformity of approach. (Stakeholder, email correspondence)

A more general point is that the increasingly complex legal contexts in which chief officers operate present a host of opportunities for making mistakes that are not present at more junior levels. Evidence of this situation was seen both in cases in our sample and others identified through open source research.

They're working in quite complex fields of HR, employment legislation, procurement, and I think they are vulnerable because they will make decisions with good intent and with the right rationale in one respect and could have the potential to miss something that can be picked up in another... there's a lot of scrutiny being applied to it and if you look hard enough you'll find something that isn't quite right. (IO)

It was also evident that, in a small number of cases, chief officers had been 'let down' by colleagues in more specialist roles (e.g. HR and finance), where they had acted on advice or signed off projects, which proved to be flawed but for which they were held personally accountable.

The challenges presented by the need to balance a range of competing interests and make the 'right' decision in complex circumstances is directly relevant to the question of cognitive failure (see page 57 in respect of individual vulnerabilities). One investigator, for example, discussed a complex case in which an apparently small initial cognitive failure, relating to a decision made by one or more chief officers, appeared to escalate into a much larger issue that may not have been foreseen (or foreseeable) at the time.

Commercial relationships and hospitality

While relevant to only one or two cases in our sample, and then only peripherally, commercial relationships and hospitality emerged from the interviews as general areas of concern and vulnerability for chief officers. We heard, notably from a chief constable, a particular vulnerability confronting chief constables was that "a lot of private companies try to meet and influence you" (SIO). Interaction between police forces and the private sector has become increasingly common, with developments such as public-private partnerships and the outsourcing of certain functions to reduce costs. We were told by our focus group participants that the size of contracts has been increasing and is now in a "different territory" to anything experienced before. Our focus group participants also reported that forces were facing "increased allegations of unfairness", especially where former police officers were involved in bidding for contracts (although not evident in our sample of cases).

There is a particular issue with ambiguity regarding the best outcomes for decisions... it can be very hard to disprove allegations where decisions have come down to judgement. (Focus Group)

There also appeared to be a grey area, and potential vulnerability, around the perceived obligations on chief officers to represent their forces at public events where hospitality may be provided, while avoiding perceived conflicts of interest and managing internal perceptions about acceptable standards. This tension was evident in at least three of the cases in our sample and emerged in broader discussions of chief officer conduct, for example where attendance at high profile sporting events by successive chief constables was the norm until relatively recently. As with other perceived 'perks' (e.g. bonuses), attitudes appeared to have become increasingly austere over time.

When you see the [chief constable enjoying hospitality] what message does that send to the cops on the street? Most of them thought, 'How the hell is he allowed to, how did he get those tickets, what's he doing there?' As opposed to the [chief constables] over the years have thought: 'Well I'm representing the [force] so, therefore, it's okay.' (Stakeholder)

...if somebody were to say the standards of the police service are such that we should never accept hospitality, then I'd need to talk to my PCC and say, 'I think those standards will reduce my effectiveness as chief constable, what line are we going to take on that?' (SIO)

External governance and scrutiny

In England and Wales, policing has a tripartite governance arrangement between the Home Secretary, chief constable, and PCC (previously the Police Authority). Increasingly, other organisations have a role in setting standards and holding police to account, including the IPCC, College of Policing and HMIC. For the purposes of this report, the focus will be on the

role of PCCs and Police Authorities, and perceived weaknesses, in relation to chief officer misconduct.

Vulnerabilities in external governance arrangements

Two specific vulnerabilities around external governance arrangements have already been touched upon, but merit slightly closer examination here. The first reported vulnerability concerned how governance bodies have been complicit in setting standards, particularly where PCCs and Police Authorities have had a direct role in setting or authorising chief constable pay, expenses, hospitality and other benefits. A particular issue that was raised in discussion about perks and bonuses paid to chief officers was that Police Authorities did not have the authority to do so. These claims were mentioned in a handful of cases discussed in our interviews and in open source material in at least three forces. A slightly different point, raised in a small number of open source cases (and one in particular), concerned the judgement of Police Authorities authorising travel and other arrangements that formed the basis for subsequent allegations of misconduct. It was suggested that these arrangements might not have been granted if the Police Authority had provided greater scrutiny in the first place.

The second vulnerability concerned the apparent failure or reluctance of two governance bodies to take action when presented with evidence of chief officer misconduct, and the potential consequences their inaction reportedly had on the subsequent behaviour of chief officers (which remained unchecked) and in the forces more broadly. With the latter, concerns were raised about the implications for maintaining standards and holding more junior officers to account in cases of misconduct.

[Following the governance body's decision not to take action against the chief officer,] there's a real element of fear about [him]. There will be no challenge of him, because people just don't think anything's going to happen. And that's a really, really dangerous situation, because that I'm sure is going to ultimately percolate through the organisation, because if anyone tries to discipline a PC in future for [similar behaviour], the automatic thing from that officer and their representatives is going to be, well, yeah, why are you going to take action against me? (IO)

In one or two other cases, linked to the discussion above about a lack of challenge, it was evident that concerns had not been raised to governance bodies in the belief that no action would be taken. A couple of interviewees expressed the view that this perceived passivity might be motivated by a concern to protect the reputation of the force, and because of the role of governance bodies in appointing chief officers. In other words, there was a risk the reputation of the governance body could be called into question if, by taking action, 'their man or woman' was found to have behaved inappropriately.

Changing governance arrangements and regulations

We heard concerns about the impact of recent legislative and regulatory changes, in particular the introduction of PCCs, but also regarding changes to the regulations around chief officer appointments and the role of HMIC. For the most part these were not grounded in specific cases, but formed part of wider remarks about the context of chief officer misconduct and the responses to it.

In the case of PCCs, notwithstanding the creation of Police and Crime Panels to scrutinise PCC decision-making, concerns were raised about the shift to a one-to-one relationship between PCCs and chief constables that was much more dependent on 'interpersonal fit' than the previous Police Authority arrangements. It was suggested that this arrangement implied fewer checks and balances.

Do you know of any other governance arrangement which is man-to-man marking? [It] just doesn't feel sufficiently resilient. (SIO and Stakeholder)

I think there's a real danger with PCCs of getting too close, and there's not really checks and balances. Now for a Police Authority chair, they had 16 members, who would very publicly challenge, very difficult sometimes... [With PCCs] there's a danger of getting too close, without the checks and balances. (Stakeholder)

Concern was also expressed about the perceived risks of political considerations affecting strategic decision-making, especially around performance targets, and the ability of PCCs to 'hire and fire' chief constables, which was potentially seen to compound that vulnerability.²⁵

Your job's on the line, yes, absolutely and that constant, you know, 'Do you want your contract renewing?' (Stakeholder)

This vulnerability included concerns that the pool of talent applying to chief constable positions might have diminished.

...we're moving into almost one person applying for jobs. There will come a time where a PCC does something to a chief constable where others look at it and say, 'Really sorry, but I don't want to work in that environment', and nobody applies. (Stakeholder)

Concerns were also raised in broader discussions (rather than in relation to specific cases) about the accompanying regulatory changes, which no longer require officers to have served in at least two forces as they progress through the chief officer ranks.

...if you look at the pattern of appointments of chiefs and deputies since 2012, the majority have gone internal, particularly deputies. I think I've seen one deputy's job go external. That for me is not a recipe for a healthy culture... I think it will create greater ethical risk, because you're going to get, you will get far more home-grown. Also you can now see, you know, okay, so I'm an ambitious potential chief, what do I do to get the job as a deputy? I'll make sure that I am the right hand person of the PCC and I'll do their bidding. When a chief goes it's a natural succession... [I]f you look at the numbers of applications for chiefs' jobs, a number with one applicant, and part of that is we are deselecting ourselves, because we know it's a waste of time, because there's a name on the door... so actually what we're seeing here this is, I think, potentially quite a risk for the future. You're not seeing that healthy move of people for diversity, and the quality of leadership I think is poor and what you are seeing is because, of course, ultimately it's a decision of a PCC and it's a personal choice, is the de-professionalisation of those selection processes. (Stakeholder)

Insularity is not good is it? If you do have a force where there isn't movement in and out and the top team are seen to be very tight then you're not going to get the same challenge and you do get this inability sometimes to see the blindingly obvious – that something might not look right to somebody else. (IO)

We were told that this regulatory change was not supported by chief officers.

Chief constables didn't want it removed. The ACPO position was, 'Don't take that away, it's good for the service to have that movement'. (S/IO and Stakeholder)

²⁵ See Winsor (2013) for a discussion of the constitutional positions of chief constables and PCCs with particular reference to the power of PCCs to remove chief constables from office.

Further concerns were raised about the fact that chief constables now have sole responsibility for appointing their chief officer teams, reflecting the issues elsewhere about homogeneity at chief officer level and challenging misconduct. Finally, we heard the view that changes to HMIC's role since 2012 have taken away a route for concerns to be raised and examined on a more informal basis within the police service.

What we witnessed with the Inspectorate is a retreat from what you would call the overseer role to this notion of... regulator. And what's been lost is the notion of the almost patriarchal/matriarchal figure that an HMI [Her Majesty's Inspector] cut in a region and, for example, if you're an assistant chief and you're having a really royal time in a team, you could probably have talked to the individual HMI and say, 'I'm really worried about my chief', etcetera. That's gone now, because the HMIC have consciously said, 'No, we just act as a regulator now and all we do is we inspect, we report in the public interest and so on'... [In the past] HMI has played a valuable role in the misconduct process... they would provide advice, they might act as that person to say, 'Whoa, let's just assess this before we send the balloon up', that kind of thing, and I've seen a conscious retreat of them from that role and so that's created something of a vacuum. (Stakeholder)

Weak internal processes

As described in Chapter 2, standards of probity are especially important in policing given a central part of the police role concerns establishing facts and apportioning responsibility for wrongdoing. There will always be, however, a tension in organisations between investing in scrutiny arrangements that could raise standards, the related financial and opportunity costs, and their 'appetite for risk'.

...there is a dilemma here. While we try and become more efficient and effective and generate a culture of professionalism and with it associated responsibility – 'you take responsibility' – you know, then that can create the opportunity and greater risk and it's just getting that balancing act right. (Stakeholder)

A central message to have emerged from the interviews is the importance of clearly stated and unambiguous rules and standards (e.g. on expenses, hospitality, gifts, travel and procurement). We heard a number of examples of chief officers whose alleged misconduct related in part to, or was at least justified by reference to, a lack of clarity around rules or internal processes.

...was it malicious intent? I didn't think so. But if there isn't anything to follow, you're not necessarily going to follow it are you? ...that's why it is really important to have the guidance and policies and procedures in place, so the lines don't get blurred. (IO)

In one force, we were told in respect of two cases in our sample that there was a period when there was no procedure for corporate credit card expenditure to be authorised by a senior officer, and poor record-keeping meant that accountability at a later date was difficult to establish. This issue was reportedly compounded by changes to accounting processes that had not been clearly communicated to card holders, which had undermined efforts at accountability. In another force, a case in our sample illustrated that there were no procedures in place for authorising corporate expenditure by a particular chief officer, who was subsequently investigated over the procurement of a contract. In this case, the breach of procedures seemed to have resulted from a desire to get a piece of work done expeditiously.

...it never occurred to anyone when the policy was being written that, from time-

to-time, the [chief officer] might, therefore, be writing their own cheque for something that they wanted... (IO)

Although not linked to any cases in our sample, we were also told that chief officers in another force did not declare gifts and gratuities as recently as three years ago (although a database for recording them did exist).

Overall, these points highlight the way that systemic weaknesses in internal processes can create opportunities for (alleged) misconduct, which could be avoided.

...if the system is actually designed so it's impossible to manipulate, then even if you have a mind to do that, you can't do it. (S/IO)

Procurement

Finally, a failure of chief officers to follow procurement rules was evident in a significant number of cases, including five cases in our sample, others identified by our interviewees or by the open source material). In several cases, the main motivation appeared to have been frustration with the timescales involved in institutional processes, and a perceived need to 'get things done'. Though not specifically raised during interviews, it is possible that these 'slow' and 'bureaucratic' procurement rules did not sit comfortably with chief officers who were usually able to 'task' resources with little notice. The main point to highlight is the emphasis in policing on 'action' and 'delivering results', and the suggestion that procurement oversight had been noticeably weak in some cases: "They were well intentioned, they were trying to get the job done" (S/IO). We were told that this weakness has manifested in a variety of ways, including:

- Chief officers appointing contractors without considering whether alternative providers might deliver better value for money.
- Contracts being 'disaggregated' into small components to avoid lengthy competitive tendering requirements that come into effect when financial thresholds are met.
- Contractors not being vetted.
- Emergency authorisation powers being used inappropriately to circumvent normal processes.

