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## **Local Policing – accountability, leadership and ethics**

### **Issues and Questions paper**

The Police Reform and Social Responsibility Act 2011 enabled the election of the first Police and Crime Commissioners (PCCs) in November 2012. Elected PCCs would, in the words of the then Police Minister Nick Herbert, ‘swap the bureaucratic control of the police for democratic accountability’ which would ‘benefit police and public alike.’ Section 14 of the Policing Protocol 2011 makes clear:

The public accountability for the delivery and performance of the police service is placed into the hands of the PCC on behalf of their electorate. The PCC draws on their mandate to set and shape the strategic objectives of their force area in consultation with the Chief Constable. They are accountable to the electorate; the Chief Constable is accountable to their PCC. The [Police and Crime] Panel within each force area is empowered to maintain a regular check and balance on the performance of the PCC in that context.

The Policing Protocol also makes clear at section 10 that ‘All parties will abide by the seven principles set out in Standards in Public Life: First Report of the Committee on Standards in Public Life (a) (known as the “Nolan Principles”).’ The Seven Principles of Public Life are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

In January 2014 the National Audit Office published a review of the police accountability landscape, examining ‘whether the Department’s chosen framework is sufficient for providing assurance for value for money in the police service and operating as intended.’ Naturally, given the remit of the NAO, the focus of their report was on assurance for value for money. It was not within their scope to consider the extent to which the accountability framework for policing was sufficient for providing assurance that the Seven Principles of Public Life were being observed.

The Committee on Standards in Public Life, which advises the Prime Minister on ethical standards across public life in the UK, is responsible for monitoring and reporting on issues relating to the standards of conduct of all public office holders. The category of public office holder includes members of the police service, Police and Crime Commissioners and members of

Police and Crime Panels. It is clearly within our remit to consider the accountability framework for policing in the context of ethical standards.

In our report *Standards Matters*, published in January 2013, just months after the first PCC elections, we noted the risks arising from new ways of delivering public services, including policing. We stated then that ‘It is essential to take care in all these cases [where new models are introduced] to design governance structures which actively promote the right ethical behaviour’ and that ‘We intend to monitor the extent to which PCCs are genuinely open and accountable and how successfully any ethical risks (such as conflicts of interest) arising from their role are addressed.’

We have decided that the time is right to undertake a review of how ethical standards are being addressed in the police accountability landscape. There are three reasons for doing this now. Firstly, as with any new system, it is sensible to review its operation to test how well it is living up to its original rationale and at this point we have the benefit of nearly two years of evidence on which to base any judgements. Secondly, the new system as a whole, and individual elements of it, have been the subject of criticism, much of it arising from standards issues, yet the relationship between standards and governance structures has been relatively underexplored; more needs to be done to consider how governance structures can promote ethical behaviour and limit ethical risks. And finally, in the light of recent scandals and criticisms, all political parties have indicated that they are likely to make further changes to the police accountability framework. We believe any changes should be informed by the widest possible range of evidence – evidence on efficiency, on effectiveness, on value for money, on democratic accountability and on public confidence in standards in public life.

This inquiry by the Committee on Standards in Public Life sits alongside the work already done by the National Audit Office, and is being conducted alongside a review of police leadership by the College of Policing, a review of the police disciplinary system by Major General Clive Chapman, a review of police complaints, a consultation on whistleblowing, and a review of the anti-corruption capability in all police forces by Her Majesty’s Inspectorate of Constabulary. A substantial evidence base on accountability in policing is being constructed.

Our contribution, in this inquiry, will be to focus on the public accountability structures of the police. The reviews announced by the Home Secretary in July 2014 focus on the systems that hold police officers to account; we will complement her work by looking at accountability in police governance from a standards point of view. In particular, we will look at what structures are in place for ensuring ethical standards in the conduct and operation of Police and Crime Panels, Police and Crime Commissioners, and Chief Constables. We will then go on to consider how effective those structures are, identify what works well and, where there are shortcomings, what we would expect to see – in any model for police accountability. We will be seeking the necessary assurance that ethical standards in public life are, and are capable of being, upheld.

Whether a new model of policing accountability and governance is introduced, or whether the existing model is modified or stays the same, it is essential that the model is capable of promoting

ethical behaviour, reducing ethical risks and providing effective accountability in order to command public confidence.

**The Committee would like to receive your answers to some or all of the questions set out in this paper.**

Please send in your response by no later than **noon on 30 November 2014**. Details on how to submit your response can be found at the bottom of the call for evidence.

