

REFORMING THE IPCC: STRUCTURE AND GOVERNANCE CONSULTATION RESPONSE



Overview

This document provides a response from the Police and Crime Commissioner for Thames Valley to the Home Office Consultation: *'Reforming the Independent Police Complaints Commission: structure and governance'*.

Set out below are responses to the 8 (eight) direct questions posed in the consultation with additional commentary.

By way of overview the following comments are made:

1. It is agreed that any reforms of the IPCC *'...need to be supported by robust lines of accountability, a strong culture of continuous improvement and quality assurance systems which operate throughout the organisation. Such systemic changes can support an organisation's independence (and the perception of independence) which, in turn, should help raise public confidence in their decisions'* Something which sadly has not been evident in case examples previously presented to the IPCC by the Police and Crime Commissioner for Thames Valley, demonstrating investigation recommendations have led to innocent officers being subjected to protracted and unwarranted misconduct proceedings, despite there being no case to answer even taking the cases at the highest.
2. There does need to be improvements to ensure public confidence is improved, it is important however, to ensure that Police and Crime Commissioner, police officers and other policing bodies and stakeholders can also have confidence in how the IPCC will approach cases and importantly its decision making processes. It needs to be fair to all parties.
3. The IPCC is in need of reform to ensure that its decisions are not only clear and transparent but are also soundly principled and properly accountable. The Governance arrangements need to be kept simple to ensure they can be easily understood and accessed by all stakeholders.
4. The current packages of reforms taken as a whole risks complicating the system and blurring decision making processes. Currently it is unclear what or how the proposed board will influence decision making and there is a risk of regional disparity if a clear national model is not applied and regional differences and practices are allowed to develop.
5. The consultation is unhelpfully drafted seeking simple statements of agreement or disagreement to all encompassing questions. The questions are widely drafted and therefore concern is expressed that overall responses to this consultation may not provide genuine views as it may not be clear that the response may only partially agree or disagree with the statement given. The overall results of this consultation therefore, in our view, need to be treated with caution.

1. Do you agree with the government's proposed package of measures, as summarised above, to reform the IPCC's Governance Structure?

Answer: Disagree.

The question invites agreement to a number of different propositions. While it is agreed that the IPCC is in need of reform and a number of measure are welcomed, not all of the proposed packages would appear sensible and the question is too widely framed to simply agree or disagree. Comments on the summary are set out below and in subsequent questions:

- *A single head of the organisation, who makes decision about investigations independent from government, will be a crown appointment and cannot have worked for the police.*

It is agreed that there needs to be a single person at the head of the organisation to ensure that there is a clear line of accountability. However, it is unclear what justification there is to rule out a person who has previously worked for the police. It is accepted that there must be both actual and perceived independence, however this is potentially ruling out high calibre candidates that would have the necessary skills, knowledge and experience to fulfil the role, who could not only act independently but demonstrate for the benefit of all stakeholders including the public. (See response to question 5 below).

Decisions made independently of government, but continuing with administrative oversight by the Home Office

It is not agreed that the Home Office should retain oversight. It is unclear how this would achieve the aim of independence and improve public confidence. To ensure that the decisions are truly (actual and *perceived*) to be independent from those that control its structure and purse strings. The IPCC should be separate from the Home Office.

A single, clear line of decision-making, with governance of the organisation provided by a unitary Board, with a majority of non-executives to provide robust external challenge.

There must be a clear line of transparent decision making where reasons can be easily accessible by all relevant stakeholders (including the public) and understood. While the idea of a unitary board in principle makes sense, it is again unclear how this would achieve the aim of providing clear lines of decision making and the purpose of having a single accountable head. The board as it is understood would only have advisory powers which raises questions over its effectiveness and its actual role/purpose in, or ability to influence, any decision making process. The legal and constitutional requirements may become unnecessarily complex and danger the aim of open, clear and transparent decision making.

It is unclear why the option of a corporation sole model has been ruled out, which was introduced for Police and Crime Commissioners and Chief Constables. This would allow for the sensible governance arrangements to provide strategy, financial planning, policy and audit while ensuring the 'corporate mind' can be held properly accountable as necessary.