It was evident from the research that procurement problems have been endemic in at least one force over a decade or more, and in spite of periodic crises, reviews and tightening of controls. It was also evident that an element of exceptionalism has been involved in a number of breaches of procurement process, notably by those in senior finance or procurement roles, who could not reasonably have argued they did not understand the rules.

Individual level risk factors

Decision-making

Chapter 2 introduced two ideas from the literature on ethical failures:

- **Volitional failure** – defined by people knowingly acting unethically in their self-interest.
- **Cognitive failure** – where people know the standards that apply within their organisations, but do not accept they apply to them or justify why an exception applies in their case.

In our interviews, cognitive failure was much more evident than volitional failure, which might go some way to explain how people get to the highest levels of police leadership, yet show a

lack of integrity. It may be the responsibilities and challenges of leadership that increases the risk of a person 'crossing the boundary' into some forms of unethical behaviour. In the 'real world', however, these two concepts are likely not to be discrete, but to exist on a continuum, with varying degrees of self-interest and 'neutralisation' (Sykes and Matza 1957) being evident.

Two slightly different points should be mentioned. The first is the matter of where professional judgement becomes a conduct issue, notably in respect of some of the decisions referred to above that have to be taken at chief officer level, often on the basis of advice received from others. That can only be assessed on a case-by-case basis. The second, which will be discussed below in respect of personal vulnerabilities, concerns where misconduct arises either directly or indirectly from a lack of individual competence, and seems to be a distinct problem from the kind of decision-making being discussed here.

Volitional failure

There was a general consensus among our interviewees that only a very small number of chief officers who have been involved in misconduct have done so for personal gain (understood broadly) in circumstances where they have been aware of the rules but disregarded them (e.g. a chief officer procuring a contract, from which they benefited, without following correct procedure, having got a member of police staff to countersign the purchase order).

Another area where volitional failure seemed to have arisen was in the context of personal relationships, particularly relationships that constituted 'notifiable associations' for the purposes of vetting (e.g. where a previously undisclosed partner was subject to a criminal investigation) and especially where there was a degree of adultery or other sensitivities.

In at least two cases, it was suggested that chief officers had been less than candid when responding to questions about their alleged misconduct in situations where circumstantial evidence had pointed towards them being culpable, but where there was no compelling evidence or 'organisational weaknesses' had provided them with an alibi (for example, by allowing them to argue that they had not been formally notified about changes to expenses accounting rules in the absence of a document audit trail).

In these cases, the chief officers did not stand to benefit directly from their alleged actions in a material sense (the exception being the contract example). However, they did seem to gain on a personal and professional level, as result of them protecting their reputations (which might benefit them indirectly in a financial sense by preventing the loss of future earnings).

Cognitive failure and exceptionalism

Where circumstances were less clear-cut – and this applies to more of the cases we discussed – one of two issues was evident. First, chief officers were reported to have disputed their behaviour constituted misconduct at all:

I don't think ACPO see the stuff they do as misconduct. I think they see it that's how the business is done... 'I don't see it as misconduct. I did it because I needed to achieve this aim.' I think they just see this as how business is done. I don't think they sit and look at it and see it as an integrity matter. And if you ask people sometimes what is integrity, they... don't recognise that some of the stuff they do is acting without integrity. (IO)

...the moral compass just it's all gone, it's just disappeared for some reason... I just think that judgement is what's gone awry... if you read the interviews from

the [particular case], they just couldn't see they'd done anything wrong.
(Stakeholder)

Second, we were told of cases of exceptionalism, in that chief officers seemed to have understood the rules, but felt they did not apply in their particular case. Several cases highlighted the way that chief officers allegedly behaved in a way that suggested the rules did not apply to them.

It's almost like, 'These rules don't apply to me'. Certainly [the chief officer] was off the lead. Any sense of the rules which apply to everybody else around propriety did not apply to the most senior person. (S/IO and Stakeholder)

...it wasn't necessarily what he did, for me, that caused him the most difficulty. It was his response to being investigated. It was kind of, 'I haven't done anything wrong, I'm the boss, I have it within my powers to [do that]'. (S/IO and Stakeholder)

It was notable that a number of the cases we discussed or identified through open sources involved chief officers who had previously held senior PSD roles and who would have, presumably, been particularly well-informed about the standards expected and that they apply equally to everyone.

Individual vulnerabilities

It was clear in a number of cases that there were factors specific to particular chief officers that appeared to be relevant to their behaviour. As most factors have already been touched upon above, they will not be discussed in detail in this section.

Arrogance

Focus group participants suggested that arrogance is a corollary of decisiveness, which is considered a desirable and necessary attribute in chief officers. In some cases, it is clear that this characteristic had tipped over into something undesirable, particularly in terms of cognitive failure in decision-making. A very small number of chief officers reportedly failed the 'attitude test' when confronted with allegations of misconduct:

...we actually had that in an interview. 'I'm a chief officer. If you look at the Police Act, the Police Act says I can do what I like.' (Stakeholder and S/IO)

Another interviewee (a chief constable) made an insightful point about the perceived role of chief officers in relation to at least two recent cases of misconduct.

...it's the confusion between responsibility and importance. I have an incredibly responsible job and the job itself is incredibly important. I'm not. I'm not an important person... We're stewards of an organisation and we are stewards of public money. (SIO)

A lack of ability and incompetence

Several examples of misconduct (including three cases in our sample) were seemingly underpinned by a lack of ability or even incompetence. A broader point that we heard was that specialist non-police roles were increasingly being undertaken by police officers as a result of workforce cuts, opening the door for misconduct and mistakes, including by chief officers who rely on more junior colleagues for decisions for which they are ultimately responsible (e.g. HR, procurement and project management).

...austerity has meant that police staff posts with expertise have been cut. Now, for example, you will get police officers project managing. (Focus Group)

Sexual relationships and personal issues

Five cases in our sample and others on the open source list apparently hinged on relationship issues. These were reported to have included the following:

- Complaints made about professional conduct by the spouses or partners of chief officers at the point relationships had failed (for vindictive and instrumental reasons).
- Claims for expenses incurred while officers conducted affairs.
- Relationships that had not been disclosed to vetting officers (including two cases in our sample involving 'notifiable associations'²⁶).
- Inappropriate, and potentially predatory, sexual conduct towards junior colleagues.

Concerns around a lack of challenge were raised in at least two cases where it is clear that inappropriate conduct had persisted without challenge for an unacceptable period of time.

A number of these cases were also seemingly linked to a range of personal issues, including mental health, alcohol use, and the 'dislocation' from family and support networks chief officers can experience when they have moved to other parts of the country to pursue career opportunities.

While there were no particular consistencies in respondents' accounts, it did appear that these issues had not generally been identified or addressed prior to allegations being made, and that opportunities may have been missed for earlier intervention and support that could have prevented the alleged behaviour developing.

Approaching retirement

Several cases illustrated the risks associated with chief officers approaching retirement and turning their attention to life after policing (which for police officers can be as early as their late-40s). One of our interviewees, for example, described two serving chief officers (not in our sample) claiming travel expenses that were incurred while pursuing post-retirement job opportunities. The open source list also included a chief officer who was discovered promoting his consultancy service while on sick leave shortly before retirement. One interviewee described this issue as a particular challenge at a chief officer level 'because they have commercial value' (Stakeholder).

Summary – routes into chief officer misconduct

The picture that has emerged in this chapter is of the perceived risks and routes into misconduct developing and interacting at a range of levels from individual to institutional. Some have concerned structural factors such as the responsibilities of, and demands on, chief officers, the way processes operate, and changing levels of scrutiny, accountability and transparency. Others have concerned more fundamental questions about the values that are brought to bear on decision-making in police forces, and the way these values are shaped by wider political and cultural processes.

Arguably, three findings are of particular concern:

²⁶ 'Notifiable associations' are those that may impact on the operations or reputation of a force. Forces have their own 'notifiable association' policies (e.g. Merseyside Police 2012).

- The accounts of our interviewees about the barriers to challenging misconduct by chief officers and, in particular, the way challenge was widely viewed as career-limiting.
- The values brought to bear on selection and recruitment processes that, it was claimed, did not value difference in policing.
- The way misconduct has been tolerated in a small number of cases, reflected in officers reportedly being promoted despite concerns around their behaviour.

However, we also heard that tolerance for misconduct was falling, there was an increasing willingness to challenge misconduct, and there were excellent examples of progressive chief officers promoting transparent and accountable styles of leadership.

4. Investigating misconduct

Key findings:

- The boundaries between ethically dubious conduct, misconduct, gross misconduct and criminal conduct are often blurred. The severity assessment of each individual case, is a matter of negotiation between the Appropriate Authority and the investigating agency, and often involves the IPCC.
- The decision about who is best suited to investigate these cases is also a matter of choice. There appeared to be no transparent rules governing how this choice is or should be made.
- Investigations are complicated by the sensitive nature of the case and limited by technical competence of the investigator, organisational capacity, and wider 'political' factors.
- The S/IO has a great deal of flexibility to negotiate the terms of reference and also to shape the investigation in particular directions.
- Finally, there is little or no oversight of the decision-making process of the Appropriate Authority.

What is known about chief officer misconduct in the public domain is shaped by decisions made to report, record and investigate it. The discretionary nature of these processes has seldom been explored, yet has the potential to inflate or diminish the seriousness of allegations, and how they are dealt with. This chapter presents interviewees' views on the investigation of allegations of chief officer misconduct. The material in the chapter bears only indirectly on the risk factors associated with chief officers, though it can be assumed the ethical climate of the service and individual forces is, to some extent, shaped by the perceived effectiveness and fairness of the investigative process.

The investigative process is both complex and dependent on the nature of the allegation under investigation, and whether the person under investigation is a chief police officer or member of police staff (for further details, see Appendix B). Investigations may be conducted by investigators in force or from other forces, or independently by the IPCC. There are several crucial decision points:

- Establishing whether there is prima facie evidence of misconduct.
- Assessing its severity.
- Allocating an SIO who in turn appoints an IO.
- Assessing whether the evidence supports a 'case to answer' and appointing members and a chair of a misconduct panel where necessary.
- Approving or rejecting any sanctions recommended by the misconduct panel.

These decisions are made variously by the Appropriate Authority, the SIO or IO, and, in some cases, by the IPCC. The Appropriate Authority for investigating misconduct by a chief constable is the PCC, while the chief constable is the Appropriate Authority for misconduct by other chief officers in the same force. The Appropriate Authority will, depending on the allegation, consult with the IPCC, which may take over investigations, manage them, or simply refer the complaint back to the Appropriate Authority to manage locally.

The investigation process, like the investigation of crime, is highly discretionary. As the investigation shares many characteristics with other police investigations, Carson's (2007) critique of traditional police investigation is relevant. He argued that various factors affect the

quality of police investigations, such as:

- Discretion in deciding which matters get investigated.
- The cost of investigations.
- The competence and expertise of those who investigate.
- The purpose of the investigation.
- Reaching premature conclusions.

What distinguishes misconduct investigations from other investigations, of course, is that police, largely, investigate themselves. As Punch (2003) has highlighted, however:

[Third party investigations] have been conducted in a vigorous and highly professional manner and have led to the unearthing of serious deviance. Yet there always remains a doubt when an agency investigates itself and where there is no truly independent institution that can conduct what needs to be seen as totally impartial inquiries. (2003: page 8)

One of the overarching themes to emerge from the interviews was that the highly discretionary nature of the investigative process, and the distributed responsibility for it, which seems to create a system that often lacks transparency and accountability. As one investigator put it:

Our investigation can still be steered [by the investigator] in a particular direction. And a recommendation by us is made because of the evidence that we have found. So the witnesses we choose to interview, the evidence we choose to look at and to assess whether it is relevant or not, it will become a very suggestive investigation. Someone else might do it differently. (IO)

This chapter, first, considers the definitions of misconduct, gross misconduct and criminal conduct and how each of these are perceived by the various actors involved in the investigation process. The chapter, then, focuses on some of the difficulties encountered by investigators in the course of conducting their investigations. Finally, the chapter traces how these issues can influence the final outcomes of the investigation. The discussion is not exhaustive but gives a flavour of the complexities reportedly involved in the process of investigating alleged chief officer misconduct.

