House of Commons
Home Affairs Committee

Policing: Police and Crime Commissioners

Second Report of Session 2010–11

Report, together with formal minutes, oral and written evidence

Ordered by the House of Commons
to be printed 23 November 2010
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.

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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.

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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), and Alex Paterson (Select Committee Media Officer).

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1 Introduction

The Government’s proposals

1. On 26 July 2010, the Home Secretary, Rt Hon Theresa May MP, introduced a consultation paper that she said set out “the most radical reforms to policing in at least 50 years”. She stated that police reform was a priority “because for too long the police have become disconnected from the communities they serve, been bogged down by bureaucracy and answered to distant politicians instead of to the people”.¹ The consultation paper, Policing in the 21st Century: Reconnecting police and the people, included as one of its principal proposals the introduction of elected Police and Crime Commissioners. This followed a pledge in the Government’s coalition agreement, which stated: “We will introduce measures to make the police more accountable through oversight by a directly elected individual, who will be subject to strict checks and balances by locally elected representatives”.²

2. Both the Conservative and Liberal Democrat manifestos contained proposals to reform the current system of Police Authorities. The Conservative manifesto stated: “We will replace the existing, invisible and unaccountable police authorities and make the police accountable to a directly-elected individual who will set policing priorities for local communities”.³ The Liberal Democrat manifesto stated that they would “give local people a real say over their police force through the direct election of police authorities” and “give far more power to elected police authorities, including the right to sack and appoint the Chief Constable, set local policing priorities, and agree and determine budgets”.⁴ The previous Government proposed replacing councillor members of Police Authorities with directly elected members, but decided otherwise after strong representation from a number of organisations, including the police and our predecessor Committee. Members of this Committee hold widely differing views about the desirability or otherwise of the current proposals, but this inquiry has been held in a constructive spirit so as to determine how these proposals can best be delivered.

3. Currently, responsibility for policing is shared between the Home Secretary, Chief Constables, and Police Authorities, under the tripartite structure established by the Police Act 1964. The idea behind this structure is that the Home Secretary is responsible to Parliament for the overall efficiency and effectiveness of the police in England and Wales and the maintenance of minimum standards of service, Chief Constables are responsible for the operational effectiveness of their forces, and Police Authorities set the strategic direction of the force and hold Chief Constables to account.⁵ Under the Government’s proposals, directly elected Police and Crime Commissioners would replace Police Authorities, which would be abolished. The Government also proposes to introduce new

¹ HC Deb, 26 July 2010, col 723
² The Coalition: our programme for Government, p 13
³ Invitation to join the Government of Britain: The Conservative Manifesto 2010, p 57
⁴ Liberal Democrat Manifesto 2010, p 72
⁵ For further detail, please see Home Affairs Committee, Seventh Report of Session 2007–08, Policing in the 21st Century, HC 384-I, p 68
bodies—to be known as Police and Crime Panels—in each force area to scrutinise Police and Crime Commissioners.

4. The consultation paper includes several other proposals for policing reform. We have focused on Police and Crime Commissioners at this stage because the Government has stated that the Bill relating to them will be introduced by the end of November 2010. In due course, we expect to announce further inquiries into the other proposals set out in the consultation paper, including the establishment of a National Crime Agency.

The scope of our inquiry

5. The consultation period for *Policing in the 21st Century* closed on 20 September 2010 and the Government is expected to publish the 800-plus responses at the same time as the Bill. The Minister for Policing and Criminal Justice, Rt Hon Nick Herbert MP, told us that not only had the Home Office “undergone quite an extensive period of pre-consultation”—that is to say, informal consultation with stakeholders before the formal consultation process began—it would “welcome continuing responses and engagement with these proposals after the end of the formal period and as the Bill is introduced”. This report is intended to inform the discussion and scrutiny of the Bill as it makes its way through Parliament. Therefore, and given the time constraints imposed by the likely timetable for the Bill’s publication, the report focuses mainly on the proposals for Police and Crime Commissioners as set out in the consultation paper, rather than discussing in detail the other structures that the Government could have adopted to improve the connection between the police and the communities they serve. The terms of reference for the inquiry can be found in the annex.

6. The Government’s proposals for Police and Crime Commissioners relate to England and Wales; policing is a devolved matter in Northern Ireland and Scotland. Our report also relates principally to England and Wales, although some of the issues discussed are also relevant to the rest of the United Kingdom.

7. We heard oral evidence from eight witnesses, and received 25 written submissions, which are listed at the end of the report and published on the Committee’s website. We are grateful to everyone who contributed to the inquiry. We also held a general oral evidence session on 27 July 2010 on policing, which has informed this report.
2 Public awareness and engagement

8. The consultation paper makes it clear that the main impetus behind the Government’s proposals for policing reform, and Police and Crime Commissioners in particular, is the desire to reconnect the public with the police. In her foreword, the Home Secretary refers to “restoring once more the connection between the police and the people”.7 The consultation paper acknowledges that “many individual members of police authorities have made great efforts in recent years to improve police responsiveness and represent local communities”. However, it also states that “despite these efforts the public are often unaware of police authorities themselves” and cites a Cabinet Office review from 2007, which “highlighted that only 7% of the public would know to go to their Police Authority if they had a problem with policing in their local area”.8

9. Mr Rob Garnham, the Chair of the Association of Police Authorities, pointed out that the Cabinet Office review was “three or four years ago” and stated that the Association of Police Authorities would say that the figure was “much higher” than 7%.9 Mr Garnham also commented that when people did need help or wanted something “they rapidly find out who they can turn to”.10 Mr Garnham acknowledged: “there is a question, we cannot deny, over visibility”.11 In written evidence following on from Mr Garnham’s oral evidence, the Association of Police Authorities stated that a local policing survey across the Northumbria Police Authority area revealed that 88% of residents were aware of the authority, although we received no evidence on whether that 88% knew that they could go to the Police Authority if they had a problem with policing in their local area.12 The Welsh Local Government Association stated that in a survey undertaken in 2010 by the Police Authorities of Wales, “97% of those surveyed either agreed or strongly agreed that they had heard of Police Authorities and 82% agreed that they knew what a Police Authority does”.13

10. Mr Kit Malthouse, the Deputy Mayor of London with responsibility for policing, cited several reasons why he thought the public appeared to be largely unaware of the role and work of Police Authorities. He stated that “police authorities are quite weak” and “don’t have the powers that make them relevant, in terms of compelling or directing the police to do things”.14 This point is interesting in the light of the powers proposed for Police and Crime Commissioners and we return to it in our discussion in Chapter 4. He also commented that “police authorities have largely been neglected by democratic politicians” and “dominated by independent members” who, in his experience, were “reluctant to get

7 Home Office, Policing in the 21st Century: Reconnecting the police and the people, July 2010, p 3
8 Home Office, Policing in the 21st Century, p 6
9 Q 94
10 Q 96
11 Q 94
12 Ev 43
13 Ev w61
14 Q 12
out in public on the front foot and get involved in the fray of public debate”\(^{15}\). Councillor Richard Kemp, the Vice-Chair of the Local Government Association, stated:

> it is very difficult to get leading members in many areas to go on the police authorities because they can do more to influence crime and antisocial behaviour activity by being a cabinet member within their own authority than they can by being a member of a police authority that has very little real authority.\(^{16}\)

11. The view that there was a need to increase public awareness of and engagement in policing was voiced by many of those who gave evidence. Mr Bernard Hogan-Howe, the former Chief Constable of Merseyside Police, stated:

> Each of the parties have agreed, I think, that there’s a democratic deficit, that in fact people do not have enough opportunity to influence the priorities of the police and that has led to some pretty wide gaps growing over time.\(^{17}\)

Mr Hogan-Howe said that there were various options “to fill the democratic deficit” and that all of them, including Police and Crime Commissioners, involved some risks, but that “the risk of standing still is quite significant”.\(^{18}\) Although he was not prepared to say directly whether he supported the proposal for elected Police and Crime Commissioners, because he would have to work with whatever proposal became law, he did say: “I think there is a genuine opportunity to both influence public opinion and to receive their feedback, and sometimes criticism, and do something about it, and if that focuses on the individual that is a great opportunity.” He thought that Police and Crime Commissioners had the chance to increase public trust for two reasons: “first of all, [there would be] a public debate about what the priority should be and, of course, then the Commissioner has to deliver”.\(^{19}\)

12. Other witnesses, while equally convinced that there was a need to increase public engagement with the police, were less sure about the opportunity presented by Police and Crime Commissioners. Mr Rick Muir, a Senior Research Fellow at the Institute for Public Policy Research, told us that, although he agreed that in the 1980s and 1990s a gap had emerged between the public and the police, he would prefer to address this gap by having “a wholly elected Police Authority”. He stated: “I think we need more accountability, but I think the Commissioner model is the wrong way to do it.”\(^{20}\)

**One Commissioner per force**

13. Police Authorities usually have 17 members: nine councillors appointed by local councils, and eight independent members from the local area and selected following local advertisement, to include at least one magistrate. Some, such as Greater Manchester, have 19 members. One of the concerns that witnesses raised repeatedly about the proposed

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16 Q 132
17 Q 43
19 Q 41 and Q 48
20 Qq 28–29
Police and Crime Commissioners was summed up by Sir Hugh Orde, the President of ACPO, who commented that Police and Crime Commissioners would be “taking on a huge job” in that “they are replacing 17 to 19 people with one person”.\(^{21}\) Many witnesses, especially Police Authorities, expressed their doubts about whether one person would really be able to take on this role, in terms both of coping with the amount of work involved and being able to represent an entire force area. For example, Kent Police Authority commented: “We do not believe that one person, acting alone, would be able to cover either the volume of work, or be able to cover the ground in Kent or any other force area and do justice to the people they serve”\(^ {22}\). ACPO Cymru stated that in Wales “the current mix of elected and independent members on Police Authorities ensures representation in every local authority area” and commented: “We do not consider that a single PCC [Police and Crime Commissioner] will be able to represent our many diverse communities as effectively”\(^ {23}\).