## **Background**

1. Our policing system relies on policing by consent in ways that meet the differing needs and priorities of communities. Operational decisions are taken by Chief Constables, who are held to account through democratic scrutiny, which over time has taken various forms – watch committees, police committees, two forms of police authorities and now Police and Crime Commissioners. The changing forms of oversight are evidence of the difficult and continuing tensions in achieving democratic scrutiny that commands public trust and confidence in operational policing.
2. Police and Crime Commissioners (PCCs) replaced Police Authorities in 2012 as ‘the voice of the public’ and as a means of improving the accountability and transparency of the police to their local communities. As the Home Secretary recently said “the purpose of directly-elected police and crime commissioners was clear. They’d be elected, visible, well-known in their communities and accountable to the electorate.”<sup>1</sup> When PCCs were elected across England and Wales on 15 November 2012 the average voter turnout was low at 15.1 % and this has raised questions about the validity of the role and the extent of their electoral mandate. This debate has continued following the recent election of the PCC in the West Midlands where the voter turnout was 10.4%. Police and Crime Panels were also established as a means of ensuring that PCCs would be subject to “effective scrutiny and appropriate checks and balances” by local representatives on behalf of the public.<sup>2</sup>
3. The Government has pursued other significant reforms of policing including establishing the College of Policing in 2012 to set standards of professional practice, promote ethics, values and standards of integrity and provide training and identify and promote best practice. More recently the Home Secretary has announced reviews of the Police Disciplinary System and Police Complaints System and a consultation on whistleblowing.<sup>3</sup> This has been in the face of public concern in recent years over police standards including “Hillsborough, Orgreave Colliery, the investigation of the murder of Stephen Lawrence and how police conducted themselves afterwards, the resignation of a Cabinet Minister as a result of the actions of at least one

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<sup>1</sup> Speech by Home Secretary Theresa May to Policy Exchange about Police and Crime Commissioners. Delivered on 7 November 2013. Available at: <https://www.gov.uk/government/speeches/police-and-crime-commissioners-one-year-on-warts-and-all>

<sup>2</sup> Policing in the 21<sup>st</sup> Century: Reconnecting police and the people Cm 7925 July 2010

<sup>3</sup> July 2014 Oral statement to Parliament. Available at: <https://www.gov.uk/government/speeches/home-secretary-on-police-reform>

dishonest police officer, the sexual deception of citizens who trusted undercover police officers, and others”.<sup>4</sup> Most recently concerns have been raised about the safeguarding of children in Rotherham and the accountability of the South Yorkshire PCC.

4. Questions have been asked about the ‘gaming’ of police recorded crime statistics.<sup>5</sup> The Police Federation has been scrutinised, with the Independent Review of the Police Federation of England and Wales concluding that fundamental reform of the Federation’s culture, behaviours, structures and organisation was required to rebuild the trust of its members and the public.<sup>6</sup> The conduct of individual PCCs has also been the subject of criticism.<sup>7</sup>
5. Earlier this year the Public Administration Select Committee (“PASC”) were inquiring into police recorded crime statistics and argued that there was “lax police compliance with the agreed national standard of victim-focussed crime recording”. PASC concluded that “The quality of leadership within the police, and its compliance with the core values of policing, including accountability, honesty and integrity, will determine whether the proper quality of police recorded crime (PRC) data can be restored”. PASC recommended that:

*“...the Committee on Standards in Public Life conducts a wide-ranging inquiry into the police’s compliance with the new Code of Ethics; in particular the role of leadership in promoting and sustaining these values in the face of all the other pressures on the force.”<sup>8</sup>*

6. The Committee have considered seriously this recommendation in framing the scope of this inquiry and the Committee will consider specifically the extent to which PCCs are providing ethical leadership in embedding the Policing Code of Ethics, and are themselves acting within that framework as elected officials.
7. The Home Secretary has said PCCs “would bring – probably for the first time ever – real local scrutiny of how Chief Constables and their forces perform.” With regards to the extent they have achieved this; the Home Secretary has acknowledged the picture was “a little mixed<sup>9</sup>”.

