



House of Commons
Home Affairs Committee

**Policing: Police and
Crime Commissioners :
Government Response
to the Committee's
Second Report of
Session 2010–11**

**Seventh Special Report of Session
2010–11**

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The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

Current membership

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Mr David Winnick MP (*Labour, Walsall North*)

The following members were also members of the committee during the parliament.

Mr Aidan Burley MP (*Conservative, Cannock Chase*)
Mary Macleod MP (*Conservative, Brentford and Isleworth*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/homeaffairscom.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Joanna Dodd (Second Clerk), Sarah Petit (Committee Specialist), Eleanor Scarnell (Inquiry Manager), Darren Hackett (Senior Committee Assistant), Sheryl Dinsdale (Committee Assistant), Victoria Butt (Committee Assistant), and Alex Paterson (Select Committee Media Officer).

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Report

On 1 December 2010 the Home Affairs Committee published its Second Report of Session 2010-11, *Policing: Police and Crime Commissioners*, HC 511. The Government's response to the report was received on 5 February 2011, and is published as an Appendix to this Special Report.

Government Response

Introduction

On behalf of myself and the Home Secretary I am writing to thank all the members of the Home Affairs Committee for their work in considering a wide range of views and producing the Committee's report *Policing: Police and Crime Commissioners*.

I am aware of the significant efforts that the Committee took to analyse both the current system of policing governance and the proposals for reform set out in the consultation paper *Policing in the 21st Century*. I had the pleasure of attending the Committee's evidence session held in Cannock Chase, at which I observed firsthand the considered way in which Committee members approached the issues which are both complex and in serious need of change.

The Home Affairs Committee heard overwhelming evidence that reform is needed, however I do recognise that opinion differs among colleagues on the way forward. Indeed, the Home Office received an enormous number of views and suggestions in response to the consultation paper, from a wide range of individuals and organisations. We are confident that the introduction of Police and Crime Commissioners is critical in giving the public a much needed say over the policing of their own communities, and to make forces properly accountable to the communities they serve. We also see Police and Crime Commissioners as essential to securing resources that are properly targeted to where they are really needed. We are careful, therefore, to listen to constructive views in putting these important reforms together.

Crucially, we are clear that while the reforms contained in the Police Reform and Social Responsibility Bill will make policing more responsive to the views of the public, the cornerstone that is the operational independence of the police will be protected. I am therefore able to welcome the views of the Home Affairs Committee with interest, and what follows is this and I enclose my department's official response to the eleven recommendations made by the Committee in their report.

As you are aware, the Police Reform and Social Responsibility Bill was introduced to the House of Commons on the same day as the Home Affairs Committee report was published, and Committee stage has begun, during which these proposals will be debated further.

I hope that Home Affairs Committee members will continue to respond to the proposals in the Bill with similar constructive and useful recommendations, and I look forward to hearing your views and suggestions during the parliamentary process.

Recommendations

1. We recommend that Police and Crime Commissioners (Police and Crime Commissioners) are directed to take the workload and the diversity of the community they are representing into account when making support team arrangements. (Paragraph 14)

We agree that it is important Police and Crime Commissioners take the size and diversity of their communities into account; it will be down to them to demonstrate to the public that they can properly represent all their views. It would be very difficult to impose such a requirement in any meaningful way from the centre, and as such it must be left to Police and Crime Commissioners and the electorate.

2. We recommend that consideration be given to the importance of retaining experienced members of staff in the team supporting the Police and Crime Commissioners following the election of a new person to the post. (Paragraph 17)

We agree that the Police and Crime Commissioner should be able to benefit from the skills and experience currently in police authority secretariats. The Government is committed to ensuring that TUPE principles are applied to police authority staff following elections of Police and Crime Commissioners, and those staff engaged in police authority functions should transfer to the employment of the Police and Crime Commissioner, subject to the transfer schemes developed by each police authority and approved by the Home Secretary. However, it will be for the Police and Crime Commissioner to decide the size and shape of their team going forward.

3. We endorse the desire to reduce unnecessary bureaucracy in the police service, but we emphasise that local record keeping that enables people to see what is happening in their neighbourhoods, and ideally on their streets, will be crucial if local priority setting is to be successful. This information must be made available to the public on the internet. (Paragraph 19)

We agree it is of vital importance that the public have access to the information they need to hold their Police and Crime Commissioner properly to account. The Police Reform and Social Responsibility Bill ensures that the Secretary of State can continue to collect and publish, or have published, information relating to the policing of an area directly from a Chief Constable. This may include statistical or other information relating to policing, crime and disorder and will support the ongoing delivery of street level crime data so that the public have access to street level crime data and maps from January 2011. Police forces will provide information on a variety of crime types at a much more local level than is currently available including burglary, robbery, vehicle crime, violence and ASB. They will also provide key local policing information such as details of neighbourhood policing teams and community engagement events. We will build on this over time—not only providing the public with more meaningful and comparable information on crime and policing in their area—but also empowering

them to better understand, and contribute to, the work of criminal justice agencies and other local services.