14. The concern would be that if Police and Crime Commissioners could not cope with the workload, or could not successfully represent the entire force area, the public’s opportunities to engage with the police might get worse rather than better. We note the experience of Mr Malthouse, who pointed out during his evidence that his postbag of letters from members of the public concerned about policing in their area had grown exponentially since he became London’s public figurehead for policing. A joint submission by Avon and Somerset Police Authority and Avon and Somerset Constabulary stated that they foresaw a risk of “local tensions and public disenchantment in the proposed governance model resulting from the inability of a single elected individual to represent Avon and Somerset’s extremely diverse communities”.\(^ {24}\) The ability of one individual to represent an entire force area is a particular concern in the case of large forces such as Avon and Somerset, which covers about 1,855 square miles and a population of about 1.6 million people, but even in smaller force areas, such as Warwickshire, which covers about 780 square miles and a population of about 535,000, the ability of one person to take on a task previously carried out by 17 people is clearly an issue. This highlights the importance of Police and Crime Panels to the Government’s plans as a way to ensure representation from across a population area. If properly designed, the proposed support teams and Police and Crime Panels have the potential to address concerns about the challenge of one Police and Crime Commissioner representing a large force area. We recommend that 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. We return to this point in our discussion of Police and Crime Panels in Chapter 5.

**Support teams**

15. If Police and Crime Commissioners are introduced, they will need support teams to assist them. The consultation paper states that the Government “does not intend to prescribe these support arrangements in detail ... although the Government will, for

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\(^{21}\) Oral evidence taken before the Home Affairs Committee on 27 July 2010, Policing HC (2010–11) 362-i, Q 87

\(^{22}\) Ev w25

\(^{23}\) Ev w15

\(^{24}\) Ev w22
example, require the appointment of an individual with appropriate financial skills and establish process safeguards to ensure that appointments are made with propriety”.25

16. Mr Garnham, the Chair of the Association of Police Authorities, said that he thought that the support teams required by Police and Crime Commissioners would differ from those currently required by Police Authorities. He commented that, if the theory were correct and Police and Crime Commissioners were “better than police authorities” at holding Chief Constables to account, the “Police and Crime Commissioner is suddenly going to have an awful lot more people knocking on their door” and “you’re going to need an organisation to deal with these public expectations as well”.26 This point is supported by the comments of Mr Malthouse, who, while arguing that one person “allows there to be a kind of funnel for public concern”, stated that when he was first given the title of Deputy Mayor with responsibility for policing, “the postbag at City Hall on community safety went from 20 or 30 letters a week up to 200 or 300”, and added: “We had a problem coping with it. That indicated to me there was a thirst for some sense of responsibility and accountability in the political firmament for the police”.27 Given that the idea of Police and Crime Commissioners is to increase public engagement in policing, Police and Crime Commissioners must have a support team capable of handling a higher volume of calls, letters and e-mails than Police Authorities currently receive—otherwise there is a risk that public engagement will turn to public disillusionment.

17. Cheshire Police Authority commented: “There is a real possibility of the loss of corporate knowledge if new support teams are appointed each time a new Commissioner is appointed, leaving the Commissioner exposed to difficult questions both from the electorate and the Chief Constable”.28 We recommend that consideration be given to the importance of retaining experienced members of staff in the team supporting the Police and Crime Commissioner following the election of a new person to the post.

Local priority setting

18. The consultation paper emphasises the importance of giving the public more influence over police priorities in their local area. It refers to “a deal where the public are in control” and Police and Crime Commissioners “give the public a voice”.29 It states: “we expect Police and Crime Commissioners to work with their local communities to establish the crime and ASB [antisocial behaviour] priorities that matter most locally”.30 Mr Hogan-Howe, the former Chief Constable of Merseyside, agreed that “generally” the public are best placed to decide on local policing priorities, but said that “there has to be a balance struck” because “sometimes people aren’t fully aware of all the threats and all the risks”.31 Staffordshire Police Authority was one of several witnesses to voice a concern that Police and Crime Commissioners “will prioritise what can be seen by communities at the expense...
of the less visible elements of policing such as protective services, which are just as fundamental to community safety”.32

19. Another concern is how to ensure that local priority setting is truly reflective of the views of those living in the area as a whole, and does not simply mirror the views of a vocal minority with particular perceptions. Professor Jonathan Shepherd of Cardiff University, who has carried out influential research on violence reduction, made this point by comparing the crime agenda with the health agenda:

> there is an obvious parallel between the worried well who can dominate the health agenda and consume resources at the expense of people with real needs who do not come forward and the fearful safe ... whose views and keen participation in discussions about crime reduction could, potentially, divert attention and resources away from locations and communities where people are at far greater risk.33

To avoid the “worried well” syndrome distorting local policing priorities it is therefore vital that Police and Crime Commissioners effectively communicate with their electorate about all the threats and risks they are facing so that voters can make evidence-based decisions about local policing priorities. The quality of data is crucial in this context: both to inform the public in the first place and to help Police and Crime Commissioners to reflect a true picture of the needs of the communities they serve, rather than merely the concerns of those who shout the loudest or voice their points most articulately. Mr Hogan-Howe commented that data should be “as individual as possible, as local as possible and, of course, finally […] current”.34 **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.**

32 Ev w63
33 Ev 51
34 Q 50
3 The election and identity of Police and Crime Commissioners

The timing and cost of the elections

20. The Government proposes that elections for Police and Crime Commissioners will take place for the first time in May 2012 and that Commissioners will serve a maximum of two four-year terms. May 2012 is just before the start of the Olympic Games in July 2012. The joint submission from Avon and Somerset Police Authority and Avon and Somerset Constabulary mentioned this as a possible concern, stating that there could be “potential tensions between localist campaign agendas and the responsibility of forces to deliver national policing requirements as we prepare for the 2012 Olympics”. However, neither Mr Hogan-Howe, the former Chief Constable of Merseyside, nor Councillor Kemp, the Vice-Chair of the Local Government Association, thought that the timing of the elections just before the Olympics was likely to prove problematic. Councillor Kemp did express concern, though, that the timetable for producing the Bill was “too hurried”.

21. Asked in July 2010 about the cost of elections for Police and Crime Commissioners, the Minister replied: “When we have consulted about the electoral system and we therefore know more we will be able to set out what the costs of that will be”. On the salary of Police and Crime Commissioners, the consultation paper states: “The Government will make proposals for the pay of Police and Crime Commissioners later in the year. These will reflect our focus on value for money and transparency, and take account of variation in force size and responsibilities”. The Association of Police Authorities, which would cease to exist under the Government’s proposals, has stated that advice it commissioned estimated that introducing a system of Police and Crime Commissioners would cost about £100 million more than the current system over the next five years. This figure includes running costs, as well as the cost of the elections. A joint response by the Police Authorities of the North West stated: “it is understood that the cost of the elections alone will be in the region of £60 million”. The Minister did not recognize these figures and stated the Government would “set out the costs and business plan at the time we publish the Bill”.

Who will stand

22. There has been some speculation about who might stand for the Police and Crime Commissioner posts. Mr Muir, a Senior Research Fellow at the Institute for Public Policy

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35 Home Office, Policing in the 21st Century, p 12
36 Ev w23
37 Qq 58 and 140
38 Q 140
39 Oral evidence taken before the Home Affairs Committee on 27 July 2010, Policing HC (2010–11) 362-i, Q 25
40 Home Office, Policing in the 21st Century, p 17
41 Q 87, and “E lecting police chiefs ‘could open door to extremists’”. The Times, 21 September 2010, p 13. See also Ev 42
42 Ev w18
43 Oral evidence taken before the Home Affairs Committee on 27 July 2010, Policing HC (2010–11) 362-i, Q 25
Research, thought that there would be “a lot of independents standing” because individual posts such as these tended to attract independent figures. He cited directly elected mayors as a comparison. However, others pointed out that independent candidates might have difficulty competing—from a financial and organisational point of view—with candidates from mainstream political parties. Surrey Police Authority stated: “Members of the public without a mainstream political alignment will struggle to compete against organisations built and funded expressly to win elections”. Thus the view of the majority of witnesses was that most, if not all, Police and Crime Commissioners were likely to come from party political backgrounds. Sir Hugh Orde, the President of ACPO, commented: “the reality is that these will be people with a party background because of the machine that will need to support it [the election campaign], quite frankly”. Mr Muir agreed with this assessment and saw it as a positive aspect of the Government’s proposal, saying, “I think political parties, as I understand it, would be entitled to stand candidates. I think they should be encouraged to stand candidates—I think that would be a very good idea”. Indeed, we found no evidence that an independent candidate would be better than a party political candidate.

23. Concerns were expressed about particular groups of people who might stand for the Police and Crime Commissioner posts. Chief among these concerns was that single-issue candidates or candidates from extremist political parties might stand. Staffordshire Police Authority stated:

The widely-acknowledged low turnout for local elections is also acknowledged to carry the risk—sometimes realised—of single-issue and/or minority extremist candidates getting elected. The spectre has been raised in many quarters of the BNP [British National Party] or EDL [English Defence League] reaching the PCC role through the ballot box, which could be a total embarrassment for Forces given the task of policing their activities.

24. Sir Hugh Orde said that he was “not too excited about whether we are going to get some sort of extreme end of the spectrum, whatever spectrum, right or left, or a single-issue sort of person” and that he thought Police and Crime Commissioners would be “people who are genuinely interested in making a difference”. The Minister commented that “the concern about extremists is really overdone”. He stated that Police and Crime Commissioners “will be in receipt of a very large number of votes to secure their election, they will have a mandate”. When we asked whether this meant that the Government had a threshold in mind for the number of votes needed to secure a victory in the election, the Minister replied: “No, I am just observing the fact that because we have decided to hold these elections at the force level there are large populations even in the smallest forces and in the bigger forces very significant populations”. The Minister stated that Police and

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44 Q 27
45 Ev w33
46 Oral evidence taken before the Home Affairs Committee on 27 July 2010, Policing HC (2010–11) 362-i, Q 87
47 Q 26
48 Ev w65
49 Oral evidence taken before the Home Affairs Committee on 27 July 2010, Policing HC (2010–11) 362-i, Q 87
50 Ibid., Q 41
Crime Commissioners would have “millions of people voting for them”. However, this would, of course, depend on the turnout.

25. Another issue that emerged during the course of the inquiry was whether former senior police officers should be allowed to stand for the posts. Mr Muir said that it would be a “welcome development” if former Chief Constables were to stand, because of their experience. Former Police Authority Chairs might also be well qualified for the role on the grounds of their previous experience. However, while some issues were raised about former senior police officers standing, some witnesses had concerns about former senior police officers standing. Mr Hogan-Howe, himself a former Chief Constable, suggested that there should be a “period of cooling off” if a former senior officer decided to stand. This could be particularly relevant if the former officer were standing for the post in the same force area. Mr Malthouse, the Deputy Mayor of London, mentioned that one of the issues that had occurred to him was “whether a police officer who has just recently exited a force could then come back as the elected police chief of that force”.