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<sup>4</sup>HMIC 2014 State of Policing: The Annual Assessment of Policing in England and Wales 2012/13 <http://www.hmic.gov.uk/wp-content/uploads/2014/03/state-of-policing-12-13.pdf>

<sup>5</sup> Questions were raised about the integrity of police recorded crime statistics in 2012 and it was acknowledged by the Office for National Statistics (ONS) that the recorded crime figures in their National Crime Survey reported in January 2013 might be defective since the ONS relied on figures reported to them by police forces. HMIC’s latest report into crime statistics published in May 2014 ‘Crime recording: A matter of fact. An interim report of the inspection of crime data integrity in police forces in England and Wales’ said that there was a problem in some forces of weak or absent management and supervision of crime-recording, significant under-recording of crime, and serious sexual offences not being recorded. Problems continue to emerge in some forces, for example, after an HMIC inspection, concerns were raised that there are rapes misreported as ‘no crime’ in Northumbria. The Chief Constable and Police and Crime Commissioner are investigating. See link for more details: <http://www.northumbria.police.uk/releasedetails.asp?id=97908>

<sup>6</sup> 2014 Police Federation Independent Review. Available at: [http://www.thersa.org/\\_data/assets/pdf\\_file/0004/1538230/RSA\\_Police\\_Federation\\_Report\\_WEB.pdf](http://www.thersa.org/_data/assets/pdf_file/0004/1538230/RSA_Police_Federation_Report_WEB.pdf)

<sup>7</sup> For example, the PCC in Newport was accused of bullying a Chief Constable into retiring. The case has raised concerns about the process and power of PCCs being able to fire Chief Constables. Ann Barnes, Police and Crime Commissioner in Kent, was criticised for being ineffective and inadequately describing her role on ‘Meet the Police and Crime Commissioner’ on Channel 4. The Police and Crime Panel decided that letters received afterwards from the public received airing concerns were to be treated as routine correspondence and not official complaints.

<sup>8</sup> Public Administration Select Committee 2014 Caught red-handed: Why we can’t count on Police Recorded Crime statistics’. Available at: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpublicadm/760/760.pdf>

<sup>9</sup> Speech by Home Secretary Theresa May to Policy Exchange about Police and Crime Commissioners 2013. Available at: <https://www.gov.uk/government/speeches/police-and-crime-commissioners-one-year-on-warts-and-all>

## The current accountability structures

### *The role of Police and Crime Commissioners*

8. The role of Police and Crime Commissioner is a central component of new police governance arrangements provided for in the Police Reform and Social Responsibility Act 2011 (“PRSRA”). PCCs are intended to improve local accountability and increase local autonomy in policing. They replaced police authorities and are elected rather than appointed and are therefore directly accountable to the voters in their locality.<sup>10</sup> They are elected for a set four year term of office with a limit of two terms. PCCs can be disqualified from holding office on certain grounds, such as being the subject of debt or bankruptcy conditions or on conviction of a criminal offence. They can resign their post. They can only be suspended by their Police and Crime Panel in circumstances where the PCC has been charged with a criminal offence which carries a maximum term of imprisonment exceeding two years.<sup>11</sup>
9. The Home Office states that the role of a PCC is to ensure the policing needs of their communities are met as effectively as possible, bringing communities close to the police, building confidence in the system and restoring trust.<sup>12</sup> Their objective is to cut crime and deliver an effective and efficient police service in their police force locality by:
  - Holding the Chief Constable to account for the delivery of the force
  - Setting and updating a police and crime plan
  - Setting the force budget and precept<sup>13</sup>
  - Regularly engaging with the public and communities
  - Appointing, and where necessary dismissing, the Chief Constable.
10. Each PCC is designated a “corporation sole” under the PRSRA (as are Chief Constables). This means that they have a separate legal personality from the person holding the role and they are able to employ staff, own property, hold funds and enter into contracts. The PRSRA provides that PCCs may appoint a deputy PCC to exercise any of their functions.<sup>14</sup> There are some restrictions on who can be appointed as a deputy but significantly the Act states that Schedule 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the appointment of a deputy PCC.<sup>15</sup> This means that the recruitment of deputy PCCs differs from the majority of public officials who are either elected or appointed as non-political officials following the Commissioner for Public Appointments’ Code of Practice, both mechanisms providing a means of assurance to the public through an appointment process which is open and transparent. The check on this power of appointment is that the PCC is required to notify the

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<sup>10</sup> PCCs were introduced in 41 of 43 police forces in England and Wales, separate arrangements exist in the Metropolitan Police Service and the City of London Police.

<sup>11</sup> Police Reform and Social Responsibility Act 2011 sections 30, 61 and 67.

<sup>12</sup> Home Office Have you got what it takes? Your role as a Police and Crime Commissioner Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/117463/role-as-pcc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117463/role-as-pcc.pdf)

<sup>13</sup> Precept is the amount of the Council Tax budget that goes to the local police force.