Blurred misconduct boundaries

Interviewees were clear that a breach of Standards of Professional Behaviour was tantamount to misconduct, and the distinction between 'misconduct' and 'gross misconduct' (see Appendix B) was well-understood by IOs:

The definition of 'gross misconduct' is that behaviour could be job threatening basically, and this behaviour was not job threatening so they treated it as 'misconduct'. (IO)

However, determining the seriousness of misconduct is a subjective process, influenced by individual, organisational and wider social factors. The boundary lines between ethically dubious conduct, misconduct, gross misconduct and criminal conduct, are often blurred:

The thing about misconduct and gross misconduct is, it's a matter of subjective judgement. It is always very difficult and important to have a decision maker who has the final call really. It does depend on your view a lot of the time. (IO)

The initial assessment is important because "the officer under investigation should be aware

of what could be the potential consequences of the investigation and can take appropriate action as a result" (IO) and is an integral part of serving the regulation notice to the officer under investigation²⁷. In some cases the investigator may refer back to the Appropriate Authority to reassess severity, if new facts were revealed during the course of the investigation.

We encountered cases where decisions were finely balanced between gross misconduct and misconduct, and where the Appropriate Authority disagreed with the investigators on the level of seriousness. There were also decisions to be made as to whether criminal charges should be brought. The decisions in all these cases seemed to turn partly on:

- Judgements about seriousness.
- The available evidence.
- The chances of proving the case.

However, it was also suggested that other factors also played a role, such as:

- The rank of the chief officer.
- Their response to the misconduct proceedings.
- Their preparedness to admit fault.

Some interviewees also suggested organisational politics could intrude into decision-making, especially where there were disagreements between the SIO and the Appropriate Authority or IPCC. Certainly disagreements on severity assessment were reported to have occurred. An interviewee described one such case:

In a managed enquiry, the investigating officer would have to [assess severity] in conjunction with the overseeing IPCC investigator, and that's where the disagreement came... All I know is that the IPCC used their gravity factors, their list of gravity factors, seven gravity factors against the actual conduct that was reported... and they'd come up with the conclusion that it was gross misconduct, whereas [the SIO] came up with the view that actually it was misconduct.
(S/IO)

Stakeholders also recognised the existence of inconsistency in severity assessment:

We need to improve the consistency of it better than it currently is. At the moment we have got 43 Appropriate Authorities who can make decisions. All very different, all will have their own views, all will have had their own different journey in life as to whether they're tolerant or not tolerant, cut some slack or not... there is work afoot to say your Appropriate Authorities are going to be a smaller cohort of people who will sit and have hearings... [in order to have a] more consistent approach to how we apply decision-making to our values. Because at the moment it is a bit all over the place. (Stakeholder)

Who investigates?

Guidance rules on how misconduct proceedings ought to be conducted are clearly laid out in The Police (Conduct) Regulations 2012, though the research revealed that these were not adhered to in every case. Interviewees said that, while chief officer misconduct may be investigated internally by the PSD in the officer's own force, often there was a preference for

²⁷ The notice is a protection for the officer to allow them to secure any evidence that may assist in their defence, and to seek appropriate advice from a staff association friend (who can provide peer support and advice) or a solicitor.

another force to investigate in the interests of transparency and justice. These appear to be discretionary decisions, which are likely to affect case outcomes.

We were told of a variety of approaches used to identify suitable candidates, as illustrated by the following quotations:

So somebody I've known 20 years say, who I used to work with in [named force area], saying pretty much, "Hello old boy, could you do me a favour?" (SIO)

Post 2012 we have now got a reciprocal arrangement to investigate ACPO at all levels across our region... we've got an arrangement with different powers and they are cost free so you can do it. (IO)

We were told that in another example, the Appropriate Authority had asked a force to conduct an investigation on another matter because they had found a previous investigation by them to be satisfactory.

Several respondents suggested that Appropriate Authorities – Police Authorities and as their successors, PCCs – had a preference to call in third party forces, or refer complaints to the IPCC (or previously HMIC²⁸) as a starting point.²⁹ In some cases, it was suggested that these decisions were motivated by risk-aversion, in that the authority could not then be accused of mishandling the process. Others interpreted these decisions as simply being motivated by a desire for transparency:

Bear in mind this is pre-PCC, the chair of the police authority just looked at the allegation and felt for transparency, it's... he didn't want to do an internal investigation, not... do anything in force. (IO)

When the matter is brought to the attention of the IPCC, they make a judgement about whether to investigate the case independently or ask another force to investigate. Although a few interviewees thought the IPCC was well-equipped to conduct good, independent investigations, and cited high profile cases where they had done so, several expressed scepticism about the IPCC's competence or capacity. Whilst some made the (familiar) argument that police officers have a unique competence as investigators, a more frequent observation was that IPCC has been insufficiently resourced to handle any volume of investigations of chief officer misconduct:

I don't think the IPCC helped at all. I think that their investigation was really poor... if you've got people who've achieved high rank in the police service often, not always, but often they are very intelligent, they know about investigations, they're not stupid and they will fight like anything to protect themselves and I simply don't believe that the IPCC have sufficient people who have the experience and the ability to deal with people who are as difficult to deal with as that. (IO)

If the IPCC decides to ask a third party force to mount a managed investigation, they (or in

²⁸ As described above in Chapter 3, the role of HMIC in respect of chief officers has changed since 2012. Prior to then, we were told (for example, by a stakeholder) of cases in which HMIC was alerted to concerns about chief officer conduct and commissioned some initial "scoping work" to assess whether the complaints merited further examination, in which case they were referred to the IPCC. We were also told that HMIC was also previously involved in identifying third party investigators to conduct misconduct investigations.

²⁹ A stakeholder told us that "virtually any complaint relating to a Chief Officer will be referred to the IPCC", which can also "call in" a case not otherwise referred to it.

some cases prior to 2012, HMIC) then brokers an arrangement between the Appropriate Authority and the third party force. The other route for selection is to ask the National Policing Lead for Professional Standards to recommend someone with the necessary experience, and without significant links to any of those involved.

While this process reportedly limited the pool of officers available to mount investigations; the role itself is also seen as an unwelcome one. One interviewee explained there were downsides to investigating other chief officers:

...no one wants to do it because it can be career-limiting and you might be ostracised by your mates, and also they don't have the time for technical investigations... Also on ACPO, it is an uncomfortable feeling that the person who is investigating is a peer and colleague. (Stakeholder and S/IO)

The decision to investigate a matter internally or involve a third party force could produce very different consequences according to the interviewees. One IO, who investigated a case of financial irregularities in the procurement process, said the following:

The assessment becomes critical, the initial assessment, so the fact that the DCC has commissioned me to do a review [of the procurement process] and not a misconduct or a criminal investigation is the key to it. If he had said, it is my belief that [the chief officer] may have committed a fraud, or misconduct in public office, or whatever, then because I'd be investigating a crime, then I would have had more prohibitive steps. (IO)

In other words, this officer would have had additional powers to access information from other agencies during the investigation if his mandate were more than a 'review'.

Several interviewees said there was a risk whenever a decision was made to appoint an external chief as SIO, as doing so could amplify the perceived seriousness of the case and create negative publicity. For example:

...generally there's an over-blowing of the enquiry rather than a minimising of it and actually there is always that suggestion of, is there a taint, is there? Because, you know, it is a relatively small club. (Stakeholder)

One IO went on to say that the relationship between the Appropriate Authorities and officers under investigation was often close, which could affect decision-making:

You've got the PCC for discipline and criminal over the chief and then the chief over his or her very close colleagues, DCCs and ACCs and it is just a bit incestuous to me... any complaints should be a mandatory referral to the IPCC who can then decide on the mode of investigation [depending on whether the matter is minor or of a serious nature]. (IO)

A downside of external investigations that some interviewees mentioned was that outside investigators lacked local knowledge, local contacts and, thus, found it hard to assess whether the information that they were provided was reliable. For example:

It is another trouble you are going to have from an outside force doing it is that you are very reliant on people within that organisation... I am reliant on someone I don't know getting me the emails. I don't really know, are those emails that came from the archive? That is what they told me, but I don't know who those people are. There's no way I can actually, realistically double-check that. If you wanted a real conspiracy theory, they could have fed me with what they wanted. I produce the report they want and it goes on from there. (SIO)

Some interviewees suggested that assessing the reliability of information was a particular problem for IPCC investigators who did not have adequate experience of conducting similar investigations.

One stakeholder suggested that a potential solution to some of these problems would be the establishment of a specialist team, based in a national body (e.g. the College of Policing or National Crime Agency), to investigate all senior officer misconduct cases.

...chief officer misconduct has to be investigated differently... You do need to get to the truth but I think the public confidence thing becomes more important. Because you are a figurehead, you are the chief as much as you are a police officer. I also think our misconduct is different... chief officers should be investigated by a single team of people. I don't know why they can't be independent of everybody. There must be more than enough work to keep them going. (Stakeholder)

Thus, the lack of adherence, at times, to laid procedures and rules governing investigations, as well as the discretionary nature of decision-making, could be a cause for concern in some cases.

Terms of reference

IOs expressed a range of views about setting terms of reference for the investigation, particularly in terms of how narrow or wide they are. Having very specific terms of reference reportedly means the investigation can be difficult or easy depending on the nature of, and sensitivities around, the allegations. One interviewee said he found having narrow terms of reference very restrictive on one particular case:

My terms of reference were so specific; it was very difficult, you know, you're... 'Did they say this, on this particular day?' And you think, 'Well, I can go all round the houses, and it's either a 'yes' or 'no'.' (IO)

On another case, the same IO said he would have preferred a narrower focus as the investigation related to a range of conduct matters:

So yes, there were lots of areas around that, but... that didn't really influence much of what we were doing because we were trying to concentrate, and we had the remit to concentrate on the credit card because of those external investigations going on elsewhere. (IO)

The importance of setting appropriate terms of reference with the involvement of the investigators was highlighted by one IO:

Scoping it up, one of the key things is to agree a terms of reference and it is not simply a case of the Appropriate Authority saying to the investigator, 'That's your terms of reference, here you go.' Clearly, the investigator's got to be happy with those and it needs to be an active dialogue to get a proper understanding of what [the focus] is... and once agreed, it is then the responsibility of the investigator to draw up an investigative plan... how you're going to meet the terms of reference... (IO)

The need for having clear, well-defined terms of reference was further explained by a stakeholder and IO as being important to ensure timely and fair results:

[The longer it goes on] you dilute it. It is much better to ensure that the core allegation is strong for the purposes of getting conviction... witnesses' memories fade... things have moved on... force has moved on... is it in public interest? All sorts of things seem to evaporate along the way. The longer it takes the less chance of getting to the truth, the less chance of there being a satisfactory outcome for anybody. (Stakeholder and S/IO)

Proportionality and public interest

The majority of our interviewees were sensitive to questions of proportionality and public interest, and the tensions that existed between investigative thoroughness and ensuring the investigation was proportional to the seriousness of alleged misconduct. As one IO explained:

The ethos behind public complaints with PSDs is you do take a pragmatic view ...about where it is going to end up. There is that initial assessment to see where it sits, if it sits at misconduct then it influences the sort of investigation you are going to get or the fact it may be suitable for local resolution. (SIO)

But in the eyes of some interviewees, this pragmatism was sometimes sacrificed in the pursuit of transparency and independence. The following quotation illustrated a common theme from the interviews, that referral to the IPCC could result in a disproportionate investigative response.