26. There was further discussion about whether the Government, to prevent extremist candidates from standing, should, for example, restrict candidates from extremist political parties or impose positive criteria, such as policing qualifications. In response to this suggestion, Mr Malthouse stated:

> Every time the franchise has been extended the argument against it has been, ‘You can’t trust the voters.’ We have managed pretty well, I think ... There have been one or two mistakes but that is the price of democracy. So, no, I don’t think you can put restrictions.

We do not rule out the possibility that extremist or single-issue candidates will stand for the Police and Crime Commissioner posts. However, in a democracy, the electorate should be free to choose the candidate they think will best represent their needs. 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.

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51 Oral evidence taken before the Home Affairs Committee on 27 July 2010, Policing HC (2010–11) 362-i, Q 36 and 38
52 Q 27
53 Q 92
54 Q 57
55 Q 8
56 Ibid.
Elected mayors

27. The Government proposes that Police and Crime Commissioners will be directly elected at the level of every area-based police force in England and Wales with the exception of the Metropolitan Police and the City of London Police. The British Transport Police, the Civil Nuclear Constabulary and the Ministry of Defence Police would not have Police and Crime Commissioners. The Government also proposes that the Metropolitan Police Authority would be abolished and that its scrutiny role would be performed by the Greater London Authority. It is not envisaged that London will have a specifically elected Police and Crime Commissioner. The consultation paper states that the Government is discussing with the Mayor of London and the Metropolitan Police Commissioner what further changes might be needed in London to complement these reforms.\textsuperscript{57} Mr Malthouse, the Deputy Mayor of London with responsibility for policing, was positive about the proposed new arrangements for London. He stated: “Having the police as part of the Greater London Authority family under the Mayor is actually an advantage, not a disadvantage.” He noted the potential for “much more integrated working” and “fewer silos”\textsuperscript{58}

28. The Metropolitan Police Authority suggested that, in London, the Mayor should actually be designated the Police and Crime Commissioner “with a power to designate a nominated person to discharge the functions of this role”. It noted: “It is impracticable for the Mayor—with his or her many other responsibilities—personally to discharge all the responsibilities of the PCC. As the elected individual, responsibility and accountability should nonetheless remain ultimately with the Mayor.”\textsuperscript{59}

29. Greater Manchester Police Authority raised the issue of how Police and Crime Commissioners would interact with elected mayors in other cities:

The coalition government proposals for elected mayors in key cities, Manchester being one, has the potential to confuse the accountability landscape further especially if [...] it is supposed that the Mayor would automatically slot into the role of the Police and Crime Commissioner, as the individual has powers and responsibilities which extend beyond policing.\textsuperscript{60}

Professor Rob Mawby, Visiting Professor of Criminology and Criminal Justice at the University of Gloucester, discussed the influence of elected mayors on policing in the United States of America and sounded a cautionary note. He stated:

the widespread conclusion has been that where ‘strong’ mayors exert their authority in holding the police to public account, the advantages of opening the police organisation to outside scrutiny may be countered by the partiality of the mayors and their vested interests.\textsuperscript{61}

\textsuperscript{57} Home Office, Policing in the 21\textsuperscript{st} Century, p 14
\textsuperscript{58} Q 1
\textsuperscript{59} Ev w5
\textsuperscript{60} Ev w28
\textsuperscript{61} Ev w59
30. There is a need for clarity on how Police and Crime Commissioners will interact with elected mayors, especially where the police and local authority boundaries are coterminous, which generally they are not. We see merit in the suggestion that, rather than leaving London without a Police and Crime Commissioner, some mechanism should be found to make equivalent provision. It might be that the Commissioner should be directly elected, or the London Assembly might be given the power to elect one of its members to that role. It does not seem logical to allow the Mayor to take on that role, since it would be one role among many, nor that he or she should appoint someone who by definition would then not be a directly elected Commissioner. However, London is, in view of its size and the existence of devolved responsibilities, a special case and we suggest that it should be given further specific consideration. Outside London, we can see no reason why both city areas and non-city police areas should not come under the purview of an elected Police and Crime Commissioner. In time other arrangements could lead to a patchwork with directly elected Commissioners covering only the more rural parts of the country, and we cannot see that such an approach would fit with the Government’s objectives. The most logical conclusion should be that a consistent pattern of Commissioners should be developed, irrespective of the electoral arrangements in any of the local government areas that come within the police boundary.
4 The role and powers of Police and Crime Commissioners

A comparison with Police Authorities

31. The first of Sir Robert’s Peel’s nine principles of policing was that the basic mission for which the police exist is to prevent crime and disorder. The consultation paper states that this mission has “not fundamentally changed”, although it notes that what was termed disorder at the beginning of the nineteenth century is now known as antisocial behaviour. Actually the term “disorder” was used in legislation in the Crime and Disorder Act 1998, which also had a focus on “anti-social behaviour” and more recently the term disorder has continued to have considerable currency in the title of the Crime and Disorder Reduction Partnerships established under the 1998 Act. In the consultation paper, the Home Secretary argues that the reforms the Government proposes are necessary to enable Peel’s concept of the police’s mission to be achieved.⁶²

32. The consultation paper refers specifically to Police and Crime Commissioners having a “mission to fight crime and ASB [antisocial behaviour]” and states that they will have five key roles as part of this mission:

- representing and engaging with all those who live and work in the communities in their force area and identifying their policing needs;
- setting priorities that meet those needs by agreeing a local strategic plan for the force;
- holding the Chief Constable to account for achieving these priorities as efficiently and effectively as possible, and playing a role in wider questions of community safety;
- setting the force budget and setting the precept;
- appointing—and, where necessary, removing—the Chief Constable.⁶³

33. A submission by the Police Authorities of Wales gave an overview of the current statutory responsibilities of Police Authorities:

- ensuring the police provide an efficient and effective service;
- setting the local policing priorities based on consultation with local people;
- managing the police budget including setting the police part of the council tax in consultation with local people;
- recruitment of the Chief Constable and the Chief Officers;
- monitoring police performance, holding the Chief Constable to account on behalf of the public;

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⁶² Home Office, Policing in the 21st Century, pp 2–3
⁶³ Home Office, Policing in the 21st Century, p 11
- ensuring that the Chief Constable delivers a police service that balances both national strategic priorities with the concerns of local people;
- monitoring complaints against the police;
- promoting equality and good relations between different groups of people;
- informing people of their rights if they are stopped and searched by the police.\(^{64}\)

34. These two lists are very similar, albeit that the power to dismiss a Chief Constable and the power to agree a policing plan are not specifically mentioned in the list drawn up by the Police Authorities of Wales. Mr Garnham, the Chair of the Association of Police Authorities, when asked what he saw as the key difference between the role and powers of Police Authorities and the role and powers proposed for Police and Crime Commissioners, also replied: “Not an awful lot of difference.”\(^{65}\) The similarity in powers between Police Authorities and the proposed Police and Crime Commissioners is a potential concern in the light of Mr Malthouse’s argument—outlined in paragraph 10 in Chapter 2—that one of the reasons why Police Authorities have a low public profile is that they do not have enough power to make a difference. However, Mr Malthouse added that the lack of power Police Authorities currently demonstrate could also be due to the large number of independent members who are reluctant to get involved in public debates.

35. The Government is clearly still deciding on the precise powers to be held by Police and Crime Commissioners. When the consultation paper was introduced in a debate in the House of Commons, one Member of Parliament asked whether the remit of Police and Crime Commissioners could be extended to cover the Crown Prosecution Service. The Home Secretary replied: “we ... envisage looking at the possibility of extending the remit of police and crime commissioners further in the criminal justice system.”\(^{66}\) Liberty was concerned about this answer and stated: “any steps to give an elected politician any control over the prosecutorial function would be a dangerous move indeed”.\(^{67}\) We urge the Government to take these concerns into account as it develops the role of Police and Crime Commissioners.

36. Several witnesses suggested additional powers that should be given to Police and Crime Commissioners. The Association of Police Authorities was among those that proposed that Police and Crime Commissioners should be given the power of direction over Chief Constables. It warned: “if PCCs have no greater ability to direct chief police officers than currently, they will be no more successful in delivering the outcomes that local people want”.\(^{68}\) It stated that this power of direction should relate to the statutory duties of Police and Crime Commissioners and should not interfere with operational independence. We discuss operational independence below.

\(^{64}\) Ev w52 
\(^{65}\) Q 101 
\(^{66}\) HC Deb, 26 July 2010, col 731 
\(^{67}\) Ev w3 
\(^{68}\) Ev 40
37. Lancashire Police Authority was one of a number of witnesses to advocate that a Police and Crime Commissioner should be designated “a body corporate, responsible for the budget, employing staff, holding land, property and equipment, and able to enter into contracts.” These responsibilities are currently held by Police Authorities. Like several other Police Authorities, Lancashire also stated that Police and Crime Commissioners “should be responsible for recruiting all Chief Police Officers and not just the Chief Constable”\(^{69}\). Police Authorities currently have the power to appoint and dismiss senior police officers as well as the Chief Constable.

38. Making a single individual responsible for overseeing policing in a particular force area may in itself raise their public profile compared with that of Police Authorities. However, that single individual must have the powers necessary to perform their role effectively, otherwise public confidence will suffer in the long term. Given that there is concern in some quarters that Police Authorities do not currently have sufficient powers, we certainly do not think that Police and Crime Commissioners should have any fewer powers than Police Authorities, or be given new powers beyond those currently enjoyed by Police Authorities. **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.**

**Operational independence**

39. The consultation paper states clearly that operational independence is a “fundamental principle of British policing” which the Government will “protect absolutely”. It comments: “Giving Chief Constables a clear line of accountability to directly elected Police and Crime Commissioners will not cut across their operational independence and duty to act without fear or favour”.\(^{70}\) What is less clear, however, is exactly what “operational independence” encompasses and what this would mean in practice if there were a disagreement between a Police and Crime Commissioner and a Chief Constable.

40. There is no statutory definition of operational independence. The principle of operational independence was endorsed by the Royal Commission on the Police in 1962. Chief Constables were given the statutory function of maintaining direction and control over the police force by the Police Acts of 1964 and 1996. However, the Acts do not make explicit reference to operational independence. The Court of Appeal judgment of Lord Denning in the case of Blackburn in 1968 is cited as a key authority on operational independence, although strictly his remarks may be considered *obiter*—that is, not binding because extending beyond the matters at issue in the case. Referring to the Metropolitan Police Commissioner, and extending what he said to “every chief constable”, Lord Denning stated:

> No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one.