<sup>14</sup> There are some excepted functions listed in section 18(3)(b). Available at <http://www.legislation.gov.uk/ukpga/2011/13/section/18/enacted>

<sup>15</sup> Police Reform and Social Responsibility Act 2011. Available at: <http://www.legislation.gov.uk/ukpga/2011/13/section/18/enacted>

Police and Crime Panel of the proposed appointment, the criteria used to assess their suitability and how the criteria were satisfied. The Police and Crime Panel is required to review the proposed appointment and make a recommendation to the PCC as to whether or not the candidate should be appointed which the PCC may choose to accept or reject. The framework for appointing deputies raises the question of whether the process presents an ethical risk.<sup>16</sup>

11. One of the key aspects of the role of the PCC is to open their force to greater transparency. The PRSRA provides that the PCC, as an “elected local policing body” must issue a police and crime plan within the financial year an election is held. This plan includes:
  - a. their police and crime objectives
  - b. financial and other resources provided
  - c. the means by which the Chief Constable will report to the PCC and
  - d. how the Chief Constable’s performance will be measured.

The PCC must also produce an annual report and publish information considered necessary to enable people living in the local area to assess the performance of the Chief Constable in exercising their functions. Just as important is for PCCs to be (and seen to be) transparent and open about their performance and they have a duty under section 11(1) PRSRA to publish specified information relating to the exercise of their functions and be transparent in their decision making.<sup>17</sup> PCCs have a duty to engage with the public and local communities, put out good information and create a genuine dialogue.

12. A Home Affairs Committee (“HAC”) report published in May 2014 ‘*Police and Crime Commissioners: progress to date*’ noted a concern that the Home Office and the Association of Police and Crime Commissioners provide relatively little comparative analysis that might help the general public to assess the actions and decisions of their commissioners against each other.<sup>18</sup> For instance, recently PCCs have been negotiating the transfer of police staff, assets and liabilities that were formerly employed or held by police authorities and have adopted a range of approaches to the process, but it is difficult to compare these approaches. The report concluded that it was too early to determine whether the introduction of PCCs has been a success and made several recommendations centred on strengthening Police and Crime Panels, training for PCCs and discouraging use of targets. It was noted that many PCCs (18 out of 41) were holding Chief Constables to account using targets. There is a more general concern that targets can introduce perverse incentives and a performance culture to meet targets.<sup>19</sup>

13. Her Majesty’s Inspectorate of Constabulary (HMIC) which continues to be responsible for inspecting the efficiency and effectiveness of police forces and previously had responsibility for inspecting police authorities, has no such jurisdiction in relation to PCCs. However PCCs can commission HMIC to investigate an issue. HMIC does provide PCCs and the public with

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<sup>16</sup> The Commissioner for Public Appointments 2012. The Code of Practice. Available at: <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2012/02/Code-of-Practice-20121.pdf>

<sup>17</sup> See The Elected Local Policing Bodies(Specified Information) Order 2011 S.I. No. 2011/3050

<sup>18</sup> Home Affairs Committee 2014 Police and Crime Commissioners: progress to date. Available at: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/757/757.pdf>

<sup>19</sup> Loveday, B 2008 ‘Performance Management and the Decline of Leadership within Public Services in the United Kingdom’. *Policing* 2 (1) pp 120-130.

“information, analysis, judgements and recommendations which can be used to understand police performance and so establish how well forces are doing with taxpayers’ money”.<sup>20</sup>

14. The PRSRA, the Financial Management Code of Practice issued under section 17 PRSRA and the Policing Protocol 2011 form part of comprehensive framework for governance in every area.<sup>21</sup>

These are:

- the relationship between the PCC and the Chief Constable and how their functions will be exercised in relation to each other
- an independent audit committee
- Police and Crime Panels.

### ***The relationship between the PCC and the Chief Constable***

15. The Government intends PCCs to be responsible for the “totality of policing within their force area” they set the strategic direction and objectives of the police force whilst operational delivery, including the direction and control of police officers and staff, is designated solely to the Chief Constable.<sup>22</sup> The Policing Protocol 2011 sets out some examples of what is meant by operational matters including the appointment or dismissal of officers or the investigation of crime and “decisions taken with the purpose of balancing competing operational needs within the framework of priorities and objectives set by the PCC.”<sup>23</sup> The list is not exhaustive and it is therefore for PCCs and Chief Constables to use their working relationship to safeguard operational independence and agree where the boundaries lie between their respective roles.<sup>24</sup> <sup>25</sup> The Chief Constable is responsible for remaining politically independent of their PCC and the PCC must not fetter the operational independence of the police force and Chief Constable. As the Protocol acknowledges: “an effective, constructive working relationship is more likely to be achieved where communication and clarity of understanding are at their highest” but this ambiguity in the respective roles presents a risk of potential disagreement or conflict.