4. We recommend that there should be no restrictions on who can stand for the post of Police and Crime Commissioner beyond the criteria that normally apply to standing for public office. However, we consider that there should be a cooling off period of four years—one term for a Police and Crime Commissioner—if a former senior officer of the rank of Assistant Chief Constable or above decides to stand as a Police and Crime Commissioner in the same area in which he or she has served. This is because otherwise a former senior officer could be in the position of scrutinising the effects of decisions he or she had made while still in office. (Paragraph 26)

The public must decide who their Police and Crime Commissioner should be, and we should not seek to take people out of the democratic process without good reason. However the post of Police and Crime Commissioner is one that holds singular responsibility for the delivery of policing and crime reduction within a force area. We are interested in essential safeguards that will ensure that the Police and Crime Commissioner's conduct and character are not compromised and that neither public safety, nor the Police and Crime Commissioner's statutory obligations are put at risk. With this in mind further consideration will be given to this issue as part of the debate at committee stage in both houses.

As set out in the Police Reform and Social Responsibility Bill, the Police and Crime Commissioner will be responsible to the public for the governance of policing in their force area, and therefore it is essential the public can have confidence in the character and conduct of their elected Police and Crime Commissioner. Furthermore, we acknowledge the professional experience that ex-police officers could bring to the post of Police and Crime Commissioner. However there still needs to be an open and healthy debate about how we can best harness the experience, dedication and motivation of such officers.

5. We recommend that Police and Crime Commissioners be responsible for the budget, staff, estate and other assets in their force area, and that they have the same power to appoint and dismiss senior officers that is currently held by Police Authorities. (Paragraph 38)

We agree it is important for Police and Crime Commissioners to be responsible for the budget, estate and other assets within their force area, so that there is a direct path of accountability to the public for how their money is spent. However we feel it is important for Chief Constables to have control of their own staff, and as such the Chief Constable will be employer of police staff, and will be responsible for the senior officer appointments within their force. Police and Crime Commissioners will appoint, and where necessary dismiss, the Chief Constable—and we are clear that the Police and Crime Commissioner's relationship must be with the Chief Officer, rather than all senior officers or all police staff, to ensure clear lines of accountability.

6. We recommend that the concept of operational independence should continue to apply in respect of the important work of the police in detection and law enforcement, including arrest, but that the concept of operational responsibility be developed and clarified in a memorandum of understanding between the Home Secretary, Chief Constables, and Police and Crime Commissioners. It is important that arrangements are made for parliamentary scrutiny of the terms of any such memorandum and subsequently its impact on police work. The police and not politicians must, as now, be solely responsible for individual decisions with respect to arrest and investigation. (Paragraph 45)

We agree that the Police and Crime Commissioner and Chief Constable roles must be clearly defined—but we are clear that our legislation achieves this, starting with the core responsibility that the Police and Crime Commissioner must secure the maintenance of an effective and efficient force in their area and that the force is under the direction and control of the Chief Constable. Like ACPO, we do not believe that a statutory definition of operational independence is needed, or that it would help in practice. We agree with ACPO's submission to our recent consultation that the roles and responsibilities set out in the Police Act 1996 should be retained. We are working with our partners to develop a Memorandum of Understanding which will support the working relationships between Police and Crime Commissioners and Chief Constables.

7. Bearing in mind the findings of our sister committee, the Justice Committee, that most of the services that affect reoffending are outside the ambit of the police and outside the scope of the criminal justice system generally, we consider that it will be important for each Police and Crime Commissioner to understand, support and indeed, drive the crime reduction work of local partnerships and to ensure that they have the appropriate analytic capacity and are held to account for their effectiveness in reducing crime in their area. (Paragraph 49)

We agree that the Police and Crime Commissioner must have constructive relationships with wider Community Safety partners in order to cut crime. The Police Reform and Social Responsibility Bill provides for Police and Crime Commissioners to bring together representatives of every Community Safety Partnership in their area to discuss issues, and also requires Police and Crime Commissioners and other criminal justice and community safety agencies to co-operate. Police and Crime Commissioners will be empowered to make Community Safety grants to aid in cutting crime and reducing antisocial behaviour.

As stated in *Policing in the 21st Century* the Government continues to see a potential future role for Police and Crime Commissioners in respect to the wider criminal justice system in order to deliver an efficient, effective service for victims, witnesses and the wider community. There is much to be done to improve what is a complex structure and we consider that Police and Crime Commissioners will play a valuable role in these developments.