\(^{69}\) Ev w39  
Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone.\textsuperscript{71}

Lord Denning’s judgement has its critics, however. Professor Philip Stenning of Keele University has argued:

Despite its obvious shortcomings, Lord Denning’s statement of the doctrine of police independence in \textit{Blackburn} has effectively become the \textit{locus classicus} on the subject in common law countries around the world, as well as in England itself, thus seemingly ensuring continued disagreement and confusion about the scope, application and implications of it.\textsuperscript{72}

Mr Hogan-Howe, the former Chief Constable of Merseyside, gave a summary of what he understood operational independence to mean when he stated:

the first thing that everyone seems to agree with is that the police should have operational independence, in the sense of not starting or stopping an investigation into an individual because of a political interference and policing something or not policing something because of a political view.\textsuperscript{73}

41. So far, the lack of an agreed definition of operational independence does not seem to have caused Police Authorities and Chief Constables great difficulties. When we asked Mr Garnham, the Chair of the Association of Police Authorities, what happens currently if there is a difference of opinion between a Chief Constable and a Police Authority over local priorities, he said that, in his personal experience, he had not witnessed such a difference of opinion. He stated that discussions took place “at a more strategic level” and described a difference of opinion about the level at which the police precept should be set, which was resolved in the Police Authority’s favour.\textsuperscript{74} However, there are grounds for thinking that the definition of operational independence may become more of an issue if Police and Crime Commissioners are introduced. Cumbria Police Authority commented: “with PCCs having an electoral mandate there may be a much stronger temptation for them to seek to stray into operational areas, especially if the delivery of key election promises is at stake”.\textsuperscript{75}

42. Sir Hugh Orde, the President of ACPO, outlined the concerns in more detail. He commented: “I think we need to understand what happens when the chief says for operational reasons, ‘Much as I would like to do that, I don’t think I can’”,\textsuperscript{76} He cited the example of a Police and Crime Commissioner insisting that the number of officers on the street be doubled and said that he saw “huge issues with that”. He stated:

Because unless they [the Government] want to then take the responsibility away from the chief constable for removing officers, by definition, from something else—

\textsuperscript{71} R \textit{v Metropolitan Commissioner, ex parte Blackburn} [1968]


\textsuperscript{73} Q 52

\textsuperscript{74} Q 103

\textsuperscript{75} Ev w13

\textsuperscript{76} Oral evidence taken before the Home Affairs Committee on 27 July 2010, Policing HC (2010–11) 362-i, Q 85
be it the child protection units, be it the rape units, be it the major crime units, the anti-terrorism units, the things that are currently right on the top of this government’s agenda around the security of the state—I think that puts the chief in an impossible position.\textsuperscript{77}

He commented that he would like to think that “99.9% of those issues, as they are now, are resolved through sensible conversations between those who hold us to account and those who are tasked with this wide policing mission”.\textsuperscript{78} We, too, anticipate that the majority of disagreements between Police and Crime Commissioners and Chief Constables can be resolved by means of sensible discussion and negotiation. However, we are concerned about the minority of cases in which, under future as under current models, this might not prove possible.

43. The Minister seemed to be against including a statutory definition of operational independence in the Bill to introduce Police and Crime Commissioners. He said that ACPO’s view was that “we should not attempt to define this [operational independence] in the legislation” and that a definition could be “problematic”. He stated that he had “sympathy with that view”. He also referred to the Independent Commission on Policing for Northern Ireland chaired by Lord Patten.\textsuperscript{79} The Patten inquiry noted “overwhelming advice” that it would be “difficult if not impossible to define the full scope of a police officer’s duties”.\textsuperscript{80} It favoured rejecting the concept of “operational independence” and replacing it with the notion of “operational responsibility”, to remove all doubt that Chief Constables should be held to account on operational matters.\textsuperscript{81}

44. Mr Muir, a Senior Research Fellow at the Institute of Public Policy Research, agreed that shifting to the concept of operational responsibility would be “very sensible”. He said that “the notion of independence has just confused the matter” and commented: “Police and chief constables have to be accountable, even for their decisions in individual cases, so when they are applying law in an individual case they have to be accountable after the fact”.\textsuperscript{82} He advocated that, rather than defining the term in the Bill, there should be a “memorandum of understanding”. He commented that “some kind of understanding between the Police and the Home Office—written understanding—is important, so everyone knows where they stand”.\textsuperscript{83} This would be a considerable improvement on the current arrangement of unwritten convention.

45. It appears to us to be significant that all three contributions on the issue of operational independence refer specifically to criminal investigation and prosecution. Essentially they relate the issue of independence to criminal law enforcement rather than to performance. None of them refers specifically to the first and foremost role of the police, set out by Robert Peel (which we quote in paragraph 31 of this report and which were quoted in

\textsuperscript{77} Q 73
\textsuperscript{78} Ibid.
\textsuperscript{79} Oral evidence taken before the Home Affairs Committee on 27 July 2010, Policing HC (2010–11) 362-i, Q 54
\textsuperscript{80} Independent Commission on Policing for Northern Ireland, \textit{A New Beginning: Policing in Northern Ireland}, 1999, p 32
\textsuperscript{81} Ibid.
\textsuperscript{82} Q 36
\textsuperscript{83} Q 35
terms of strong approval by the Minister when he gave evidence to us). That purpose—to prevent offending and reoffending—is at the heart of local partnership working and is clearly seen by Ministers as a crucial priority for the police. It may be that relating a definition of operational independence specifically to law enforcement, as distinct from overall performance, would be the right way forward. 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.

**Partnership working**

46. Police and Crime Commissioners will be working not only with Chief Constables, but also with a whole range of local bodies that have an interest in crime reduction. The Police Federation commented: “It is imperative that the PCCs have a mandate to liaise with all groups in the wider criminal justice arena and with community safety partners”.\(^84\) The consultation paper states that the police service has “taken strides to make better connections with its community and its partners” and mentions in particular local community safety partnerships.\(^85\) The Crime and Disorder Act 1998 places a responsibility on the police and local councils to work together alongside other key partners, such as voluntary organisations, the NHS, and the local fire and rescue service, to reduce crime and disorder in their areas. The consultation paper discusses the role of local partnership working under the proposed new structure for policing and states:

> By repealing some of the regulations for CSPs [community safety partnerships], and leaving the helpful core statutory duty on those key partners to work together, CSPs will have the flexibility to decide how best to deliver for their communities. We are considering creating enabling powers to bring together CSPs at the force level to deal with force wide community safety issues and giving Commissioners a role in commissioning community safety work.\(^86\)

47. Councillor Kemp, the Vice-Chair of the Local Government Association, told us that the impact of the introduction of Police and Crime Commissioners on local partnership working to reduce crime and disorder was one of the Local Government Association’s “principal concerns”. He commented that the partnerships were currently “very powerful”.\(^87\) He also said that he did not know what the consultation paper meant when it referred to the possibility of “giving Commissioners a role in commissioning community safety work”.\(^88\) ACPO Cymru was particularly concerned about how Police and Crime

\(^84\) Ev w11
\(^86\) Ibid., p 40
\(^87\) Q 132
\(^88\) Q 134
Commissioners would interact with local partnership groups in Wales where community safety “straddles the devolved and non devolved partnership landscape and the influence of the Welsh Assembly Government on our devolved partners is as important as the department for Communities and Local Government in England”.

48. Professor Jonathan Shepherd, of Cardiff University, whose research led to the development of a successful violence reduction programme as an integral part of the strategy of Cardiff’s Crime and Disorder Reduction Partnership, established by the Crime and Disorder Act 1998, was cautiously positive about the role that Police and Crime Commissioners might play in relation to local partnership working. He said: “If the commissioners are able to bring a higher level of management to partnerships, that would be very helpful”. He commented that Police and Crime Commissioners would need to ensure that community safety partnerships have “adequate analytical capacity” and “are delivering the coalition commitment to data sharing and use”. He also stressed the need for Police and Crime Commissioners to know “what the distinctive contribution of each partner agency is” and commented that their induction process would be important. He was in favour of greater flexibility for local partnership groups “within certain parameters” and noted: “we would not want to see crime prevention or crime reduction strategies introduced that were known not to work or were even positively harmful”.

49. 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.

The role of central Government

50. The counterbalance to increasing the role of the public in policing is decreasing the role of central Government. The consultation paper states: “The Home Secretary has been given stronger and stronger powers to intervene; to set national objectives; publish data relating to performance; issue codes of practice and guidance; and direct police authorities”. There is reference to the need to “free professionals from central guidance and targets so they can focus on cutting crime and rebuilding confidence in the system”. The consultation paper does, however, still envisage a role for central Government in policing. It states: “The Government will continue to have a role in setting the national strategic direction for the police”. It refers to the existence of “issues of sufficient risk or
national importance to warrant national oversight and requirement” and states that the Home Secretary intends to retain powers to ensure that these are dealt with effectively.  

51. 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, outlined three distinct areas. Firstly, he said that the Home Secretary should have the power to intervene if there was “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 these circumstances. We will return to the subject of central procurement in a future inquiry.

Collaboration

52. Under the Government’s proposals, there would also be a role for Police and Crime Commissioners in dealing with regional, national and international crime, and in joint procurement. The consultation paper states: “Commissioners will be under a strong duty to collaborate, in the interests of value for money and to tackle cross border, national and international crimes (such as fighting serious organised crime and terrorism)”.

53. Mr Garnham, the Chair of the Association of Police Authorities, gave an example of collaboration on procurement between five Police Authorities and five Chief Constables in the south west. In autumn 2008, the five Chief Constables and Police Authority Chairs in the region agreed in principle to move towards a common standard for uniforms and equipment. A series of workshops were held in 2009. In June 2010, the five Chief Constables “expressed their preference for a regional catalogue of items from which each force could choose its favoured option”. The Association of Police Authorities commented:

The five Chairs accepted that the use of a regional catalogue represented a pragmatic way forward in the circumstances, but were disappointed that after two years work, it had not been possible to embark on a more ambitious programme of standardisation.

The Association of Police Authorities explained that this disappointment was a catalyst for changing the governance arrangements underpinning collaboration in the south west: there is now a “Lead Force approach”, which means that specific forces are responsible for leading on specific business areas. It also listed successful regional initiatives on collaboration in the south west, including “cash savings on vehicles, telecommunications and recruitment advertising” and “operational improvements in areas such as counter-
terrorism, covert policing, firearms, automatic number plate recognition ... and kidnap and extortion”. It gave further examples of good practice across England and Wales.