16. According to the Home Office, “the relationship between the PCC and Chief Constable is defined by the PCC’s democratic mandate to hold the Chief Constable to account, and by the law itself”.<sup>26</sup> The PRSRA provides that PCCs must hold Chief Constables to account for, amongst other things, the overall performance of the force including against the priorities set out in the police and crime plan, the performance of officers and staff and the exercise by the Chief Constable of his functions. The Chief Constable is accountable to the law for the exercise of police powers and to the PCC for the delivery of efficient and effective policing, management of

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<sup>20</sup> HMIC 2014 State of Policing: The Annual Assessment of Policing in England and Wales 2012/13 <http://www.hmic.gov.uk/wp-content/uploads/2014/03/state-of-policing-12-13.pdf>

<sup>21</sup> As part of the Home Office accounting officers assurance framework for obtain the necessary assurances for Parliament where the department funds other bodies on a decentralised basis. Home Office 2013 Financial Management Code Of Practice for The Police Service of England And Wales [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228960/9780108511332.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228960/9780108511332.pdf)

<sup>22</sup> The Policing Protocol Order 2011 S.I. 2011 No. 2744 Available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/117474/policing-protocol-order.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117474/policing-protocol-order.pdf)

<sup>23</sup> *ibid*

<sup>24</sup> *ibid*

<sup>25</sup> Home Office Have you got what it takes? Working with and holding your chief constable to account

<sup>26</sup> Home Office 2013 Financial Management Code of Practice for the Police Forces of England and Wales



resources and expenditure by the police force.<sup>27</sup> However, it is up to each PCC to decide how practically they will hold the police to account on behalf of the public. In order to do so effectively, PCCs must also be in receipt of high quality information, although the legislation does not specify where they must obtain this from.

17. The PCC is responsible for monitoring all complaints made against officers and staff and dealing with complaints against the Chief Constable. Section 38 of the PRSRA outlines the rights of the PCC to dismiss a Chief Constable, whilst Schedule 8 sets out the procedure for doing so, including requiring PCCs to give a description of their reasons for dismissing a Chief Constable both to the Chief Constable and the Police and Crime Panel.<sup>28</sup> This duty has been subject to some criticism.<sup>29</sup>

### **Audit committees**

18. Whilst the PCC is accountable to the public for the allocation of the police funding, both the PCC and Chief Constable are responsible for ensuring the effective management of the policing budget and securing value for money. The PRSRA requires every PCC outside London to appoint a person to be responsible for the proper administration of the commissioner's financial affairs, referred to as the Chief Finance Officer.<sup>30</sup>
19. The Chief Constable has day to day responsibility for managing their allocated budgets and must also have adequate financial governance in place. It is encouraged that, where possible, forces and the Office of Police and Crime Commissioner should have joint Audit Committees with between three and five members who are independent of police.<sup>31</sup> There have been some cases of forces and Offices of PCCs employing a joint Chief Financial Officer. The Chartered Institute of Public Finance and Accountancy (CIPFA) has stated that these offices will have to satisfy themselves that any conflict of interest can be effectively managed.<sup>32</sup> The National Audit Office also raised this as a potential conflict of interest in its report published in January *Police accountability: Landscape review*.<sup>33</sup>
20. Audit Committees provide an independent scrutiny function. It is for the Audit Committee to establish their own terms of reference but best practice from CIPFA would suggest its core functions would include risk management, governance, internal control, consideration of internal and external audit reports, annual accounts and financial statements. The Association of Police and Crime Commissioners (APCC) indicates that a large proportion of the terms of

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<sup>27</sup> Home Office 2011 The Policing Protocol Order 2011. Available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/117474/policing-protocol-order.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117474/policing-protocol-order.pdf)

<sup>28</sup> Police Reform and Social Responsibility Act 2011. Available at: <http://www.legislation.gov.uk/ukpga/2011/13/section/38/enacted>

<sup>29</sup> Home Affairs Committee *Police and Crime Commissioners: progress to date paras 68-78*

<sup>30</sup> Police Reform and Social Responsibility Act 2011 Schedule 1 Section 1. Available at:

<http://www.legislation.gov.uk/ukpga/2011/13/schedule/1/enacted#schedule-1-paragraph-6>

<sup>31</sup> Home Office 2012 Financial Management Code Of Practice for The Police Service of England And Wales

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228960/9780108511332.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228960/9780108511332.pdf)

<sup>32</sup> Scott, A 2012 Accompanying letter to Statement on the role of the chief finance officer. Available at: <http://www.cipfa.org/-/media/files/publications/reports/120928%20as%20police%20cfo%20statement%20letter.pdf> See also CIPFA Statement on the role of the

chief finance officer 2012. Available at: <http://www.cipfa.org/-/media/files/publications/reports/role%20of%20cfo%20police.pdf>

<sup>33</sup> HC 963 Session 2013-14 22 January 2014

reference of PCC Audit Committees not only cover these traditional areas, they also extend to matters such as ensuring value for money is achieved, health and safety and more unusually professional standards and ethics.<sup>34</sup> There may be a question as to whether the audit committee is the most appropriate body for consideration of standards and ethical issues.