Very straightforward, very. Both of those [investigations] were. Because of... all the issues surrounding [the chief officer], it was not in the slightest bit proportionate what we did... we did far too much, in my view. It was certainly suitable for local resolution... if we could have done that and we could have done it in a three-page report. (IO)

Similar points were made about referring a case for investigation by a third party force, which was seen to escalate the matter needlessly, with the potential to impose unnecessary financial and human costs. However, referring cases for outside investigation was not seen as inevitably disproportionate. An interviewee compared two cases:

- In the first case – which was investigated by a third party force – the chief officer was suspended for 12 months, amid much publicity, before being fully exonerated. However, his reputation was “in tatters” and the interviewee claimed he would “fail the Google test forever” (Stakeholder).
- In the second case – investigated by the IPCC – a very experienced investigator completed the investigation within 3 weeks, and the case was closed with no further action.

We have described in the previous chapter how some complainants tended to escalate their complaints up through the ranks. While interviewees recognised that some such complaints might have merit, they said that many lacked any evidence of misconduct. They expressed frustration at the time, resources and energy that the process used, and the damage to the personal reputation of chief officers:

You know, I mean I'm not a crusader but sometimes I actually think we encourage people to complain too much about the police. I think we should be saying to people the police have got a bloody awful job to do, make sure it's serious before you complain against the police. (IO)

...it's all very well and good making allegations about people, but you know, they

need to be capable of being dealt with... we don't have a huge queue of people wanting to be nice to us and there are those people who would actually seem to disable police officers by making false allegations against them. So whatever mechanism is in place, it has got to be fair to both parties. (Stakeholder)

Investigative costs and funding

The research found that funding was rarely discussed or recognised as a factor that determined the size, scale and scope of an investigation, and how proceedings were conducted.

The reported cost of some of the investigations discussed during the interviews amounted to millions of pounds, with investigators sometimes feeling that there was little or nothing to show at the end of them. The scale of the investment was thought to be determined more by the visibility and seniority of the officer under investigation, and the severity of the allegations, rather than by the degree of substance in the allegation. However, it was recognised that judgements about substance could only be made with certainty on completion of the investigation itself.

We were told of various funding arrangements, and interviewees reported that there could be considerable friction around how an investigation is funded. Discussion of one investigation revealed that, despite the IPCC conducting one part of a larger investigation – and being reportedly 'quickly in and out' and self-funding – there were still funding problems:

The police investigation is now still ongoing. Huge disputes or questions over who would fund. Huge friction between the chief officer leading it and the then police authority, then the PCC, as to how long is this going to go on for? How much is it going to cost? ...Another reason perhaps for trying to not have a protracted investigation – funding becomes a real issue. (Stakeholder and S/IO)

In contrast, one IO said that a regional solution had been found to these funding issue:

Post 2012 we've now got a reciprocal arrangement to investigate ACPO at all levels across our region... and they are cost-free... but with IPCC we incurred a lot of costs doing an investigation... at that time, people were getting stung for big bills. (IO)

Power imbalances in investigations

An important dimension to investigations related to the imbalance of power between the investigator and the investigated chief officer. The SIO was usually a senior officer – often a chief constable – but their role could be nominal. As one interviewee put it: "in most of these cases, while the chief constable is the decision-maker... there is a worker that does all the investigation" (IO). The bulk of the investigation was reportedly carried out, most often, by an officer between the ranks of inspector and chief superintendent. They tended to be from the same force as the officer under investigation, or a neighbouring force. One IO explained that there were personal risks with this arrangement:

When you interview a chief officer – this is my personal opinion – I think that you are concerned of the future repercussions this could have for your career bearing in mind XYZ force is a neighbouring force and I have no doubt that one day we we'll be adjoined to them, part of the same force, collaborative working, that I will come across him again, and he will remember this... I think the only way you can deal with that is to have people so far removed from the location

that the likelihood of them ever coming across these people again is extreme[ly low]. (IO)

One IO suggested that, sometimes, he or his colleagues were under pressure from senior officers to tailor their reports and findings in certain ways. He gave an example of a colleague who was pressurised to soften criticism of a chief constable:

Now, that sort of thing is just endemic. That sort of thing just happens all the time. (IO)

However, not all officers were concerned about such pressures, especially those who were either uninterested in career progression or close to retirement.

IOs were not the only people to experience the pressures associated with seniority. However independently-minded the IO, it sometimes proved impossible for them to secure co-operation from other officers and staff, due to a sense of loyalty or anxiety of the consequences, which affected their ability to gather evidence on the chief officer:

...people at some senior levels were reassuring [the officer] that he didn't really have anything to worry about... So that made it a really tricky dynamic, because for my investigation officers, they were finding some degree of obstruction, not in a bad way, in a really bad way, but from senior people in the organisation were being quite kind of offhand and making it a much more difficult investigation than it probably needed to be... (IO)

In one instance, the interviewee said the chief officer had sent emails to everybody in the force: "[It] said, in effect, if you assist this investigation, I will do you for defamation" (Stakeholder and S/IO). Another SIO referred obliquely to pressures from on high: "I'm not quite sure why, but I think I did sense a piece of almost coming through from the ACPO police that you won't find against this man" (SIO).

One interviewee mentioned the problem of disclosure of evidence, reporting how, in the course of an investigation, a potential witness expressed concerns about giving evidence against a senior officer in case of repercussions:

What happens if I give you evidence? Because in this day and age everything's disclosed to the defence, so they're going to know. What happens if you don't succeed, or if the investigation doesn't have the outcome and the chief officer remains? I may as well leave. And this is what you work under. Trying to get evidence off people who think if they give it to you their career will end. So they either do and to their credit, a lot did, or they don't. (Stakeholder and S/IO)

Not all IOs felt that investigations suffered from these pressures, however:

Obviously it was given to the chief and the chief sat me down and at no time did he say he's a mate of mine, you know. 'I've been asked by this force. I want you to do it independently, I want you to keep me up to speed with it, I want to know what's happening' and... he certainly didn't say, 'Well, I don't want that bit in and I don't want that bit in'. (IO)

Indeed, one SIO defended his ability, desire and professionalism to conduct a free and fair investigation in the following terms:

I think people forget, some chief officers forget that actually if you ask somebody who operates by the Nolan Principles to do an investigation, favours

won't be given, what will happen is there'll be a search for the truth and the truth will come out. (S/IO)

Outcomes of misconduct investigations

The interviews showed that the outcome of misconduct investigations could also be contested and varied. The Appropriate Authority's discretionary decision-making was reportedly influenced by a range of factors, including:

- Individual perception.
- Personal and organisational tolerance of conduct.
- Overall impact of the decision on perception of the police organisation.
- Media interest.
- Wider political imperatives.

Once an investigation report was submitted to the Appropriate Authority (via the IPCC where required), it was for them to determine how then to proceed. The Appropriate Authority has a wide range of options, especially if the evidence is open to interpretation:

So it can go both ways and then when this report review is submitted, it's then another decision for the Appropriate Authority to make and that decision would be around, you know, did they believe that the misconduct threshold has been met and, if it has been, should there be some form of disciplinary meeting? (IO)

A consistent theme to emerge from the interviews was that there was little clarity about what constituted 'meeting the misconduct threshold', which was seen to be a very subjective decision. In contrast, and as mentioned, the threshold between 'misconduct' and 'gross misconduct' was generally thought to be clear, although in practice considerable disagreements were evident, in one case in particular. For example, the Appropriate Authority need not follow the investigation's recommendation as to whether the remit of a misconduct hearing is to be misconduct or gross misconduct. Furthermore, even when the evidence of gross misconduct was established and dismissal recommended by the panel, the Appropriate Authority could decide not to accept the recommendation and could deal with the matter via management action.³⁰

There appeared to be little oversight or review of the disciplinary decisions made by Appropriate Authorities to ensure that the principles of justice were upheld consistently. One officer, whose investigation found gross misconduct against a senior staff member, reported that the outcome was merely 'words of advice', even though they felt the scale of financial irregularities merited a more stringent sanction:

...the IPCC and police authority didn't allow anybody to see our final report... because they do their own reduced version, didn't they? A very, very much watered down version. (S/IO)

In addition, outcomes of the investigations were influenced by a range of other factors explored in the interviews with investigators. These included – the attitude of the officer investigated; differential treatment of staff and officers; and the implications of resignations or retirement in cases of alleged misconduct.

³⁰ However, they could only overturn the outcome of the misconduct hearing by way of judicial review.

The impact of remorse and cooperation

Chief officers who recognised they were at fault or co-operated with the investigation tended to be viewed more sympathetically by investigators. For example, one investigation turned on whether two chief officers had been aware of a document. Their attitudes clearly shaped the investigator's response:

I interviewed [the first chief officer] about it and I've absolutely no doubt that he was perfectly honest, he said, 'I was there... I accept I probably, I must have read the document, I just didn't see it for what it was'...I asked [the second chief officer] the same question and there was a different response, pretty much, 'Well, I wouldn't have read the document...'. (IO)

The interviewee explained that the first chief officer's conduct was excused. The second chief officer's denial raised questions of honesty and integrity, but not professional competence and the IO returned a finding of gross misconduct against that officer.

Another IO described the attitude of a senior police staff member who was being investigated for a complex fraud case.

It was very much, 'I'm right, you don't know what you're talking about, you know, you're just a mere plod and you'll never understand the intricacies of financial management'. (S/IO)

The perceived arrogance of the officer had an impact on how the investigation progressed. The IO went to great lengths to prepare for the interview:

I didn't have the knowledge, but we prepared properly for the interview and we'd spent days, if not weeks and weeks going through with our interview adviser... we controlled him in the interview and, if he drifted off, we brought him back... and we didn't allow him to take any control and that's where he fell down, because he needed control. (S/IO)

Differential treatment of police officers and staff

Several investigators suggested that differences in the processes for handling misconduct by officers and staff worked against the latter (see Appendix B). The argument was that staff misconduct was covered by a simpler and less legalistic system with fewer safeguards:

...similar misconduct offences do not receive the same outcomes for police staff compared with police officers... There is a concern, particularly amongst police staff and the union, Unison, that actually police staff are dealt with more severely, because the police staff misconduct system is more simple, far less legalistic. As you know, lawyers are involved at almost every stage of the police misconduct system, whereas actually they are hardly ever involved in police staff misconduct. (S/IO)

A stakeholder, who had previously held a senior PSD role, made a similar point:

One of the things I did want to raise with you is the different way we treat police officers to police staff... some of the staff get a tougher deal... they get treated more harshly... The way it's been put is because the civil disciplinary route is much less legalistic. They don't necessarily get legal representation... It is cultural. We are far more tolerant of wrongdoing by cops than we are of our

police staff. We put the cops on a pedestal and I don't understand it.
(Stakeholder)

Retirement and resignation

Sometimes chief officers under investigation asked their Appropriate Authority for permission to retire or resign before the proceedings were completed, and this permission was often granted. Such decisions sometimes attract negative publicity on the basis that they apparently allow those 'guilty' of misconduct to escape without consequences. However, two important points were made during the interviews:

- First, though not always the case, some misconduct investigations were reportedly pursued to their conclusion even when officers resigned or retired.
- Secondly, the sanctions available to the Appropriate Authority following a finding of guilt do not differ materially from voluntary retirement or resignation (except in criminal cases³¹).

Interviewees said resignations were accepted mainly due to financial costs of the investigative process: "One of the reasons we're so fierce about retaining the ability to let people retire when facing gross misconduct is cost" (Stakeholder). The financial considerations can be significant, as one stakeholder put it:

From a really cynical financial Treasury sort of perspective, there's some really difficult decisions to make about resignation because, do you persevere with a prosecution? That might cost even a million pounds if it's a really significant case, lawyers' fees coming in, so on and so forth. Or, do you take their financial situation and let them go? A lot of PSDs will take a very selfish view and say yes, let them go, there's financial benefits, we get rid of risk and... therefore the problem has been alleviated in the most effective way. I think there's some logic to that, I sympathise with that. Where I disagree with that perspective is when that officer has potentially committed a criminal offence. I think you don't have a choice, you need to pursue that, that's what the public deserve... actually you're undermining the legitimacy of the police service [if you don't]. (Stakeholder)

But there are other considerations besides costs, as another stakeholder explained. By allowing an officer under investigation to retire or resign, the organisation ensured that the accused had no way of returning to policing. If the officer ended up staying in post and successfully appealed against the misconduct decision, they would be free to go back to work. Allowing the person to leave earlier in the process was seen by this interviewee as the better outcome for the police service:

...if you go for a hearing, there is a real danger they will not go [be sacked]. So, XYZ force have a guy whom they sacked, whom the tribunal brought back... they don't know what to do with him in terms of protecting the organisation from allegations of whatever, or him suing the organisation later if he behaves in the way he behaved previously. If they let him resign, he wouldn't be able to come back, and now we've got the Disapproved Register he wouldn't be able to get a job [in policing] anywhere else either. So unless they get rid of the tribunal – which they could do, 'cos everyone has legal advice at the first hearing – well, if they got rid of the tribunal we would be less supportive of people going early.