54. Some progress is clearly being made on collaboration, but there is scope for significant improvement. It is vital that a duty be placed on Police and Crime Commissioners to collaborate with one another. This is particularly important given that the National Policing Improvement Agency, which plays a role in encouraging collaboration, is due to be phased out by spring 2012 under the Government’s proposals. 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.

Central targets

55. At one point the consultation paper states: “We will do away with central targets”. Lancashire Police Authority stated: “We believe that it is necessary to have some targets in order for both quantitative and comparative assessment and that it would be facile to say that all targets will be removed”. Most other witnesses who commented on this issue were of the view that some central guidance was valuable for benchmarking purposes, although some preferred the concept of “national standards” to “national targets”. The difficulty is that a national standard, by virtue of its existence, effectively becomes a national target—a point made by Cumbria Police Authority, which commented: “Any national standards become de facto targets. We would welcome guidance on minimum standards—which are helpful in benchmarking performance—but caution against the setting of statutory standards”.

56. Surrey Police Authority had an interesting suggestion in this context. It commented that “it may be better to have national priorities rather than national targets and to place a duty on Commissioners (and Chief Constables) to give consideration to those priorities when setting their local strategies and targets.” It gave the example of knife crime and commented that the Home Secretary might identify knife crime as a national priority to which all Commissioners and Chief Constables must give consideration in their planning processes. It stated:

Where a force has low levels of knife crime and it is not a public concern, it would be justifiable not to set a local target which could in fact unduly increase fear of crime. On the other hand, where there is a high level of knife crime, the Home Secretary may expect to see the Commissioner setting a local target for addressing the problem.

102 Ev 46
103 Home Office, Policing in the 21st Century, p 32
104 Ibid., p 3
105 Ev w39
106 See, for example, Ev w19
107 Ev w13
108 Ev w34
As Surrey Police Authority points out, any such system would have to be underpinned by “an accurate and audited national set of performance data in order to assess the extent of problems and compare areas”. 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.
5 Police and Crime Panels

The current proposals

57. The Government proposes to introduce Police and Crime Panels as a core element of its proposals for “appropriate checks and balances to the power of the new Police and Crime Commissioners”. The consultation paper states that Police and Crime Panels will be created in each force area and will be made up of locally elected councillors, and independent and lay members. The Panels are intended as a check and balance on the Police and Crime Commissioner, rather than on the force itself. The consultation paper proposes that they will:

- be able to advise the Commissioner on their proposed policing plans and budget and consider progress at the end of each year outlined in a "state of the force" report;

- be able to summon the Commissioner to public hearings, take evidence from others on the work of the Commissioner, and see papers sent to the Commissioner as a matter of course except where they are operationally sensitive;

- hold confirmation hearings for the post of Chief Constable and be able to hold confirmation hearings for other appointments made by the Commissioner to his staff, but without having the power of veto;

- have a power to trigger a referendum on the policing precept recommended by the Commissioner.

The consultation paper states that if the panel objects to the Commissioner’s policing plan or budget “they will be free, in the interests of transparency, to make their concerns public, or, in cases of misconduct, to ask the Independent Police Complaints Commission (IPCC) to investigate the Commissioner”.

58. The overwhelming majority of witnesses who commented on Police and Crime Panels, as described in the consultation paper, were of the opinion that they had little real power. Sir Hugh Orde, for example, commented that, judging from the consultation paper, the panels had “no particular power” other than the power relating to the referendum on the precept. He added: “I don’t think they have any teeth”. The language used in the consultation paper makes it sound as though Police and Crime Panels will have more power than is in fact the case: the Panels will be able to hold “confirmation hearings” for the post of Chief Constable and other appointments made by the Commissioner to his or her staff, but will not have the power of veto, so these are not in fact confirmation hearings; they are merely information sessions.

59. One of the few powers that Police and Crime Panels do have under the current proposals—the power to trigger a referendum on the policing precept set by the Police and

110 Home Office, Policing in the 21st Century, p 15
111 Ibid.
112 Ibid.
113 Q 74 [Sir Hugh Orde]
Crime Commissioner—also gave rise to concerns. A joint submission by councils in Lancashire stated:

The current proposal could see regular referenda held in respect of the precept, with a potential to re-bill if the commissioner’s proposals are challenged. The cost of a referendum in Lancashire is likely to be similar to the cost of elections, approximately £1.4 million across all 12 district and 2 unitary areas. The cost of re-billing has previously been estimated at £1 million.\textsuperscript{114}

**Suggested modifications**

60. Mr Mark Rowley, the Chief Constable of Surrey Police, summed up two different views of the role of Police and Crime Panels—and made it clear which he favoured—when he said: “One question for me is whether they are working together with some sort of shared responsibilities, the panel and the commissioner, or whether there is a very adversarial relationship, which probably wouldn’t help”\textsuperscript{115}

61. The Welsh Local Government Association, while explicitly seeking a “consensual rather than an adversarial approach”, was of the view that the Police and Crime Panel “must be independent of a Police and Crime Commissioner”. It referred to the consultation paper’s silence on the subject of what sort of support teams Police and Crime Panels would need and expressed some concern about “the question of how the running of a PCP will be funded”.\textsuperscript{116}

62. Surrey Police Authority, on the other hand, stated that it would be better for the public if the Police and Crime Panel were to “work with the Commissioner—to be able to scrutinise before decisions are made, not afterwards”. It commented:

A more influential Panel would also assist with the workload of a Commissioner, ensuring that decisions are made with due care in balancing the interests of local people and policing needs. By having a Panel working with the PCC, this would also avoid the potential for duplication of having to have two sets of supporting staff and potentially calling the police force into account twice for the same issue.\textsuperscript{117}

The question of who would be the deputy for the Police and Crime Commissioner was raised by several witnesses, including Sir Hugh Orde.\textsuperscript{118} If the Police and Crime Panel were to work with the Police and Crime Commissioner, rather than be set up as a separate scrutiny body, the Police and Crime Commissioner’s deputy could be drawn from the panel.

63. Lancashire Police Authority pointed out another difficulty with setting up the Police and Crime Panel as a separate scrutiny body: the lack of logic in having one person to scrutinise the Chief Constable and a whole panel of people to scrutinise the Police and

\textsuperscript{114} Ev w35
\textsuperscript{115} Q 74 [Mr Rowley]
\textsuperscript{116} Ev w63
\textsuperscript{117} Ev w34
\textsuperscript{118} Q 66
Crime Commissioner. It stated: “We do not believe that a model where there are more people scrutinising the Commissioner than the Chief Constable and the performance of the force can be held up as sensible”. 119

64. The membership of the Police and Crime Panels was also discussed by witnesses. Councillor Kemp, the Vice Chair of the Local Government Association, was clear that Police and Crime Panels should consist of “elected members”—by which he meant elected councillors rather than that the Panel should be directly elected—and said that the Local Government Association had difficulty with the current composition of Police Authorities because “we don’t believe that magistrates or independents should be there” except in a “co-opted or advisory” role. 120 Again, there seems a lack of logic in having an elected Police and Crime Commissioner held to account by a Police and Crime Panel consisting of some unelected members. However, Mr Garnham, the Chair of the Association of Police Authorities, and a councillor who chairs Gloucestershire Police Authority, emphasised that the role of independents was “worthwhile” and stated: “We police by consent. Having an independent view sometimes helps us achieve that rather than just play with, shall I say, politics or local politics”. 121 The Association of Police Authority Chief Executives stated: “A strong Panel with some independent members and responsibility to work with the Commissioner would mitigate any risks that might accompany greater politicisation”. 122

65. The Government needs to clarify the role of Police and Crime Panels. There is also a need to define more coherently and straightforwardly the extent of their powers. In Chapter 2, we discussed the concerns about the ability of a single Police and Crime Commissioner to undertake the workload previously undertaken by 17 or 19 people, and to represent successfully an entire force area. 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.

119 Ev w40
120 Qq 131–32
121 Q 106
122 Ev w9
6 Conclusion

66. Police and Crime Commissioners could give the public more opportunities to influence the way in which their local area is policed, but this is not inevitable. It will depend on the job definition set by Government and on the individuals who take up those roles—indeed the result may be widely different from police force to police force and from region to region. It follows that the way the role is established will be important and there are some important details that need filling out. There are also several aspects of the proposals that need further attention. In particular, we cite the clarification of operational independence and operational responsibility and the role and powers of Police and Crime Panels as matters upon which action is needed.

67. The Government must also make provision for the transitional arrangements that will apply if Police and Crime Commissioners take over from Police Authorities. This point was mentioned by several witnesses. Northumbria Police Authority raised a concern that “there will be a void and lack of accountability and impact on the appointment of [a] PCC for the first year, as a budget and plan will already have been agreed for 2012”. West Yorkshire Police Authority stated: “To ease the transition period we suggest that the Police and Crime Panels should contain current police authority members”. The Association of Police Authorities stated: “We are concerned that police authorities risk losing experienced staff at a local and national level leading up to the proposed changes in 2012.” It recommended that “the Home Office make a statement of intent in relation to protection of existing staff in the transition process”. We agree that a statement of intent in this context would help to ensure some continuity.

68. When considering how best to make the police accountable to the communities they serve, it is important not to lose sight of the fact that their primary aim, as set out in Sir Robert Peel’s principles of policing, is to prevent crime and disorder. Police and Crime Commissioners will be judged by their contribution to this aim, as well as by whether they have enhanced accountability and public engagement in policing. It is therefore vital that the Government’s proposed new structure for engagement and accountability enhances the relationships between the many different organisations involved in promoting law and order: not only the police, but also, in their varying roles, local authorities, the health service, the prison and probation services and the courts, as well as a significant range of non-governmental or voluntary and community organisations and—in terms of early intervention—schools and the Youth Service. Above all Police and Crime Commissioners will be judged on whether they succeed in bringing the police closer to the public they serve.

123 Ev w48
124 Ev w45
125 Ev 45
Annex: Terms of reference

In the light of the expected imminent introduction of the Police Reform and Social Responsibility Bill, the Home Affairs Committee will begin a series of inquiries into policing. Initially, the Committee will focus on what is likely to be the key element of the Bill: the introduction of directly elected Police and Crime Commissioners to replace Police Authorities. In particular the Committee is interested in:

- the relationship between Chief Constables and elected Police and Crime Commissioners;
- how “operational independence” will be defined;
- the extent to which there will still be a need for national targets; and
- the role of the Police and Crime Panels.
Conclusions and recommendations

1. We recommend that 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)

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

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)

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)

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)

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)

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)
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, outlined three distinct areas. Firstly, he said that the Home Secretary should have the power to intervene if there was “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 these circumstances. (Paragraph 51)

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)

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)

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)
Formal Minutes

Tuesday 23 November 2010

Members present:

Rt Hon Keith Vaz, in the Chair
Nicola Blackwood
Mr Aidan Burley
James Clappison
Lorraine Fullbrook
Dr Julian Huppert
Steve McCabe
Rt Hon Alun Michael
Bridget Phillipson
Mark Reckless
Mr David Winnick

Draft Report (Policing: Police and Crime Commissioners), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 68 read and agreed to.