### **Police and Crime Panels**

21. PCCs are scrutinised locally by Police and Crime Panels which regularly review or scrutinise the performance of the PCC and the exercise by the PCC of their functions. There is a statutory requirement for the panel to be balanced to represent all parts of and reflect the political make-up of the local area and have the skills, knowledge and experience necessary to discharge its functions effectively. Police and Crime Panels are made up of at least one elected representative from each local authority within the police force area and two independent co-optees, with a minimum of 10 representatives from the local authorities in the force area and a maximum total number of 20 panel members.<sup>35</sup> It has been suggested that the requirement, in particular, to have a politically “balanced” panel may have implications for the effective scrutiny of the PCC. The panel that shares the same political allegiance as the PCC may tend to “support” rather than “scrutinise” and the panel with a political difference to the PCC may be more adversarial.<sup>36</sup>

22. As referred to above, Police and Crime Panels are charged with both challenging and supporting PCCs. Section 28(2) of the PRSRA states that the PCP’s various statutory functions “must be exercised with a view to supporting the effective exercise of the functions of the police and crime commissioner”.<sup>37</sup> The key functions of Police and Crime Panels are:

- Confirming or vetoing the PCC’s appointment of Chief Constable
- Confirming or vetoing the level of the council tax precept<sup>38</sup>
- Reviewing the police and crime plan, annual report and both scrutinising and supporting the activities of the PCC in holding the Chief Constable to account<sup>39</sup>
- Responsibility for complaints about a PCC
- Reviewing appointments of senior staff within the office of the PCC including the Deputy PCC.

In order to veto an appointment of the Chief Constable or the precept, at least two thirds of the panel will have to agree. Although the panel has responsibility for considering complaints against PCCs or their deputies, if a criminal offence is alleged the panel must refer the matter to the Independent Police Complaints Commission. Where complaints are non-criminal the panel will

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<sup>34</sup> Association of Police and Crime Commissioners 2014. Report on Review of Terms of Reference - Independent Joint Audit Committee: Wiltshire Police and Crime Commissioner's Office. Available at: <http://www.wiltshire-pcc.gov.uk/Document-Library/Audit-Committee/Audit-Committee-260614/Agenda-Item-6---Terms-of-Reference-APCC.pdf>

<sup>35</sup> Strickland, S 2013 Police and Crime Commissioners. House of Commons Library. Available at: <http://www.parliament.uk/briefing-papers/SN06104.pdf>

<sup>36</sup> Lister, S 2014 Scrutinising the role of the Police and Crime Panel in the new era of police governance in England and Wales. *Safer Communities*. 13 no. 1, p28.

<sup>37</sup> Police Reform and Social Responsibility Act 2011. Available at: <http://www.legislation.gov.uk/ukpga/2011/13/enacted>

<sup>38</sup> A precept is the amount of Council Tax that is allocated to policing.

<sup>39</sup> Strickland, S 2013 Police and Crime Commissioners. House of Commons Library. Available at: <http://www.parliament.uk/briefing-papers/SN06104.pdf>

be responsible for handling and informally resolving these complaints, which can include delegating the initial handling to the PCC's monitoring officer. The Panel is ultimately responsible for the complaint resolution.

23. The panels have additional powers to help them carry out their functions and specific responsibilities relating to the Police and Crime Plan and annual report. These include:
- Making reports and recommendations on these two documents, which the PCC must take account of and respond to
  - Publishing all reports and recommendations that it makes
  - Holding public meetings to discuss the annual report and to question the PCC
  - Requiring the attendance of the PCC at a meeting to answer questions
  - Suspending the PCC if he or she has been charged with an offence punishable by at least two years in prison.
24. It has been argued that there is an inherent tension in Police and Crime Panels acting as both an accountability and support mechanism for PCCs. It is thought that this dual role may lead to conflict or blurring between the different aspect of the role and inconsistency amongst the panel members as to how they interpret their role.<sup>40</sup> Further, despite the Policing Protocol stating that the accountability of the Chief Constables remains firmly to the PCC and not the panel, the National Audit Office concluded that “panels were risking straying beyond their statutory remit by directly monitoring and evaluating the police force”.<sup>41</sup> The Home Affairs Committee has said that Police and Crime Panels have struggled to understand their powers and define their role and recommended that Police and Crime Panels should fully exercise their powers of scrutiny especially in relation to proposed removals of Chief Constables.<sup>42</sup>