³¹ Pension entitlement is usually unaffected following a finding of misconduct, but a portion of the employer's contribution can potentially be withheld following a criminal conviction for a serious offence, but only with the approval of the Home Secretary.

One of the reasons we let people resign is to ensure they leave the organisation, 'cos we cannot be certain what will happen if we let them go before a panel.
(Stakeholder)

Summary – investigating misconduct

Our examination of the process of investigating chief officer misconduct has shown how, like other police investigations, investigators and others involved in the process exercise considerable discretion. One clear consequence was that there appeared to be inconsistency in how chief officer misconduct cases were assessed and investigated. The lack of consensus around how different conduct was defined – unethical behaviour, misconduct, gross misconduct and criminal conduct – could lead to a lack of objectivity in severity assessments and disagreement between the Appropriate Authority and investigators. Furthermore, according to our interviewees, the fact that Appropriate Authorities exercised wide discretion, and there was little or no oversight of their decisions, could result in considerable variation in disciplinary outcomes.

5. Conclusions and implications

This report has aimed to characterise the nature of misconduct among chief officers, and to explain the various routes that may draw chief officers into misconduct. There has been no previous research on the topic in England and Wales, and thus the study was exploratory; when we initially embarked on the research, it was clear that knowledge was fragmented, with people from different organisations all having a partial view of chief officer misconduct. It was difficult to get a sense of the scale and nature of the issue. However, we have been able to draw on the insights of people whose professional lives make them well-placed to speak on the issues.

Misconduct among chief officers shares some things in common with unethical behaviour among frontline officers. There were temptations and opportunities, a degree of cultural tolerance for some forms of misconduct, and processes by which people can drift, or be drawn, into misconduct. In some important ways, however, chief officer misconduct is distinctively different:

- They are highly visible, exposed to multiple systems of accountability, and responsible for maintaining the reputation of their force.
- They have an extraordinary burden of responsibility for ensuring the effectiveness and integrity of police work
- The precise nature of their role can also prove isolating, with limited preparation for the role, and a lack of both support and constructive challenge.

Inevitably, these factors shape the nature of misconduct at a very senior level.

This final chapter examines the implications of chief officer misconduct, looking in particular at how the police service and its oversight bodies might respond to the difficulties it faces. While interviewees, at times, painted a rather bleak picture of the recent ethical health of **some** chief police officers and staff members in **some** forces, it was clear that across the service the appetite was very much for change. Indeed, it was clear that the very change interviewees spoke of had already started to embed itself among many chief officer teams around the country. Interviewees discussed the importance of policing with integrity and promoting strong ethically intelligent leaders who valued and encouraged challenge, managed with integrity, and possessed an ethical intelligence that imbued the chief officer team and the rest of the workforce. The current ethical climate was described as being the product of a range of organisational procedures and processes, coupled with the quality of leadership. The future ethical climate, thus, needs to be consciously shaped not only by chief officers, but also by those that govern and provide oversight – PCCs, the IPCC, the College of Policing, the Home Office and HMIC.

We have presented the themes for change that emerged in our interviews under four headings:

- Reshaping the ethical climate in police forces.
- Building a consensus on ethical standards.
- Protecting against cognitive failure.
- Ensuring challenge and support.

Reshaping the ethical climate in police forces

A clear theme to emerge is that the ethical climate of a police force is seen as a very significant factor in shaping the behaviour of both chief officers and rank-and-file. Drawing on both the insights of our respondents and on previous research, it is clear that important

shaping factors in the force include the level of organisational justice and the nature of performance management. It seems likely that any strategy for improving integrity – at whatever level – has to attend to these factors as preconditions for effective reform.

While our interviewees portrayed the current ethical climate in policing as dominated by rules, codes and laws, they also recognised that for a healthy ethical climate to embed it must be shaped, first and foremost, by values, at both an individual and organisational level. The key points of leverage for achieving such an aim are as follows:

- Leadership.
- Performance management.
- Organisational justice.
- Selection and promotion procedures.
- Education and training.

Leadership

Interviewees consistently referred to the 'bad old days' of police leadership when chief constables tended towards autocracy and 'command-and-control'. In moving away from this style, management theorists tend to offer two main leadership options: transformational leadership and transactional leadership. While the former is likely to be the more successful at instilling commitment to a given set of values – as opposed to compliance with a specified set of rules and standards – it is harder to achieve than the latter and not without its critics. As highlighted in Chapter 2, transformational leadership – in the wrong hands – can be used to manipulate the workforce. To take account of this, management theorists now favour authentic leadership. Tonkin's (2013) review of the literature describes how authentic leadership is a combination of both ethical and transformational leadership. Ethical leadership promotes the individual qualities of a leader such as self-awareness, transparency and ethics (Avolio and Gardner 2005). Transformational leadership promotes qualities such as inspiration, intellectual stimulation and individual consideration (Bass and Riggio 2006).

Our interviewees were unanimous about the centrality of ethical leadership in shaping the ethical culture both of the chief officer team and of the whole force. For example:

I believe that those people who are responsible for imposing standards on others must at all times display higher standards themselves. That applies to anybody who works in policing. It's a huge honour and a privilege to be a police officer, but [there are] huge responsibilities with that. And when you have people imposing standards and not displaying those same standards themselves, then I don't think it's a particularly edifying place for police officers or police staff to be... We shouldn't be putting people up for being chief officer unless we've actually tested to see whether they have the right ethical approach... there should be a high level of expectation, but we don't even test them to see if they've got a basic level of ethics... we expect these really high standards from you as a chief officer but we haven't even tested to see if you've got any ethics, I think that that is one of the reasons we've ended up with some of the people in chief officer positions that have been subject to investigations. (IO)

While welcoming the introduction of the Code of Ethics for policing, many interviewees highlighted how chief officers tended to become involved in misconduct that was of a very different nature to that involving operational officers and their supervisors. Interviewees were clear that chief officers need to set out a clear and simple expectation of how they will behave, how they will challenge their peers who do not meet the standards expected of their office, and how they will protect the integrity of both their own force and the wider police service. Arrangements clearly will need to be put in place to ensure open debate between

chief officers and the College of Policing to build this consensus – with the National Police Chiefs' Council (the successor body to ACPO) playing an appropriate role.

Performance management

Until the late 2000s, a chief officer's success was measured against a raft of Home Office performance indicators. This situation has now changed:

- In 2007/8, the government replaced the extensive Police Performance Assessment Framework with the 'single top-down confidence target', which was accompanied by the Policing Pledge.
- In 2010, the coalition government removed this last remaining central target, stating that the job of the police was simply to cut crime.

The aim of both moves was to reduce police bureaucracy and the perverse effects of targets on police activity. At the time of the 2010 announcement, the Home Secretary said that chief officers should not introduce their own local targets, warning:

When times are tight, when we are removing red tape imposed by the Home Office, it simply cannot be right that this bureaucracy is reinstated at a local level. (Home Secretary 2010)

While central government may have removed numerical targets, many PCCs appear to have re-introduced them at a local level. In 2013, it was reported that 18 of the 41 PCCs had set clear targets or measures of performance, while others had tasked officers with 'broader objectives' (BBC 2013b). The Association of PCCs, however, has suggested that these targets bear no resemblance to past government goals.

Interviewees who discussed targets and performance indicators were in agreement that cutting crime was core police business, but felt targets should not be the only yardstick to assess policing. The view from interviewees was that the pervading performance culture of the previous 20 years had had a detrimental impact on leadership styles and the ethical health of forces, and had been in tension with some public service values. Moving away from such a culture to one that promoted organisational learning and problem-solving, and which valued the principles of procedural and organisational justice, was the way forward that interviewees favoured.

Organisational justice

A consistent theme was that the ethical climate within the organisation was closely linked to the workforce's experience of organisational justice. If officers feel valued and fairly treated by their superiors they in turn will treat others with fairness and respect. Part of being valued and treated fairly is that officers below the chief officer team believe that the same ethical rules apply to all, that if they have a legitimate concern about another officer's behaviour (regardless of rank) it will be listened to, and that challenge will not be career-limiting. Organisational justice is about values, in addition to regulations and targets, as described fairly bluntly by one of our interviewees.

I agree with this focus on challenge, where I'm coming from, look at the big thing, because actually what we're talking about here is hearts-and-minds, and common-sense, and values. What we're in danger of trying to do is change by mechanistic simplicity. I remember listening to a guy once, I read his work later, he said you'll never have long-term organisational change through a performance framework, you do it through values... and values don't need rules. Rules are for stupid people. (Stakeholder)

Although many chief officers value the principles of organisational justice and instil many of the principles of organisational learning into specific areas of policing (for example de-briefs of specific incidents), it is probably fair to say that such models have only just started to take root in many force areas.

Precisely how aspirations for organisational justice are turned into reality is inevitably complex. Fairness, and the preparedness to listen to the viewpoints of others and explain decisions, can conflict with the need for decisive action – which is often considered a central attribute of ‘good policing’. Perhaps the key issue for leaders to stress is that organisational justice within a police force can simultaneously secure workforce compliance with policy, and make them more confident in their own use of authority. But for the purposes of this report, the value of pursuing organisational justice within a force is that it can help support an ethical climate within which chief officers themselves are likely to be less at risk of misconduct.

Selection and promotion

As discussed in Chapter 3, many interviewees thought that the identification and selection of chief officers lacked transparency and rigour. A recurring theme was the tendency to support candidates for promotion who were unlikely to challenge the leadership style or question the status quo. These candidates were, in one interviewee’s words, “like-or-like” – a mirror image of their chief. In essence, they have a “face that fits”. The risks associated with this style of selection include:

- failing to put forward the best candidates;
- sending out an implicit signal to potential candidates that conformity was vital if a person was to succeed; and
- creating chief officer teams that were insular ‘in-clubs’ that lacked diversity of profile, skill and personality.

The majority of interviewees agreed that chief officers’ decision-making, relating to the selection of candidates put forward for Senior PNAC, needs to be transparent. This transparency is likely to ensure that the best candidate has been selected rather than the convenient ‘hand-picked’ one. One recent change has been to relax the restrictions placed on candidates being promoted in force without the need to have served in other forces. Some interviewees welcomed this move, as they viewed it as a way of reducing the isolation – a perceived risk factor – that some chief officers experienced when promoted to a new, unfamiliar force away from home. Other interviewees, however, highlighted that the move has the potential to create inward-looking cliques.

As highlighted in Chapter 3, the selection of officers for high potential schemes was viewed by some with a degree of scepticism. Some interviewees raised concerns about both the initial selection process and the subsequent training provided; in particular concern was voiced about the perceived low priority that was placed on ethical decision-making and values. The view shared by some was that once promoted to a chief officer position some of these officers lacked the competency and necessary skills and were left with insufficient support.

Focus group participants also raised concerns about some – not all – fast track scheme officers. While no interviewee was opposed to these schemes, many believed that future students on fast track schemes needed to demonstrate their ability to fulfil the demands of each rank prior to promotion. The group also commented that high potential officers often did not want to appear ‘out of their depth’ or indecisive. Consequently, they were believed to have fostered a troublesome ‘culture of decisiveness’, not wanting to ‘look like you don’t know what you are doing’. There was also a belief that some of these officers felt ‘that they have to make a decision’, which sometimes resulted in attempting ‘to do something without the skills’. To support and promote the scheme, research participants believed that the

current selection process needs to be appraised to ensure that the most appropriate officers are selected. Thereafter, fast track scheme candidates need to be provided with the necessary support and time to develop some of the key skills needed to be a competent chief officer.