A Paper was appended to the Report as an Annex.

Resolved, That the Report be the Second Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for publishing with the Report.

[Adjourned till Tuesday 30 November at 10.30 am]
Witnesses

**Tuesday 12 October 2010**

- **Kit Malthouse**, Deputy Major of London with responsibility for policing and Chair of the Metropolitan Police Authority  
  Page Ev 1
- **Rick Muir**, Senior Research Fellow, Institute for Public Policy Research  
  Page Ev 6
- **Bernard Hogan-Howe**, former Chief Constable of Merseyside  
  Page Ev 9

**Tuesday 19 October 2010**

- **Sir Hugh Orde**, Chair of ACPO and **Mr Mark Rowley**, Chief Constable of Surrey Police Force  
  Page Ev 15
- **Rob Garnham**, Chair of Association of Police Authorities  
  Page Ev 22
- **Richard Kemp**, Vice-Chair of the Local Government Association  
  Page Ev 27

**Tuesday 26 October 2010**

- **Professor Jonathan Shepherd**, Cardiff University  
  Page Ev 32

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5 Cumbria Police Authority Ev w12
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19 Professor Rob Mawby Ev w57
20 Welsh Local Government Association Ev w60
21 Staffordshire Police Authority Ev w63

List of Reports from the Committee during the current Parliament

The reference number of the Government’s response to each Report is printed in brackets after the HC printing number.

Session 2010–11
First Report Immigration Cap HC 361
Oral evidence

Taken before the Home Affairs Committee
on Tuesday, 12 October 2010

Members present
Keith Vaz (Chair)

Nicola Blackwood
Mr Aidan Burley
Lorraine Fullbrook
Dr Julian Huppert

Alun Michael
Bridget Phillipson
Mark Reckless
Mr David Winnick

Examination of Witness

Witness: Kit Malthouse, Deputy Mayor of London with responsibility for policing and Chair of the Metropolitan Police Authority, gave evidence.

Q1 Chair: Councillor Malthouse, good morning. Thank you for appearing before the select committee and congratulations on your appointment as the Deputy Mayor. I think you have not been since your appointment.

Kit Malthouse: It has been some time. It was May 2008, but nevertheless thank you, Chair.

Chair: We have missed you since then. This is an inquiry into the Government’s proposals for elected Police Commissioners. We have a number of witnesses and we thought we would begin with you and your experience in London. London is, of course, not going to have an elected Police Commissioner. They are going to apply outside the metropolis. Do you think the fact that it is not happening to London is going to cause any difficulties for the way in which policing is operated in the capital?

Kit Malthouse: No. In fact, I think it presents some advantages, in that obviously the current situation where the electorate in London clearly look to the Mayor for strategic direction around policing, but also lots of other related organisations where crime and safety are an issue, like the transport network, allows much more integrated working, and there are fewer silos. It also presents the opportunity to do other things. For instance, we would be very keen—and indeed have made progress—on getting involved on the criminal justice side of the crime industry. Looking at reoffending rates, particularly around youth crime, has been key to us over the last two years. Having the police as part of the Greater London Authority family under the Mayor is actually an advantage, not a disadvantage.

Q2 Chair: You will now have oversight by the Greater London Authority rather than your Police Authority. Again, you do not think this will create any difficulties?

Kit Malthouse: No. Similarly, we have pressed for that to happen because at the moment the Metropolitan Police Authority is a conflicted organisation. It is both executive and scrutiny. So we often find ourselves in the situation of scrutinising the conduct of a contract critically that we ourselves signed five years ago and were part of the devising of the contract. The separation of the executive function and the scrutiny function is critical from my point of view. Moving it to the London Assembly, which is a professional scrutiny organisation, will enhance accountability rather than detract from it.

Q3 Chair: May I ask you a couple of topical issues that have come up relating to your portfolio? One is the use of Tasers and the recent unfortunate incidents that have occurred north of the capital. The Committee has an inquiry into firearms and we will be looking at the issue of Tasers. The Met have taken a particular view on Tasers. What is the current thinking about the use of Tasers in the Met area?

Kit Malthouse: We obviously do have Tasers at the Met and their use is a matter for the Commissioner. The Police Authority has a Taser review group that monitors performance use and development in terms of policy. The arrangement that we have come to with the Commissioner is that the current use of Tasers will not be expanded. At the moment they are only used by specialist firearms teams. They are only carried in armed response vehicles. They are treated as if they are a firearm, so every deployment is reported in the same way as a firearm would be and they are only used by specialist firearm officers. At the moment, there is no desire, either from the Police Authority or from the Metropolitan Police Service, to expand their use in London.

Q4 Chair: There is no question of any of the Tasers coming from the company that supplied the Tasers to Nottinghamshire Police that were used in the Northumbria incident?

Kit Malthouse: In terms of the Tasers themselves, then obviously the Tasers that we currently have would have been sourced from that company. In terms of the particular type of Taser, the shoulder-mounted Taser that was used in controversial circumstances in Northumberland, I have asked that very question myself and have been assured not. No, there are no such weapons in the Met.

Q5 Chair: Finally, on recent events, in the Mark Saunders case—obviously, you followed it—the verdict has been given, but there were a number of comments made by the coroner about the way in
which the police operated on that day. In one particular comment—and I think he has written to the Home Secretary about this—he talks about, “A slavish adherence to paperwork and guidelines risks prevented a commonsense approach”. I do not want you to comment on the detail of the case, but as a result of that case, are you reviewing the way in which this kind of policy operates: the shoot-to-kill policy?

*Kit Malthouse:* Yes. Obviously, the operation of firearms within the M et, and indeed all police forces, is subject to almost constant review and certainly after every incident the police service reviews what has happened during the incident and hopes to learn from it. Certainly, from very high-profile and controversial incidents where things might have gone wrong, like Stockwell, we as the Police Authority have been involved, in terms of reviewing the outcomes of any inquiry, or indeed making its own inquiries into those incidents, and then asking the M et to put in place the measures required.

The problem is the M et, in these situations, are often torn because there will be circumstances where commonsense approaches are pursued in fast moving situations where things go wrong, and the M et are often criticised for that too. Then the manuals and all the rest of it, the processes, are produced in response to something like that. In this situation, the implication seems to be that the processes and the manuals adopted have somehow hindered or caused a problem, and we will have to look at that over the coming months and learn from it.

**Q6 Chair:** Were you concerned about what the coroner said?

*Kit Malthouse:* Yes. We are concerned every time a firearm is used in the capital. Fortunately, it is relatively rare compared with other capital cities. Every single use of a firearm is referred to and investigated by the IPCC, so there are very, very robust processes around examining what has happened.

We do have a member of the Police Authority, who is from an armed forces background, who has been conducting an informal review of CO19 and some of their command processes. He has definitely been talking to the command structure at CO19 about how things might be improved. Following the receipt of a report from the coroner, we will have to look in more detail about what the Police Authority does to make sure that the changes take place.

**Chair:** Thank you. Mr Reckless.

**Q7 Mark Reckless:** As a member of the Kent Police Authority, I oversaw some work related to the shooting of Mr Tucker. There is a case in the Court of Appeal, co-joined between Saunders and Tucker, on the issue of post-incident conferring where some of these issues about ACPO guidance came out and we had concerns. Isn’t this the case here that you say we have a commissioner who has operational independence and discretion to run this, and you say it can be a commonsense way of doing that, but the reality—as we have seen with the coroner’s criticism—is there are six manuals of firearms guidance from ACPO and everybody is jumping through hoops to try and comply with that, rather than exercise their own discretion?

*Kit Malthouse:* Yes. I think it is generally the case in policing that matters have swung too far towards process and away from officers using their own training and judgement in fast moving circumstances. It is a standing joke in the Metropolitan Police Service to talk about our standard operating procedures. We have manuals and manuals of them. Often they refer to each other without ever finding where the source of it is.

To be fair to the police, although that bureaucracy has been internally generated, it has often been in response to political and other reaction to incidents. You will hear generally in policing that the best thing that has happened to policing for a long time was the political response to the tragic shootings in Cumbria, where there was no call for a public inquiry. The political response, particularly from the Prime Minister, was that this is a horrible incident, it is a terrible tragedy, but before we suddenly start throwing legislation and rules and regulations at this, let’s just treat it as a one-off incident rather than get tied up in a public inquiry. I think that is beneficial. A lot of the bureaucracy is in response, either from the public or politically, to things that have gone wrong in the past.

**Chair:** Thank you. Nicola Blackwood.

**Q8 Nicola Blackwood:** There has been a lot of speculation in the press that, as we go down the elected Police Commissioners’ route, it will open the door to extremist candidates perhaps being elected by a relatively small proportion of the population. A lot of that has been press-fuelled. Sir Hugh Orde and the Minister both say they think that this risk has been overstated. Do you think that we should be putting in place some kind of restriction on candidates who can put their names forward for that kind of position?

*Kit Malthouse:* No. When the franchise was extended to people who did not own any land, the arguments against it were that they would vote irresponsibly. Similarly, when they extended the franchise to women, the argument against that was that they would vote emotionally and could not be trusted to choose the right people. Every time the franchise has been extended the argument against it has been, “You can’t trust the voters.” We have managed pretty well, I think, for the last thousand years, generally. There have been one or two mistakes but that is the price of democracy. So, no, I don’t think you can put restrictions.

The only area that slightly was in my mind in terms of restrictions was former police officers, whether a police officer who has just recently exited a force could then come back as the elected police chief of that force, effectively leaping over their superior in their command structure. In the end, democracy is the best system, or the least worst system. There are some downsides to it, but having thought it through, I don’t think you can fairly put any restrictions on, no.

**Q9 Nicola Blackwood:** Looking at it from the other angle, do you think that there should be positive eligibility requirements, such as qualifications that a
candidate should have of experience in the field or some kind of area like that?