## Questions

25. The Committee is interested in your views on how effective the police accountability structures are, what works well, what can be improved and what can provide the public with the necessary assurance that ethical standards are being maintained. The Committee welcomes any general comments but in particular invites responses to the following questions:
- Are there any gaps in the existing mechanisms for holding PCCs to account?*
  - What can PCCs do themselves to improve their accountability to the public in between elections? How well are these mechanisms working in practice?*
  - How are PCCs ensuring transparency in their decision making?*

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<sup>40</sup> Lister, S 2014 Scrutinising the role of the Police and Crime Panel in the new era of police governance in England and Wales. *Safer Communities*. 13 no. 1, pp. 22-31.

<sup>41</sup> NAO Police accountability: Landscape Review HC 963 Session 2013-14 22 January 2014 p.20

<sup>42</sup> Home Affairs Committee 2014 Police and Crime Commissioners: progress to date. Available at: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/757/757.pdf>

- iv. *What information is being made available to the public to enable them to scrutinise the performance of their local police force and hold PCCs to account? To what extent is it easily accessible, understandable and reliable?*
- v. *What has worked best for PCCs in engaging with the public and local communities?*
- vi. *How well are Police and Crime Panels able to hold a PCC to account between elections?*
  - a. *Does the role of the Police and Crime Panel need any further clarification?*
  - b. *How well are the current “balanced”<sup>43</sup> membership arrangements ensuring effective scrutiny and support of PCCs?*
  - c. *Are the current membership thresholds requiring a two thirds majority to veto a PCC’s level of precept and appointment of a Chief Constable proving practicable?*
  - d. *Should Police and Crime Panels have the power to veto PCC appointments of senior staff where they believe the criteria for suitability were inappropriate or not satisfied?*
  - e. *How should PCCs be held to account for their standards of personal conduct? What role should Police and Crime Panels have in this?*
- vii. *Are the boundaries between the local roles and responsibilities of the PCC and Chief Constable being adequately communicated and understood by local communities? Is there evidence that they require any further clarification or guidance?*
- viii. *According to the Financial Management Code, Audit Committees should ‘advise the PCC and the Chief Constable according to good governance principles and to adopt appropriate risk management arrangements.’ How well is this working in practice? Are there any examples of conflicts of interests arising from PCCs and Chief Constables having in some cases, a joint audit committee and/or a joint chief financial officer?*

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<sup>43</sup> Schedule 6 paragraph 31 PRSRA sets out the duty to provide a balanced panel. The “balanced appointment objective” referred to in this paragraph is the objective that local authority members of a police and crime panel (when taken together)—

(a) represent all parts of the relevant police area;

(b) represent the political make-up of—

(i) the relevant local authority, or

(ii) the relevant local authorities (when taken together);

(c) have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.

## Ethical leadership to promote and sustain the values of the Policing Code of Ethics

26. The Policing Protocol requires that all parties to the protocol including PCCs, Chief Constables and Police and Crime Panels will abide by the Seven Principles of Public Life - Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. All of these individuals will have a responsibility to demonstrate leadership in upholding high ethical standards – by observing high standards themselves, by demonstrating high standards to others through their own behaviour and by challenging inadequate standards when they see them.
27. We highlighted the value of proactive governance and visible leadership in ensuring high ethical standards in organisations when we said, “Exemplifying high standards is particularly important for those in management positions. It is even more so for those at the very top, because it is they who set the tone for an organisation.”<sup>44</sup> This statement has been echoed by HMIC.<sup>45</sup>
28. The College of Policing recently published a Code of Ethics that ‘defines the policing principles and expected standards of behaviour for everyone who works in policing’.<sup>46</sup> Chief Constables must have regard to the Code. The Committee has previously said that PCCs have a key role in reassuring the public by holding the Chief Constable to account for putting in place robust systems to monitor and evaluate implementation so that high standards are experienced as an integral part of everyday business.
29. This Committee has also said that PCCs should lead by example by having their own Code or adopting the Code of Ethics. The APCC has worked with PCCs to develop an ethical framework which is based on the Seven Principles, adheres to good practice and is locally adaptable.<sup>47</sup> The framework describes high level principles and PCCs are encouraged to set out how they will apply them in their role. Most codes of conduct include a requirement to identify and resolve any actual or potential conflicts of interest. Although codes of conduct are useful tools, the Committee has frequently observed that they are unlikely to be sufficient in themselves to maintain high standards. They need to be applied in tandem with independent scrutiny, guidance, training and the application of appropriate sanctions when those standards are breached. There have already been cases in which PCCs have been accused of failing to resolve conflicts of interest, for example, by continuing to remain as local councillors in the force area for which they are responsible.