Several interviewees commented that some of those chief officers who were involved in misconduct had previously acquired reputations for 'bad behaviour', and these suspicions or concerns did not always get aired during selection procedures. The reasons were found to be complex. The tendency for referees to be supportive of staff looking for progression tended, inevitably, to result in references that only focused on the positive. Similarly, but more perversely, the prospect of the departure of a problematic member of staff might also have resulted in a similar focus on the candidate's strengths. Crucially, references were reportedly no longer written on a confidential basis, meaning unsupported criticisms were open to challenge by the candidate. Equally, the informal 'tip-off' to potential new employers was no longer thought to be acceptable. We are not qualified to comment on the requirements of employment law (and related case law) in this respect. However, it is clearly of critical importance to ensure that decisions about promotion to chief officer are informed by the full and accurate information about the candidates' integrity, and it is important that procedures are in place to ensure this transfer of information happens.

Education and training

Policing is a profession that values, promotes and devotes much time and energy to training. Prior to each promotion, officers often assume the next role before being substantively promoted. While training at the lower ranks was generally perceived as appropriate and relevant, many of our interviewees perceived "the Strategic Command Course and the PNAC process [as] probably no longer fit for purpose" (Stakeholder). While many interviewees thought the current arrangements were inadequate, they also thought that preparing and training senior officers and staff is key to maintaining and raising ethical standards within the service. The College of Policing has now taken responsibility for managing and delivering the SCC; and prior to taking on this responsibility a review was conducted of the previous course. While a number of elements were retained, the re-designed course aims to have greater external input and a stronger focus on ethics:

Through the course [candidates on the SCC] will develop a more detailed understanding of integrity issues as they affect them personally and the organisations they lead. They will explore the importance of developing cultures that promote equality, diversity and human rights, ethical decision-making and practice that is based on valid and reliable evidence. They will evaluate different approaches to leadership critically, raise their levels of self-awareness and develop their own leadership style.

Delegates will develop their vision for leadership of their organisations and their role, promote effective team working at the executive level and enhance their personal political awareness to be able to negotiate influence and lead with integrity in a complex environment. (College of Policing 2014b)

Included now is a stronger focus on ethics, ethical decision-making and integrity. The common view among some interviewees was that there is a greater awareness now than ever before of promoting ethically aware leaders that are not necessarily 'like-for-like' or the mirror image of their own chief.

There's a huge focus on the current Strategic Command Course on values and ethics. From chief inspector upwards there's a leadership programme that you go through at Bramshill and some modules are around ethical leadership, so

looking at leadership styles, ethics and values... It's about getting you to see it from a different way rather than from the old style culture. Like I say my course didn't go anywhere near that, so that is starting to come through in the training and the individuals that are being selected... there is also a component of that [ethics] in the senior leader training which is from chief inspector to chief superintendent. (IO)

While training may be helpful, ethical intelligence is unlikely to be a competence that can be acquired simply through that process. What is at issue is the development of ethical perspectives, which are probably best acquired through the right forms of education, professional development, coaching and experience.

Building a consensus on ethical standards

One of the most important themes to emerge from this study is that there are significant divergences of view about the ethical standards that apply to chief officers, and about the gravity of different forms of misconduct. Some of those we interviewed felt that the system could sometimes respond disproportionately to chief officer misconduct. Others felt that police leaders as a group still had a long way to go in developing coherent ethical standards. The development and introduction of a Code of Ethics is clearly important, but there remains a significant challenge to ensure there is a consistent outlook among individual chief officers, the National Police Chiefs' Council (the successor body to ACPO), the College of Policing, PCCs, HMIC, the Home Office and the IPCC. The more that there is a disagreement between these bodies about the boundaries between ethical behaviour and misconduct, and between misconduct and gross misconduct, the easier it will be for chief officers to 'shop around' for a set of ethical standards with which they feel comfortable.

In addition to a greater consistency in approach, chief officers need to actively promote and encourage a culture where ethics, integrity and values are at the heart of policing, not just within the chief officer team, but throughout the force. While some interviewees believed fostering of an ethical police culture was already a 'work in progress', others were less convinced.

Furthermore, while it was clear from what most interviewees told us that change was afoot, there was still the belief that the service is not transforming itself fast enough to meet current needs. One interviewee commented that, for a consistent approach to be achieved, one option would be to create a single independent body with responsibility for investigating allegations of chief officer misconduct (perhaps in the College of Policing or National Crime Agency). Another potential solution to these dilemmas, put forward by a small number of stakeholders and an SIO, was to adopt a zero-tolerance approach to misconduct, which required total compliance with ethical standards by those at the top of the organisation and any deviation to be treated very seriously. This approach was also favoured by an ACPO commissioned report conducted by Transparency International in 2012, which suggested ACPO should ensure that there are common standards which are robust, clear and consistent, that are embedded across police forces and that those standards should be characterised by clarity and consistency. The report also suggested that there should be a zero-tolerance approach to misconduct, and that having a less serious category of 'misconduct' represented a risk by the very indication that there are shades of grey in wrong-doing (Wilkinson 2013).

The zero-tolerance approach has the apparent virtue of clarity, in a refusal to admit to the existence of any grey areas; and it may be a useful rhetorical call for raising ethical standards. However, on close analysis, the approach is not coherent, not least because the proportionality of response to allegations of misconduct is embedded in employment legislation. Some forms of misconduct are more serious than others, and it would be disproportionate to treat a minor case in the same way as a serious case. Judgements about

severity of misconduct are inevitable, and it seems that, at present, the police service – and related oversight bodies – have little consensus on such judgements. In the course of this study, it was impossible for us not to spot the differences in ethical standards and viewpoints that existed between individuals, between regions, and across generations. The view was also widespread among the police that the IPCC had adopted 'unrealistically stringent' ethical standards. One interviewee drew parallels with the medical profession and highlighted the complexities regarding a zero-tolerance approach.

I do believe that... medical neglect law has something to teach us here, there's a law, a phrase in medical law, firstly it says doctors should be allowed to make mistakes. When does a mistake become neglect? And what this law says, I can't remember quite how its phrased, is that it doesn't matter if 90 doctors wouldn't have done that at that time in those circumstances... If 10 people would have done the same thing that's not neglect. That is a professional judgment in incredibly difficult circumstances that went wrong. (SIO)

While interviewees believed that allegations of misconduct should be thoroughly investigated, there was also a tendency, in some instances, for genuine mistakes or bad judgements to be 'blown out of proportion'. Proportionality of approach is a fine balance to achieve in practice.

Protecting against cognitive failure

We have found the work of Terry Price (2006) helpful in understanding several of the cases of misconduct in this study. We were told that some of those involved in misconduct were sincerely convinced that they had done nothing wrong. Others were said to have accepted that their conduct infringed rules and regulations (and in some cases criminal law), but seemed to exempt themselves from the scope of the rules. Price has suggested that, by virtue of their position, leaders are particularly prone to making misjudgements of this sort, in thinking that as leaders they are exempted from the rules that apply to the general workforce.

One potential strategy for reducing the risk of this sort of cognitive failure would be to increase chief officers' awareness of the risks, and to encourage them to be more explicit about when and why they have excepted themselves from any ethical rules. Exposing their thinking in this way might enable them to test whether the exception is justified or not. What this strategy amounts to, in practice, is for chief officers to ensure that there is more space within the chief officer group for open consultation and reflection about ethical decision-making.

It may also be worth recognising that small cognitive failures can turn sometimes into large ones. Some of our cases had very complex dynamics, whereby chief officers found themselves progressively more tightly constrained by prior decisions they had made – for example, in reviewing the actions of more junior officers, and in their own initial responses to such action.

Senior managers clearly need to be more sensitive to the consequences of ethical misjudgements. There may be scope for reshaping and broadening the dominant decision frames within which police leaders make decisions. There are two main ways in which decision frames can be overly narrow. First, there may be an overly narrow view of the police role – equivalent to the 'bottom-line mentality' that affects ethical standards in commercial organisations. Second, goals internal to the organisation – such as its reputation – may be privileged at the expense of wider and more important public interest goals.

A recurring theme throughout our interviews was the view that chief officers should examine their behaviour through the eyes of the 'man or woman on the Clapham Omnibus'. If there is

any danger that a member of the public will perceive their actions to be driven by self-interest or an exaggerated sense of entitlement those actions should not be engaged in.

On the issue of entitlement, chief officers ultimately need to self-govern, though unfortunately there were clear examples where this approach had not worked well. The Code of Ethics has outlined the values it expects chief officers to adhere to, but cannot force officers to follow those values.³² At the point at which chief officers engage in ethically ambiguous behaviour, interviewees felt that, as a collective body, chief officer colleagues should hold one another to account (e.g. Chief's Council). Many of our interviewees disclosed how the unethical reputations of some chief officers were common knowledge among their peers, but that these officers were left unchecked and unchallenged. Interviewees shared the opinion that offering protection to errant officers was a sign of weak internal governance.

Support and challenge

There are many practical things that can be done which could mitigate the risks of chief officer misconduct. Chief officers need to ensure that they have effective access both to support in their decision-making and to constructive challenge. As discussed in Chapter 3, challenge is something not all chief officers have welcomed or encouraged. However, it seems likely that, for a chief officer team to be effective and to imbue the workforce with the confidence to challenge, effective and supportive communication needs to be a two-way process – both down-stream and up. There is probably scope for senior PSD staff and senior staff from the Office of the PCC to act as critical ethical friends for both the chief officer team and S/IOs who are conducting investigations. Given that both PCCs and HMIC hold chief officers to account, it may be advantageous if both played some part in supporting chief officers. How this arrangement might work is best decided at a local level.

Challenge

The police service is not an organisation unaccustomed to challenge – it is, in fact, the organisational epitome of challenge, given the police challenge rule-breakers all of the time. Even within the police service, challenge is commonplace, as long as it is down-stream not up. When it comes to challenge at a senior level, challenge tends to 'lose its direction'. It is probably the hierarchical structure of policing that has historically prohibited challenge, rather than the individuals within the structure.

Organisational change in any large institution can take time, and is likely to require its architects and champions. There was no doubt from our interviewees that these architects and champions already exist at the chief officer level. Our focus group participants were very much of the view that in today's policing world there is 'greater exposure' and that officers are now open to scrutiny:

Officers at chief officer level are taking a different view... there is much more integrity than in the past. There was a lack of challenge in the past and there is now a different breed of chief officer. (Focus Group)

A healthy team is one where there is mutual challenge, respectful challenge. It's how to get to a position where the most senior people within an organisation encourage, check and stimulate an atmosphere whereby they are able to be challenged in an appropriate way. (S/IO and Stakeholder)

Focus group participants also believed that discussing the range of ethical dilemmas faced by

³² The College does, however, set the standards for police training, qualifications and career pathways, which provide a number of levers to steer the ethical direction of future leaders.

chief officer teams should be part of their (senior PSD officers) remit. However, they were divided about whether this view was widely accepted by chief officers or routinely put into practice. In forces where openness, transparency and challenge were promoted, PSD leads held positive views about their ability to challenge senior officers. In forces where this culture had yet to be embedded, PSD heads were less positive about their capacity to challenge. During the focus group, participants discussed the introduction of independent ethics committees within forces. While these committees were very much in their infancy and it is not part of their remit to look at individual misconduct cases, focus group participants were enthusiastic about their introduction and interested to see what – if any – impact they would have on the ethical decision-making of chief officers. Greater Manchester Police (GMP) has set-up one of the first Independent Ethics Committee; it has a broad membership and considers its remit will include both wide-ranging and thematic ethical issues. In a press statement GMP stated that:

The committee – the first of its type in the country – will advise the PCC and Greater Manchester Police on the complex moral, ethical and integrity dilemmas policing faces in the modern world.

While focus group participants were keen to express their interest in the ethics committees, one stakeholder was less than enthusiastic about their introduction in practice and saw the committees, especially the ones with PCC involvement, as “nothing more than audit panels” (Stakeholder).

Whatever shape these committees take, there is clearly scope for the ethical complexities faced by chief officer teams to be considered and deliberated, and support to be given.