Kit Malthouse: No. I don’t think that either. The reason is because there are many other areas of public administration which shoulder significant risks where elected people get involved and do not require any qualifications. To be a leader of a council or a cabinet member for children’s services, you are in charge of some of the most acute risks in public life there around child protection and no experience is required for that. Similarly, you do not have to have been a soldier to be Secretary of State for Defence, or indeed have any experience of policing to be Home Secretary or having been a spy and deal with the security services. I think once you start to pre-qualify people for those jobs then there is a difficulty generally across the democratic firmament.

Chair: Adam Burley.

Q10 Mr Burley: Somebody said that you do not need any qualifications to be an MP or a parent and those are the two most important jobs in life, so I am quite pleased about that.

My question is on the election of the Political and Crime Commissioners, because they are going to be high profile roles; they are going to be fairly sought after posts. I would be interested in your views on whether, because of that, you think it is inevitable we will have party candidates because you need a party machine behind you for the election, or whether you think it is more likely there will be independent candidates—former police officers, former chairs of current police authorities—that will be standing on an independent ticket, or is it more likely going to be Conservative or Labour candidates?

Kit Malthouse: Certainly, it was the case that, when the previous Government brought in mayors for cities, there was a greater preponderance of independent candidates than party candidates. Indeed, what was I suppose the nadir, but turned out to be a triumph, was H’Angus the Monkey in Hartlepool who got re-elected, I think, twice, which says something about party politicians. I suspect there will be quite a lot of independent people who stand. Whether people in a party are likely to do it either because they have an electoral machine or because people can shorthand what they stand for—is that the great advantage of a party; it is fairly clear what you are going to get if you vote for that person—I don’t know. That remains to be seen, but I hope and believe there will be more independent candidates. The only difficulty I can foresee with that is obviously one of the critical things for a Police and Crime Commissioner in a particular area, is working with the other political structures in that area. If you are Police and Crime Commissioner for Gloucestershire, it will be key that you work alongside the county council and so forging those political friendships, links, the human level relationship, is going to be pretty key. Whether that is more or less difficult for an independent or not, I don’t know.

Chair: Good. David Winnick has a supplementary.

Q11 Mr Winnick: I am glad you believe women should have the vote. I hope 100 years ago you would have expressed the same view. What I find a little bit puzzling is that London will not have this Police Commissioner. London is made an exception, but in the West Midlands, as elsewhere in the United Kingdom, we will have Police Commissioners—responsibility and power in the hands of one, albeit elected, person. Why should London be different?

Kit Malthouse: Obviously, we have not seen the Bill yet and I do not know what may be proposed for other large metropolitan areas but I could see—for instance, if Manchester had an elected mayor of Manchester—that bringing the police in, as part of that structure, would be helpful and useful and would make sense. I am just trying to think. There are no urban areas that have a mayor at the moment that are co-terminous with a Police Authority, because the city council’s or others are unable to do it. For instance, in West Midlands, the city of Birmingham does not have a mayor, I think, and West Midlands obviously covers more than Birmingham. So where it is not co-terminous it is difficult. In London, fortunately, we are co-terminous and so we are able to do it.

Chair: Bridget Phillipson.

Q12 Bridget Phillipson: Thank you, Chair. The public appear to be largely unaware of the role of police authorities and their work. Why do you think that is?

Kit Malthouse: I think there are a number of reasons. First of all, the truth is police authorities are quite weak. They don’t have the powers that make them relevant, in terms of compelling or directing the police to do things. Secondly also, police authorities have largely been neglected by democratic politicians. So you will find police authorities are dominated by independent members. The vast majority of chairs of police authorities are independent members of the police authority, because the county council’s or others have other things to do and it is quite a big and absorbing job. My experience is those independent members are reluctant to get out in public on the front foot and get involved in the fray of public debate. They have chosen not to be county councillors, or otherwise, so they don’t want to be on the front foot and will prefer their jobs to be done, not in private, but certainly not debated in the media and in the public realm, and I think that has contributed to it as well. But I do think the balance of power between the two—between the authority and the service in their area—has been that the service is in the forefront. So you will often get the chief constable appearing in the media, and all the rest of it, but the independent chair will be reluctant to do so. I think that is probably the main reason.

Chair: Alan Michael.

Q13 Alan Michael: Can we look at the question of one individual having that responsibility? I am intrigued by your comparison with the Mayoral responsibilities, because there are three elements, aren’t there? There is the accountability for policing; there is the accountability for administration—you referred earlier to contracts and things like that—and there is the issue of scrutiny. You suggested that in the case of London, because there is the Mayor and he has
that authority, there is in effect no need for a separate commissioner but in other areas there is. The Mayor’s responsibility in relation to other things, like transport for instance, are very clearly for the whole organisation, as distinct from scrutiny and holding to account. So, both looking at London and at the rest of the country, what do you think the impact will be of having one individual with that responsibility, and what do you think that responsibility is?

**Kit Malthouse**: just in terms of what you said about London, the truth is the London Assembly provides the scrutiny function for the other parts of the Mayor’s empire, if you like. So there is a transport committee of the London Assembly that scrutinises Transport for London on a monthly basis. There is no policing committee. The only time policing gets scrutinised by the assembly is once a year they call the Commissioner and the chair of the Police Authority and then through the budget process, through the budget committee.

**Q14 Alun Michael**: I understand that, but going back to the individual and what he or she is for?

**Kit Malthouse**: To me that individual is there to act as an interlocutor between the public and the police. To put the question a different way is: what problem is this person solving? To me the problem has been over the last few years a growing divide between the police and the public, which is not yet at dangerous levels but may well come to be so if something isn’t done. You see that divide in all sorts of ways. Police officers, certainly Metropolitan Police officers, will often live in police ghettos because they like to live together. Often police officers, and I have to say PCSOs, don’t like to travel in uniform because they don’t want to be identified. We have had some awful incidents in London. In summer 2008 we had two police officers, in the High Street in Croydon in the middle of the afternoon, who tried to apprehend two girls for dropping litter and with one thing and another ended up in the middle of a baying mob who effectively beat them up. Nobody came to their aid; quite the reverse in fact.

The issue is that I think at the moment the public feel quite the reverse in fact. The issue is that I think at the moment the public feel the police are there to act against them, to effectively beat them up. Nobody came to their aid; ended up in the middle of a baying mob who did nothing. The police just looked on. That indicated to me there was a third for some sense of responsibility and accountability in the political firmament for the police.

**Q16 Dr Huppert**: Can I ask about how it does work when you do have a strong elected individual? There is presumably a serious risk of clashes between a strong commissioner or your role and a strong chief constable and so far, as you say, police authorities have been generally very weak, with, I know, some exceptions. How have you avoided that turning into a constant state of conflict? How have you avoided the clashes?

**Kit Malthouse**: Like all those relationships, it depends upon mature discussion between adults who come with differing skills and differing powerbases. Even when I was a local councillor, it became apparent to me that the operation of the local council was a negotiation between the councillors and the paid service. The councillors brought the democratic majority and the paid service brought the execution ability, and there was a negotiation every year that focused on the budget about what got done. The same is true in policing as it is in every other part of public life; it is a mature and sensible negotiation. There will be times where there are differences of opinion and what you hope is that you can iron those out.

**Q17 Dr Huppert**: Let’s say we have an individual who manages to get elected on a platform of saying the police are doing a bad job and is very critical of the chief constable, which I suspect is something that could happen in various places. What would your concerns be about that? I know, for example, in the local government field there have been a number of instances where leaders and chief executives have been unable to get on and have been paralysing the councils involved. What steps could be taken to avoid that, given that nobody could get rid of the elected commissioner or move them to a different job, as presumably could happen to you if relationships broke down?

**Kit Malthouse**: In the end, the regulator is the electorate. I don’t think there’s anything you can put
private office and a policy team and special advisors the same. But if you are running a police service with 400 police officers then it is necessarily small." So Gloucestershire Police Authority, I think, is six or eight members of staff, something like that; it is pretty tiny. But I think you can compare it to a kind of ministerial team.

Q20 Lorraine Fullbrook: I think the consultation paper has said that the only requirement that the Government would have for a team would be the financial arrangements for that team.

Kit Malthouse: There are some other functions that need a home. So, for instance, we have to run an independent custody visitors scheme by statute, and in London that is several hundred people, who are volunteers across London, who will go in randomly to custody suites and check that things are going on. We have CCTV in every custody suite now, but nevertheless we have to maintain that scheme, and there is certain administration of that that is required. Similarly, we have to, by law, attend all CDRPs across London, and so we have a body of individuals who will do that. In London, there will be functions that we have that are cost-staffed, but in terms of the management group, if you like, I think the ministerial team analogy is probably the best one.

Q21 Chair: A final question from me, Deputy Mayor. In yesterday’s Guardian, on the front page there was a suggestion that the Commissioner had written to the Home Secretary to get the Metropolitan Police exempted from judicial review. Are you aware of that letter?

Kit Malthouse: I am aware of the letter, yes.

Q22 Chair: Does it have your approval?

Kit Malthouse: No, I didn’t approve it. It is a matter for the Commissioner to send that letter. To put the letter in context, it was as part of the general discussion in the consultation, and we have all been asked by the Home Secretary to suggest things to go on her agenda for saving cost. The truth is there is a huge amount of cost attached to some of the functions that we have to perform. One of the things that has been mentioned is freedom of information. I have to say, freedom of information absorbs a huge amount of time and effort, and in my view, 90% of freedom of information requests are fishing expeditions rather than specifics. So, looking at that, given that times have changed financially, I think it is sensible for us to look at them.

Q23 Chair: But this is a different issue, isn’t it? It is basically to stop people who wish to take legal action against the police force where they think they have been badly treated. Do you think that is an appropriate thing to do? You obviously didn’t approve the letter but as a politician do you agree with that?

Kit Malthouse: I don’t agree or disagree. I have to say I haven’t actually given the issue much thought. Whether the Commissioner should have written it or not; I think it is perfectly legitimate for him to do so, yes.
Q24 Chair: Of course, but do you agree with the proposition that people should be able to sue the Metropolitan Police if they do wrong?

Kit Malthouse: Yes, I do.

Q25 Chair: Therefore, you do not agree with a view that would stop them doing so?

Kit Malthouse: I don’t think that the Metropolitan Police Service should be in any different position from any other public organisation, in terms of their legal liability or otherwise. Whether the whole of the public sector should be looked at, from a legal liability point of view, and whether it is subject to vexatious or frivolous lawsuits is a question that I think is legitimate to look at, yes.

Chair: Deputy Mayor, as usual, thank you very much for coming. You have been most helpful. Thank you.