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<sup>44</sup> Committee on Standards in Public Life 2013 Standards Matter A review of best practice in promoting good behaviour in public life. Available at: [http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards\\_Matter.pdf](http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards_Matter.pdf)

<sup>45</sup> In 2014 State of Policing: The Annual Assessment of Policing in England and Wales 2012/13, HMIC have said “*If leaders fail to uphold the high standards rightly expected of them – for example, in relation to financial impropriety or the improper acceptance of gifts and hospitality – that will adversely affect the behaviour of some others lower down the organisation, and damage the morale of the vast majority of honest, hardworking officers and staff.*” Available at: <http://www.hmic.gov.uk/wp-content/uploads/2014/03/state-of-policing-12-13.pdf>

<sup>46</sup> College of Policing 2014 Code of Ethics. Available at: <http://www.college.police.uk/en/20972.htm>

<sup>47</sup> Association of Police and Crime Commissioners 2014. Annual report summary 2013/14. Available at: <http://apccs.police.uk/wp-content/uploads/2013/08/APCC-Annual-Report-Summary-190814.pdf>

30. PCCs are required to publish lists of gifts and donations and registers of interest; however the Home Affairs Committee, at the time of its progress review, reported that not all Commissioners were meeting their transparency requirements. The Committee also recommended a national register of commissioners' disclosable interests.
31. As PCCs have responsibility for the budgets of their police forces, they look at how services are delivered, including where appropriate outsourcing. PCCs are therefore likely to be subject to lobbying from a range of individuals and organisations including those looking for opportunities to provide services to or on behalf of the police or on other policing matters more generally. In our report '*Strengthening Transparency Around Lobbying*' we recommended that public office holders should regularly publish records of all significant meetings and hospitality involving external attempts to influence a public policy decision. They should also decline offers of significant gifts and hospitality and publish records of registers of interest and gifts and hospitality accepted in an easily accessible format.<sup>48</sup> We note that the Home Affairs Committee, in its progress review, also recommended that commissioners should publish a register of meetings held with external stakeholders.

### **Questions**

32. The Committee are concerned to understand generally the steps all parties to the Policing Protocol are taking to ensure they are abiding by the Seven Principles of Public Life. The Committee also wishes to consider specifically the extent to which PCCs are providing ethical leadership in embedding the Policing Code of Ethics, and are themselves acting within that framework as elected officials. The Committee invites views generally and on the following questions:
- ix. *What do you see are the key responsibilities of PCCs as ethical leaders? Can you provide examples of PCCs managing those responsibilities well, or, if not, suggest what can be improved?*
  - x. *What actions are PCCs taking to ensure that they and the police force they hold to account maintain the highest ethical standards and embed the Policing Code of Ethics? In particular how are PCCs and Chief Constables as leaders promoting and sustaining the core values of policing in the face of all the other pressures on the force? How are any obstacles being overcome?*
  - xi. *Is there sufficient transparency of propriety information from PCCs, for example published information on expenses, registers of interest, gifts and hospitality and external meetings?*
  - xii. *What measures have proved helpful in supporting PCCs to identify and resolve conflicts of interest in discharging their duties? Are there sufficiently robust protocols and guidance in place locally to manage these in a transparent way?*

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<sup>48</sup> Committee on Standards in Public Life 2013. *Strengthening Transparency Around Lobbying*. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336925/2901376\\_LobbyingStandards\\_WEB.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336925/2901376_LobbyingStandards_WEB.pdf)

## **How to respond**

Responses should be sent by email to [public@standards.gsi.gov.uk](mailto:public@standards.gsi.gov.uk) or by post to the Secretary to the Committee on Standards in Public Life GC05 1 Horse Guards Road, London SW1A 2HQ. Wherever possible views expressed should be supported by appropriate evidence.

Any queries about submitting evidence can be made via the email address above or by telephoning the Committee Secretariat on 020 7271 2948.

**The closing date for responses is noon on 30 November 2014.**

The Committee's website can be found at <https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

Follow us on twitter at (CSPL)@PublicStandards

It is important for the evidence considered by the Committee to be open and transparent. All responses will be published along with the identity of the person or organisation making the submission, unless the Committee is satisfied both that there is a compelling reason for an exemption to be granted and that the integrity of the process will not be undermined.