Whistle-blowing

In a statement to the House of Commons, the Home Secretary (2014) announced proposals to strengthen the protection for police whistle-blowers: “Police officers and staff need to know that they can come forward in complete confidence to report wrongdoing by their colleagues”. A public consultation on police whistle-blowing was conducted in late 2014, and at the time of writing the government was developing a national policy to ensure a consistency of approach across all 43 forces.

While whistle-blowing is enshrined in legislation, it has never been fully embedded in the service. In part, this is likely to be due to the hierarchical nature of the organisation which inhibits challenge, and the fear of officers and staff being identified. For chief officers, it would be relatively easy to discover or speculate who has raised a concern about their conduct or decision-making. It can, however, also be understood better by examining the cultural identity of the police – the culture of solidarity, cohesion and ‘sticking together’. As highlighted by some of our interviewees in Chapter 3, being a whistle-blower carries certain risks, for example:

- A career may be halted in its tracks.
- The workplace can become an unbearable place to be.
- They may be labelled a ‘troublemaker’ and become ostracised.

Our interviews revealed that a number of whistle-blowers had resigned due to the extreme unpleasantness of their ‘new’ working environment. One stakeholder, however, held a slightly different view. They urged that each case should be investigated fully, regardless of whether it was a chief officer who was involved or whether the information came to light from a whistle-blower. This particular interviewee at a chief officer level believed that, while protecting whistle-blowers was important, there were also some individuals who would ‘blow the whistle’ for malicious or vexatious reasons.

There is a view at the moment that all whistle-blowers are correct and all chief officers are liars. So if you're a junior member of staff or an ex-police officer and you whistle blow, what you say must be genuinely correct... it's really hard to have a conversation with HMIC or anyone else around the fact that... sometimes whistle-blowers have their own malicious reasons for doing it. It's not the conversation that's going on. It's been polarised into, 'Whistle-blowers are always correct and when chief officers challenge them, it's the chief officers that are the problem'. (Stakeholder)

The government announced its intention to conduct a consultation on police whistle-blowing after the fieldwork for this study had been completed, so we were unable to ask our interviewees about their views. Interviewees were clear, however, that whistle-blowing against a chief officer was a rare occurrence, although there appeared to have been a recent change in this trend as there was reportedly growing appetite from junior officers and staff members to take this course of action.

Governance

In the last couple of years, the policing landscape has changed considerably. PCCs have replaced Police Authorities, the College of Policing and National Crime Agency have both been established, direct entry has been introduced, and ACPO has voted in favour of being replaced by a new coordinating body. In addition, the IPCC is undergoing a programme of expansion to enable it to investigate all serious and sensitive allegations made against officers and reforms to the jurisdiction and structure of HMIC have taken place. The creation of PCCs was, perhaps, the most significant change to affect chief constables, in that they provide a very different accountability structure for policing. The Policing Protocol Order 2011 (the PPO) stated that:

The establishment and maintenance of effective working relationships by these parties [chief constable, PCC, the Police and Crime Panel members and London equivalents] is fundamental. It is expected that the principles of goodwill, professionalism, openness and trust will underpin the relationship between them and all parties will do their utmost to make the relationship work.

In addition, the PPO asserts that all parties should abide by the seven 'Nolan' principles of public life that set out the ethical standards expected of those in public office (Committee on Standards in Public Life 1995), which later formed the basis for the Code of Ethics (College of Policing 2014a). The PPO states that PCCs are responsible for the governance of chief officers, and Police and Crime Panels should maintain a regular check and balance on the performance of the PCC in that context. Each PCC is responsible for complaints against chief constables, and the Panel for complaints against a PCC. Serious complaints made against a PCC or chief constable must, however, be passed to the IPCC, in line with legislation.

A small number of interviewees highlighted their concern about the ability of the IPCC to provide adequate governance of chief officers. For some interviewees, the capacity of the IPCC was an issue, remarking that the organisation has, at any one time, too many investigations and not enough adequately trained investigators. For others, the issue was the complexities involved in chief officer investigations. The remainder raised concerns about whether the IPCC was the most appropriate body to exercise greater governance over chief officers.

One interviewee commented that sufficiently robust safeguards would only be realised, if those providing governance to chief officers understood the world chief officers inhabited (i.e. the pressures, responsibilities, isolation and vulnerabilities):

We are not going to make it that much better by constantly weighing it. I mean we're turning to look at it again. Unless you change the dynamics inside, by changing the dynamics I mean understanding the landscape that these people [chief officers] are operating in and then build the safeguards around the landscape. (Stakeholder)

Putting in place a robust and appropriate governance structure was viewed as possibly the greatest challenge, in part, due to the culture of chief officers and the difficulty of junior staff challenging upward.

Given the drive towards the professionalisation of the police service it was unsurprising that none of our interviewees believed the status quo could or should remain. There was also, however, considerable consensus that the complexities both at the structural and individual level that feed into misconduct at senior levels in the police need to be addressed by chief officers and those bodies that govern them.

Concluding thoughts

This report has set out the findings of an exploratory study into a highly complex set of issues around misconduct. It is a qualitative piece of work, and we have relied heavily on the insights of those whom we interviewed. One of the key themes of the research is that one of the best ways of improving ethical standards within an organisation is to ensure that there is intelligent and open debate on the issues. This report may help to ensure that debate of this sort takes place.

We hope that we have identified processes and procedures that damage the ethical climate of police organisations, and those that can help promote high ethical standards. However, in research of this nature, conclusions can never be definitive. Ensuring that there is more of a consensus on ethical standards in policing, and on the values that the police service should espouse, is ultimately a task for police leaders themselves.

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Appendix A. Analysis, additional data sources and research ethics

Data analysis

All but one of the interviews were digitally recorded and then transcribed by a secure confidential transcription service. In one case the interviewee did not wish to be recorded, so handwritten notes (including verbatim quotations) were taken and typed up for the purposes of analysis and treated the same as the transcripts. Transcripts and recordings were securely stored in encrypted form in locked cabinets. Transcripts were coded and subjected to thematic analysis using NVIVO (qualitative research software) by three of the researchers (see Box A1 below for a summary of the main coding themes). Considerable effort went in to constructing the coding framework (thematic categories), in particular to ensure that the researchers involved in the coding had a consistent understanding of the coding definitions. The coding started from the research questions and literature and then progressively incorporated insights from the interviews themselves, and was developed collectively by the three researchers. In the early stages of the coding the researchers coded transcripts all together and then in pairs, and further checks were made to maximise inter-coder reliability. Due to institutional arrangements, coding then continued on three separate copies of the NVIVO 10 project file and these were periodically merged. Given the sensitive nature of the data, project files were stored and transported on encrypted USB devices, necessitating the research team to physically meet to facilitate any exchanges of data. Where additional themes ('nodes') emerged during coding, these were discussed among the research team and then simultaneously added to the separate project file copies to ensure that merging would be seamless.

Box A1. Analytical nodes

Below are the main 'nodes' the research team developed for coding the interview transcripts, which were created with reference to the existing literature, research questions, and very detailed discussions of the substance of the interviews. Greater detail was captured, where required, in sub-themes ('sub nodes') that are not included below.

- Background – material relating to historical context, of relevance to the introduction and literature review, etc.
- Brief facts of the allegation – a short summary.
- Risks and vulnerabilities – related to allegations of misconduct (organised as a series of more detailed sub-themes).
- Implications, responses and solutions (again organised as a series of sub-themes).
- Investigating misconduct – by whom, processes, decision making, etc.
- Outcome of investigations – summary details.
- Explanations of misconduct – hypotheses.
- Types of misconduct – to inform the development of a typology.
- History of misconduct – to capture any detail specifically relating misconduct history to current allegation.
- Market in senior police leaders – supply and demand.
- Investigated officers in sample – classified as 'persons', with key information recorded against each individual.

In the first instance, the task of analysing the coded material and turning that analysis into the final report was divided thematically among the research team. Coded material was then examined to identify broader themes. Analysis of the coded transcripts involved extracting the main patterns of findings to emerge within the themes that had been used for coding.

In subsequent chapters, verbatim quotations have been included to illustrate and support the findings and conclusions, though care has been taken to protect the anonymity of research participants and the people they were discussing. The quotations have only been identified in terms of whether they came from a stakeholder, investigator (IO or SIO), focus group participant, or the force vetting officer we interviewed. In a small number of cases, the rank of the interviewee has been mentioned where relevant, but only if it did not increase the risk of an interviewee or cases being identified. Where multiple quotations have been presented to support a point, it should be assumed they are from different interviewees (unless stated otherwise).

We have not generally identified the number of respondents who adopted specific positions and raised particular themes. As a qualitative study, doing so would have given a spurious impression of precision. In this regard, it is significant that the interviews were semi-structured. The topic guides were, to an extent, tailored to, and reflected, respondents' differing experiences. Consequently, not all questions were asked of all interviewees. In general, we have tried to report only those themes that emerged from several interviews, and have highlighted where viewpoints were more individual, unusual or not shared by others.

Table A1 provides details of the cases.

Table A1. Alleged misconduct cases in sample

No	Type of alleged misconduct	Rank of officer investigated	Outcome
1	Professional decision-making (procedures)	Assistant Chief Constable	Resigned
2	Professional decision-making (other misjudgement)	Deputy Chief Constable	No misconduct found
3	Professional decision-making (financial/material)	Deputy Chief Constable	Retired
4	Professional decision-making (procedures)	Deputy Chief Constable	Management action
5	Professional decision-making (process)	Deputy Chief Constable	Awaiting outcome
6	Professional decision-making (financial/material)	Assistant Chief Constable	No misconduct found
7	Professional decision-making (process)	Deputy Chief Constable	No misconduct found
8	Professional decision-making (procedures)	Chief officer (staff)	Words of advice
9	Professional decision-making (procedures)	Assistant Chief Constable	Retired
10	Professional decision-making (process)	Chief officer (staff)	Management action
11	Professional decision-making (procedures)	Chief officer (staff)	Words of advice
12	Professional decision-making (process)	Deputy Chief Constable	No misconduct found

13	Professional decision-making (process)	Assistant Chief Constable	Awaiting outcome
14	Interpersonal conduct (sexual)	Deputy Chief Constable	Other
15	Professional decision-making (process)	Chief Constable	No misconduct found
16	Professional decision-making (other misjudgement)	Chief Constable	Not known
17	Professional decision-making (other Misjudgement)	Chief Constable	No further action
18	Interpersonal conduct (prejudice)	Deputy Chief Constable	No misconduct found
19	Professional decision-making (procedures)	Chief Constable	Retired
20	Professional decision-making (process)	Deputy Chief Constable	Dismissed
21	Professional decision-making (procedures)	Chief Constable	Final written warning
22	Professional decision-making (other misjudgement)	Chief Constable	Unknown (case to answer)
23	Professional decision-making (process)	Chief Constable	Retired (not complete)
24	Professional decision-making (other misjudgement)	Chief Constable	Retired (not complete)
25	Professional decision-making (other misjudgement)	Deputy Chief Constable	Complaint withdrawn
26	Professional decision-making (process)	Assistant Chief Constable	Management action
27	Professional decision-making (process)	Assistant Chief Constable	No misconduct found
28	Professional decision-making (process)	Deputy Chief Constable	Awaiting outcome
29	Professional decision-making (financial/material)	Deputy Chief Constable	No misconduct found
30	Professional decision-making (procedures)	Chief officer (staff)	Resigned
31	Professional decision-making (process)	Assistant Chief Constable	No misconduct found
32	Professional decision-making (process)	Assistant Chief Constable	Awaiting outcome
33	Professional decision-making (process)	Chief Constable	No misconduct found
34	Interpersonal conduct (sexual)	Chief Constable	Written warning
35	Professional decision-making (process)	Chief officer (staff)	Final written warning

36	Interpersonal conduct (bullying)	Assistant Chief Constable	Unknown
37	Interpersonal conduct (bullying)	Assistant Chief Constable	No misconduct found
38	Professional decision-making (process)	Chief Constable	Dismissed
39	Professional decision-making (process)	Chief Constable	No misconduct found
40	Professional decision-making (process)	Chief Constable	No misconduct found

Additional open source material

Throughout the course of the research, we assembled a considerable amount of additional open source material – from internet searches – about allegations of, and investigations into, chief officer misconduct. This material included media reports, and reports published by the IPCC, forces, Police Authorities (Police Authorities), and Offices of PCCs.