2. Specifically, do you agree that there should be a single line for decision making and accountability within the reformed IPCC rather than the current “DUAL” structure?

Agree.

It is agreed that there must be a clear line of transparent decision making where reasons can be easily accessible by all relevant stakeholder (including the public) and understood. This should include (when appropriate the ability to challenge). The current package of proposals may risk diluting the transparency of decision making unless a clear organisational structure is used and governance arrangements put in place for a clear and consistent national model.

3. Do you agree that the IPCC’s decision-making should be completely independent of the government, but that the Home Office should retain oversight of the IPCC’s administration and finance arrangements?

It is agreed that the Home Office should retain oversight to ensure that the IPCC is appropriately held to account. However, this must ensure that any decision making process and ‘operational matters’ are determined independently by the IPCC. This would need to ensure that appropriate control measure are in place so that decisions are truly (actual and *perceived* to be) independently taken by the IPCC and separate from the Home Office.

4. Do you think the reformed IPCC should have the flexibility to decide for itself how it operates at regional level?

No

There should be national consistency to ensure all relevant stakeholder (including the public) can have confidence in how matters will be dealt with and the decision paths that will be taken. If regional differences are developed this risks fracturing the aim of clear lines of decision making powers and could result in public and police being (or perceived to be) treated differently (or receiving a different level of engagement) depending on the region of the matter in question. In other words this risks creating a postcode lottery service with the IPCC which is something that must be avoided. A national model is required to ensure consistency of approach and treatment of all matters.

5. Should there be some restriction on people with a policing background taking up posts as senior management employees of the IPCC?

No

It is accepted that the highest standards of independence (both actual and perceived) must be achieved in any independent regulatory function. However, it is considered that a restriction although consistent with previous approaches is not always appropriate. The recommendation for less restrictive requirements on other employee roles is noted. What is important is that the post holders can demonstrate independence and competence. To have a blanket denial for people with policing backgrounds limits a potential pool of highly qualified and experience candidates. Clearly it may be that they are exceptional appointments to ensure independence but to deny the opportunity to appoint experienced personal with direct knowledge and hands on experience of policing could be a mistake. The public do have confidence in a number of police officers, providing individual's backgrounds and career histories are properly scrutinised and the appointment is made on merit there is no reason to restrict the post. While in the name of independence it could costs the organisation an effective, efficient and knowledgeable professional who would be more than capable of maintaining independence and presiding over fair and transparent decision making.

6. Do you agree with the suggested name “Independent Police Conduct Authority” as a title for the reformed IPCC?

No

It is understood that one driver behind the proposed name change is to reflect functions beyond “complaints” and that the IPCC will no longer be a ‘commission’. While a change may be justified to reflect a new organisational model, it is not clear why ‘complaints’ would be dropped with the major public interaction with the IPCC being as a result of complaints.

There are a number of bodies with responsibility for police accountability and it is often difficult for a lay person with no policing experience to navigate or understand the various roles and remits. Many members of the public who wish to see action taken against police who fall below the required standards will not be concerned if it is technically a “conduct” or “complaints” matter under legislation (that is essentially just dictated by where a complaint originated from and is all too often somewhat of an artificial distinction). The key is that appropriate action is taken whether a public complaint or a conduct matter. However, those members of the public requiring access to the complaints system and the IPCC who have grievances against the police may be deterred by the loss of a connection to ‘complaints’ in the title. We have moved from the Police Complaints Authority to the IPCC and now potentially the IPCA? If the name is to change yet further it is considered a connection to ‘complaints’ should be maintained for clarity and public association.

7. Other comments

There is a clear need for reform (as evidenced by recent Thames Valley case examples) to improve transparency and engagement of all relevant stakeholders in decision making and performance. This does go beyond the proposed package of measures. The regulatory function for handling police conduct and complaints must be able to demonstrate the basic criteria for ‘procedural justice and fairness’ (both actual and perceived). This means, focussing on the quality of the processes used to arrive at decisions and the treatment received by *all* stakeholders and ensuring that the process is applied though a national model not through potential regional differences and practices that may develop.

8. Details

This response is provided for and on behalf of the Police and Crime Commissioner for Thames Valley.

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