8. Our witnesses agreed that there are some aspects of policing in relation to which the Home Secretary would need to retain powers of intervention. Mr Hogan-Howe, the former Chief Constable of Merseyside, outlines three distinct areas. Firstly he said that the Home Secretary should have the power to intervene if there were ‘failing or dishonest leadership’. Secondly he said that there was a need for an overview in relation to ‘counter-terrorism and serious organised crime’. Thirdly, he referred to the need for a view from the centre on procurement and capital investment in order to achieve value for money. We agree that the Home Secretary should have the power to intervene in those circumstances. (Paragraph 51)

While there may be some issues that the Home Secretary will want to retain powers of intervention on, that will really be only as a matter of ‘last resort’. It is for Police and Crime Commissioners, to take responsibility for holding forces to account, and the Police and Crime Commissioner is also accountable to the public. We are confident that the Police Reform and Social Responsibility Bill includes sufficiently robust provisions covering all the eventualities raised by the Committee. In the event of ‘failing or dishonest leadership’, it is more appropriate that in the first instance the Police and Crime Panel (PCP) and then the Independent Police Complaints Commission (IPCC), an independent professional body, should undertake the relevant enquiries and investigations, and under some circumstances the PCP will have the authority to suspend a Police and Crime Commissioner.

In respect of providing an ‘overview in relation to counter-terrorism’, the new Strategic Policing Requirement will focus on national level threats, providing clear decision-making guidance to Police and Crime Commissioners to ensure that the right capabilities are in the right places to protect the public from serious harm. Finally, we agree with the Committee that a view from the centre is needed in respect of procurement, and the Bill includes provisions covering priority areas at a national level for securing value for money.

9. The Police and Crime Commissioner should spearhead long overdue collaborative procurement reforms. We expect that Police and Crime Commissioners will want to join together to form a representative body. Such a body should be used by Commissioners to facilitate collaboration between forces. (Paragraph 54)

The Police Reform and Social Responsibility Bill introduces provisions to enable a more strategic co-ordination on priority areas at the national level. The Government said in *Policing in the 21st Century* that its approach to police value for money will involve ending the practice of procuring things in 43 different ways when it makes no sense to do so either operationally or financially. The Government has consulted separately on proposed regulations to drive the aggregations of police procurement of certain equipment and services and is considering the responses to that consultation. Collaboration has to be first and foremost the responsibility of Police and Crime Commissioners and their Chief Constables and we will place upon Police and Crime

Commissioners a stronger duty to collaborate than police authorities are currently under. We are also responding to the call from the service to move from two kinds of agreement to one, encouraging greater consistency in collaboration partnerships and removing practical obstacles, for example making accountability arrangements more workable and allowing other organisations to be a party to collaboration agreements. It will be down to Police and Crime Commissioners to decide what representative body they should have, if any.

10. We see merit in the suggestion that there be a set of national priorities to which Police and Crime Commissioners should have regard when setting local goals. (Paragraph 56)

We agree that there will be a need to co-ordinate national response to certain issues. The Police Reform and Social Responsibility Bill will enable the Home Secretary to set out a ‘Strategic Policing Requirement’ setting out the expected response of the police service to national threats. It is not for the central government to tell locally elected Police and Crime Commissioners how to respond to local issues.

11. We see merit in using Police and Crime Panels as a means of providing advice to Police and Crime Commissioners before final decisions are made, as opposed to setting them up as a separate scrutiny body with a separate support staff, examining decisions after they are made, which we do not believe would be a good use of public money. We recommend that Police and Crime Panels be comprised primarily of elected representatives from county, unitary and district councils in the force area—in particular portfolio holders with appropriate responsibilities, and having regard to the political balance—and of a significantly smaller number of independent members. Ultimately, the Police and Crime Commissioner, as the elected representative, must be able to make what decisions he or she sees fit, but decisions made against the advice of Police and Crime Panels must be recorded as such and these records must be available to the public. (Paragraph 65)

In line with the Home Affairs Committee’s recommendations, Police and Crime Panels (PCP’s) will be made up from locally elected representatives from each local authority (including district councils for the first time) in the area and will be supplemented by two independent members that will help bring particular skills to the table. We want the relationship between the Police and Crime Commissioner and the PCP to be a constructive and transparent one, and therefore the Bill provides for the PCP to be consulted on a number of key decisions before they are made final and for dissenting views to be made public. The PCP will have a constructive role in key decisions such as the Police and Crime Plan, a power of veto over the precept level and the appointment of Chief Constables. We agree that PCPs will need support in order to carry out their functions and there are provisions in the Bill providing funding for that. Further details are set out in the Impact Assessment that accompanies the Bill.