Insights from these sources informed our analysis. In total, open source research identified misconduct allegations against 46 chief officers (including seven members of police staff) from 23 force areas since 2001. Of these, 40 cases dated from 2008 or later. Fewer than half of these cases fell into our interview sample (though only a small number predated our qualifying date or were reported after the sampling exercise was undertaken). We can only speculate as to why our approach to PSDs did not identify these other cases. Certainly, some cases will have been sub judice, with the criminal investigations taking precedent over misconduct. With the benefit of hindsight, a more systematic approach to non-force organisations – notably the IPCC – might have resulted in a more comprehensive set of cases.

The open source material was not subject to formal analysis, but we have drawn on it as background information, and to double-check our interview sample was reasonably representative of cases. We did not identify any bias in our sample in terms of police staff – they represented around one-in-seven cases in both the open source material (seven out of 46 chief officers) and our interviews (five out of 33).

Unexamined sources

The original methodology proposed by the College of Policing was an analysis of misconduct case files and associated documentation. At the start of the project, the College asked all 43 forces to identify closed investigations since 2006 involving chief officers where there was a 'case to answer'. We developed a data collection instrument following a pilot exercise which involved us reviewing three non-chief officer case files in one force, which we were able to discuss with the investigators. We then drew a provisional sample of files for analysis from the police force returns.

However, securing access to the files proved more complex and sensitive than had been anticipated. At a time when chief officer misconduct, and police misconduct in general, was under intense media scrutiny, the requests to forces or Police and Crime Commissioners (PCCs)³³ might have exhausted the goodwill that had been extended to the project and

³³ PCCs were expected to hold material on chief constables after 2012 as they were the Appropriate Authority for chief constable misconduct. They were also expected to hold

would, almost certainly, have encountered difficult data sharing issues.

The pilot exercise revealed that IOs tended to remember cases in considerable detail. They were also well-placed to summarise and discuss the allegations and how they related to wider contextual factors (including police misconduct in general), issues that were not necessarily relevant to the investigative process and which might not, therefore, have been captured in formal case files. In view of this, the College of Policing and research team decided to follow the interview route outlined above, rather than engage in potentially lengthy and sensitive negotiations to access documents (some of which were reportedly large in size and from which it might have been hard to extract nuanced insights in a timely manner). In a small minority of cases, investigators brought case file documents with them on their own initiative, and referred to them during interviews. This was primarily motivated by a stated concern to represent the facts of cases as accurately as possible, especially in respect of formal conclusions. On the whole, references to case files were infrequent.

Future research into chief officer misconduct might be able to take a more comprehensive approach than was possible in this study by, for example, supplementing investigator interviews with a review of relevant case files (especially where investigators may no longer be available for interview). With sufficient resources and access, there would also be benefit in interviewing complainants, as well as chief officers accused of misconduct for their perspective, and Appropriate Authorities to ask about their decision-making. The development of a comprehensive account of all chief officer cases would also seem to necessitate a more systematic trawl of records held by PSDs, other police departments (e.g. major crime), Appropriate Authorities (i.e. PCCs and Police Authorities), the IPCC, and other organisations (e.g. the Association of Chief Police Officers, Her Majesty's Inspectorate of Constabulary, staff associations, the National Crime Agency, and Home Office). We found that no single individual or organisation had a complete picture.

Research ethics, cooperation and confidentiality

The project was reviewed through the Birkbeck College procedures for ethical review. All members of the research team were vetted by Warwickshire Police, on behalf of the College of Policing, to Non-Police Personnel Vetting (NPPV) Level 3. Procedures were put in place for ensuring the confidentiality and security of data. All sensitive material (e.g. interview recordings and transcripts) were stored on encrypted and password-protected media, which were held in locked cabinets.

With the support of the College of Policing, we experienced good levels of cooperation from forces and from individual participants. Previous research has shown that police officers can be surprisingly candid about sensitive topics (Rosenbaum 2010; Bradley and Nixon 2009), especially if researchers gain their trust. While we recognise that our interviewees held strong positions on particular topics, and some wanted to persuade us of their stance, our experience was that they were willing to discuss their perceptions and views on officer misconduct with candour and professional detachment.

While the research team accumulated a lot of information on some cases, we conducted the research on the understanding that no force or person – whether stakeholder, investigator, or person under investigation or otherwise involved in the case – would be identified in any report. For this reason, cases have only been referred to in very general terms.

material on misconduct by all chief officers in their force areas prior to 2012; material which should have transferred to them from Police Authorities (the previous Appropriate Authorities).

Appendix B. The framework for investigating chief officer misconduct

The Police Conduct Regulations (2008) defines misconduct and lays down the procedure for investigating police misconduct:

- 'Misconduct' is defined as a "breach of Standards of Professional Behaviour".
- 'Gross misconduct' is a breach which is "so serious that dismissal would be justified".

Misconduct proceedings for police officers are governed by the Police Conduct Regulations (2012). The regulations specify that the Appropriate Authority for the investigation of misconduct by a chief constable is the PCC (previously the Police Authority), and for the investigation of other chief officers is the chief constable (previously the Police Authority).

On receiving a complaint, the Appropriate Authority makes a decision whether the alleged conduct, if proved, would amount to misconduct or gross misconduct, and must decide to:

- Investigate the matter further.
- Deal with it by way of management action.
- Take no further action.

Where the decision is to investigate further, the Appropriate Authority must appoint an investigator who shall submit a report concluding whether there is a case to answer for misconduct or gross misconduct.

The Appropriate Authority appoints a SIO and an IO, who vary in seniority depending on the gravity and complexity of the case, and the investigation can take various different routes:

- The investigation can be handled entirely within the force.
- Another force can be asked to investigate.
- Advice can be sought from the IPCC (or, prior to 2012, HMIC).
- The IPCC may take over responsibility for the investigation, in which case, it can either manage or oversee the investigation by the force or third party force, or carry out an independent investigation using their own investigators.

Thus, there were different types of investigations in the 40 chief officer cases discussed by the interviewees in our sample:

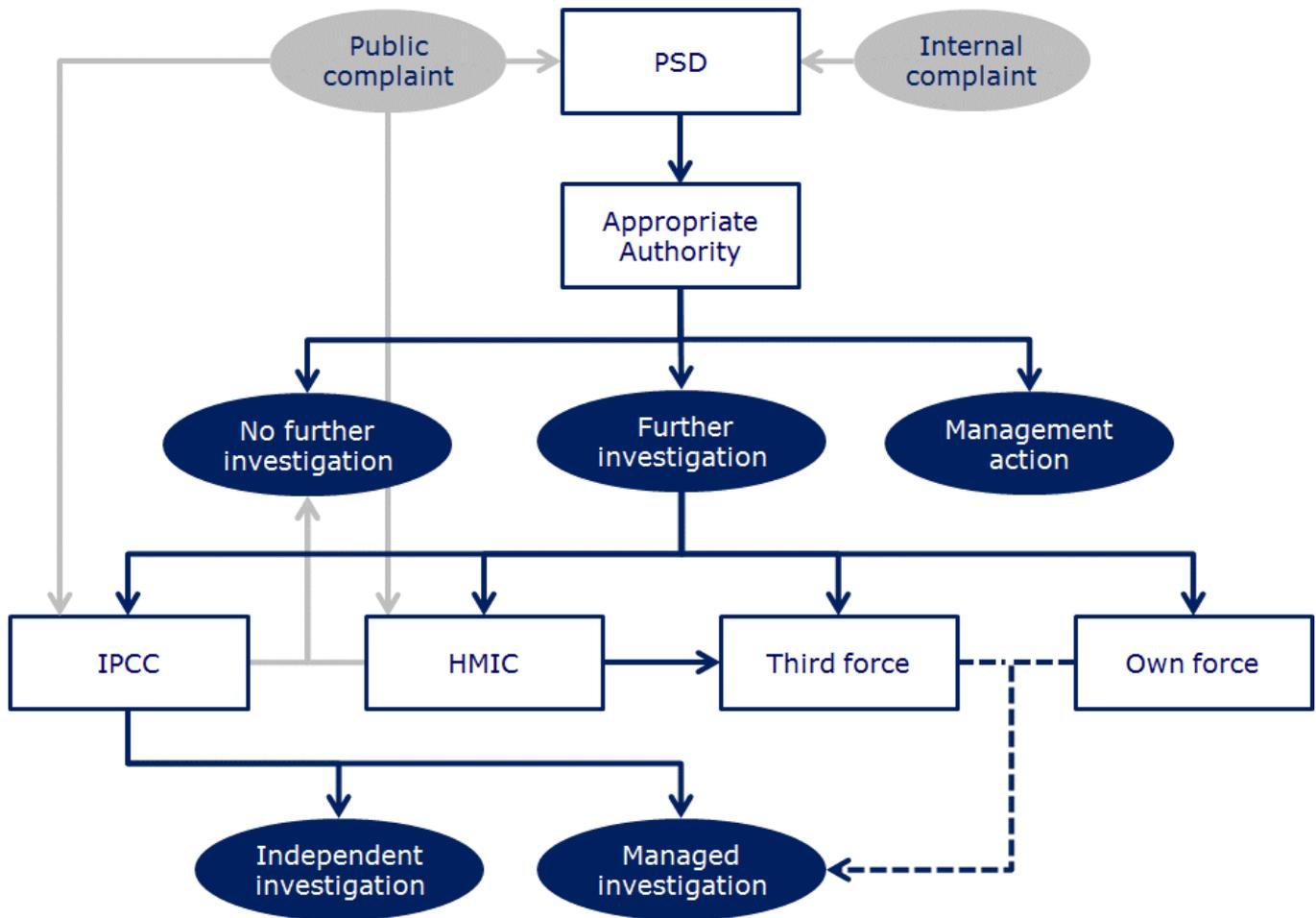
- Own force investigation: six investigations.
- Investigation by a third party force: 21 investigations.
- IPCC led investigation: six investigations.
- IPCC managed or supervised investigation (by force or third party): seven investigations.
- HMIC allocated to a third party force (with or without the involvement of the IPCC): two investigations³⁴.

The procedures governing police staff misconduct are broadly similar to those for police officers. However, unlike police officers, misconduct proceedings against police staff are dependent on their terms of employment and, therefore, vary across forces.

³⁴ Two investigations have been double counted as one investigation was ultimately IPCC managed, and another one was allocated to a third force.

Figure B1 summarises the basic routes by which investigations into chief officers might travel.

Figure B1. The investigation process



There were several variations to this basic model for the investigative process:

- Where chief officer conduct was investigated as a result of an internal audit or routine procedural check-up.
- Where an internal complaint was made directly to the HMIC, who subsequently involved the IPCC.
- Where the IPCC has compelled an Appropriate Authority to record a complaint.
- Where IPCC was involved in managing an investigation but then withdrew their oversight and termed it a third party force independent investigation.
- Where the IPCC has requested a third party force chief constable to investigate, but due to difference of opinion in the severity assessment, subsequently withdrew the request, and ran an independent investigation.
- Where a chief officer on secondment was investigated by a third party force on the request of the secondment force, with the agreement of the parent force.

Once the investigation is complete, and there is a 'case to answer', the Appropriate Authority must then decide whether to conduct misconduct or gross misconduct proceedings. The available outcomes, upon which the Appropriate Authority must decide, are as follows:

- Dismissal.
- A final written warning.
- A written warning.

- Words of advice.
- Management action.

A case involving gross misconduct would usually result in dismissal, if proven. Where there is evidence that a criminal offence has been committed, the report is passed to the Crown Prosecution Service for further action.

Officers under investigation often resign or retire before the misconduct proceedings are complete (seven cases in our sample). In this situation, there are no consequences in the form of sanctions for the officer and, unless a criminal offence is proven, the officer's pension entitlement is unaffected. Where there is a conviction for a criminal offence, pension entitlement can be reduced by discounting the period since conviction as qualifying employment.

The research identified that there were several areas where the procedures and rules governing investigation into chief officer misconduct were reportedly not clear, and were applied inconsistently and subjectively across the cases discussed. Furthermore, the Appropriate Authority did not appear to be accountable for their decisions about, for example, whether a case was to be investigated, who was to investigate, how serious the case was, and how the officer was to be sanctioned.