Examination of Witness

Witness: Rick Muir, Senior Research Fellow, Institute for Public Policy Research, gave evidence.

Q26 Chair: Could I call to the dais Rick Muir from the IPPR? Mr Muir, thank you very much for giving evidence. You sat through the last session, so you are aware of what we are inquiring into. Is it likely that the people standing for office as an elected Police Commissioner are going to be people who are party political?

Rick Muir: I think there will be. I think that is likely, yes. I think political parties, as I understand it, would be entitled to stand candidates. I think they should be encouraged to stand candidates—I think that would be a very good idea—so I’m pretty clear that they will. The question is then whether they will be successful. One of my objections to the notion of the independent commissioners is my concern that, on a very low turnout, you may get extremist candidates being elected.

Q27 Chair: We will come on to that in a second, but just on the election and the likelihood of who are going to be the candidates, as the Deputy Mayor said just now, a lot of independents had stood in the elections for mayor. Is your anticipation that it is more likely to be the traditional political parties putting up candidates, rather than someone who is standing as an independent, or indeed former chief constables putting themselves forward?

Rick Muir: I have heard former chief constables tell me they would be interested in standing, so I think that that could happen, yes. In fact, I think that would be a very welcome development because they are people who know a great deal about policing. So I think the parties will stand, but I do think there will be a lot of independents standing. The nature of this kind of position, when you get a single individual post, as with a mayor, those kinds of posts do tend to attract independent figures. We have seen the evidence of that with the introduction of directly elected mayors.

Chair: David Winnick.

Q28 Mr Winnick: Mr Muir, you are a Labour Councillor in Hackney. That is nothing to be ashamed about, least of all being a Labour Councillor. Your view from the left, is somewhat different—is it not—from others who have expressed opposition, particularly those senior Labour Councillors who have on previous occasions written and expressed quite a lot of disquiet. Why do you think that we should not be too worried about extremists? You do mention in your paper, annex B, about the danger of extremists, but you are not particularly of the view that this should stop the process of electing Police Commissioners?

Rick Muir: I think that we need to strengthen police accountability. I agree with what the Deputy Mayor said, that we did see—in the 1980s and 1990s in particular—a gap emerge between the police and the public. There are lots of reasons for that, but I think there is an accountability gap. Police authorities are too weak. They are not visible enough. The public don’t really know that they exist. As the Deputy Mayor said, for some reason, significant local councillors very often don’t get on to the Police Authority or don’t want to be on the Police Authority, perhaps because they have other things to do. For whatever reason, there are questions about the strength of police authorities. They do vary. I think some of them are quite strong. Some of them do see their role as being there to hold the chief constable to account. There are others where I think there is a culture that they are just there to back up the chief constable. So, for a lot of different reasons, there is an accountability gap.

I think the question is then what you do about it. I think that the proposal from the previous Government of having a directly elected Police Authority—there are a number of different models. One model was that put forward by the previous Government that I think would be better, which is to have a wholly elected Police Authority. There are two reasons why I think that is better. One is that you would have individual representatives representing a small area within that Police Authority. I think one of the problems of the Commissioner model is that the Commissioner is rather a remote figure because some forces are very large. The other problem is the problem of too much power being in the hands of one person. So, if you have a wholly elected Police Authority there is less chance that one person holds all the power.

Q29 Mr Winnick: It is the argument against Police Commissioners?

Rick Muir: It is the argument against Police Commissioners. I think we need more accountability, but I think the Commissioner model is the wrong way to do it.

Q30 Mr Winnick: Isn’t there a possibility—it is not a possibility—almost certainly, if this arrangement
Yes. I think, as with a lot in our definition of operational independence and the way Committee an idea of your thinking around the Q31 Mr Burley:

Thank you. Aidan Burley, please.

Chair: the wrong model.

reason why I think the single commissioner model is elected to run police authorities who are capable of about that, simply because we want people getting elected to a Police Commissioner post. I would be concerned about that, simply because we want people getting elected to run police authorities who are capable of taking a holistic view. So yes, I would be concerned about that. There is a risk of that. As I say, that is the reason why I think the single commissioner model is the wrong model.

Chair: Thank you, Aidan Burley, please.

Q31 Mr Burley: Mr Muir, could you give the Committee an idea of your thinking around the uncertainty that currently exists in relation to this definition of operational independence and the way that principle is applied by the courts?

Rick Muir: Yes, I think, as with a lot in our constitution, this constitutional principle has evolved over time. The 1962 Royal Commission talked about the impartiality of the police, the importance of the police being completely independent of the executive in the application of the law in individual cases. We then saw the principle evolve with the Denning judgment in 1968, which was controversial because it seemed to go beyond simply that the police should be impartial and should apply the law in particular cases, and seemed to cover a whole range of other things as well, around the management of resources and so on. That is where it gets rather vague, because there are three levels of decision-making: one is the law, so Parliament passes the law; the second line is the application of the law by a constable or by the chief constable; and then in the middle there is a whole series of things around strategy and budget setting for the local force, which I think are areas where there must be public accountability. The danger with the Denning judgment was it just said, “Well, the chief constable had all of that and it sat with them”.

In practice it didn’t quite work like that but there was tension and there was a lack of clarity. That is why I think the most interesting innovation was the Patten Commission in Northern Ireland that set all of that out very clearly. It said the police apply the law in an individual case. They initiate criminal investigations. They make arrests and so on. The Policing Board in Northern Ireland sets the three to five-year strategic priorities for the force and approves the budget, and I think that is a very helpful clarification of the different roles. The problem that we got into previously was there was a time—particular I think around the 1990s—where chief constables were making decisions about the nature of policing going on in their forces. We had this retreat away from community policing, which we are all familiar with, and we have now moved back to community policing with neighbourhood policing. But you had a position where chief constables were making decisions to close police stations and to take officers off the beat, decisions in which the public were not involved in any way at all and Members of Parliament were not involved in it. It seems to me that that is the sort of thing that elected representatives should be deciding. So medium to long-term strategy and budget setting should be for the accountable local bodies, and I think if we clarify that that will be a lot clearer.

Q32 Mr Burley: No one wants to go back to the days of Churchill barking orders in the street in an actual kind of police operation, but one of the criticisms that is frequently laid against this proposal is that it will politicise the police. Would you accept that, in effect, all policing is, in a sense, political? The decision to investigate one type of crime rather than another with limited resources, as every police force has, is a political decision. The decision, as we saw in the 1980s, to take officers off the beat, because the chances of them randomly finding a burglary in progress were the same as winning the lottery, and to put them in cars and in stations, that is a political decision. In a sense, all policing is political so that is an irrelevant argument.

Rick Muir: You are right; it is political. The question is about the balance between the independence of the police from the Executive in order to apply the law in individual cases and to do the operational management of the force, and so on, and the role of the elected representatives. The 1962 Commission and the subsequent legislation established this tripartite arrangement, which was one solution to the problem. That emerged because there were cases of corruption with local authorities having too much control of the police and interfering in operational policing. We then created this slightly strange arrangement, the tripartite arrangement, to try to keep the politics out and it was a kind of a balance. My view is that it went too far the other way. It took the police too far out of the realm of local accountability and we need to shift that balance back. The question is then how we do that without politicisation. I don’t think anyone in this country wants to go down the American route.

Q33 Mr Burley: You stated earlier that you were in favour of a wholly elected authority rather than just an individual, and I think that is probably just where we would differ. You said that you worried about extremist candidates standing. I put it to you that we do not have a single BNP MP in this country but we do have BNP councillors. Isn’t the risk of having the BNP, and other undesirable fringe parties, greater if we are electing a committee, as we do with councillors, rather than a single individual, which is more akin to an MP where we do not have any BNP MPs?
Rick Muir: It is difficult to know, I think, the answer. It depends on the turnout; that's the crucial thing. I think if people turn out—as we saw in the general election where the BNP were wiped out in Barking and Dagenham—then most British people are sensible, moderate people and don't want to vote for extremists. So the question is will there be significant interest in these elections in order to generate that kind of turnout? I think that is my concern. You may want to time them to sit alongside other elections, for example, which might raise the turnout, but that's the crucial problem, and I think the danger is if people don't know what these figures are, who these figures are—the fact that they are electing a rather remote figure for a police force, if you live in the Thames Valley—then I think that raises the risk of a low turnout.

Chair: Thank you, Mark Reckless.

Q34 Mark Reckless: In this area, we have this one case from Lord Denning in 1968, which Sir Hugh Orde referred to as “a fine case”, that the police should answer to the law and the law alone. But is it not the case, both in the 1962 Royal Commission with the Patten Report, and also for us when we had the Minister before this Committee, that when this is being considered by politicians a distinction is being drawn between the individual cases, where clearly the police should have independence in terms of arrest and investigation in those individual cases, and the broader issue of setting priorities, determining where budgets are spent and setting policy in general, which is properly the field of elected politicians?

Rick Muir: I absolutely agree with that. That is where it needs to come in. That is where the confusion has arisen. I think there has been a tendency of chief constables to take Denning to mean that they are in charge of strategy, and of course the police authorities approve the budget and the policing plan, and so on. A lot of them are presented with something that the chief constable has developed and written and are asked to approve it. I think politicians should be much more active in that role. This is important to the public; whether you have neighbourhood policing or you have police patrolling in cars is, as you said, a political issue. It is of huge importance to the public; whether you have neighbourhood policing or you have police patrolling in cars is, as you said, a political issue. It is of huge importance to the public and, therefore, those kinds of strategic decisions should be made by elected representatives. I absolutely agree with that.

Q35 Mark Reckless: We had a very helpful note, prepared by the legal advisors in the Scrutiny Unit for the Committee, that I think broadly takes that line on the development of the law. I just wondered if you had any thoughts on how to clarify that position so that the chief constables, at least, understand. There has been some suggestion that perhaps a protocol could be discussed or that it is sufficient for the Minister to have set out his views to this Committee, or perhaps as the legislation passes. Do you have any advice on that?

Rick Muir: I think some kind of memorandum of understanding would be important. I don't know whether you need to go as far as writing it into the Bill, but I think that some kind of understanding between the police and the Home Office—written understanding—is important, so everyone knows where they stand. That is what we have in Northern Ireland and it works pretty well, so I see no reason why that couldn't function in England and Wales as well.

Chair: Thank you, Mr Reckless. Nicola Blackwood.

Q36 Nicola Blackwood: You have mentioned the Patten Inquiry. As I understand it, that inquiry identified part of the problem in this area with the phrase “operational independence”, as though it implied, in some way, that a chief constable would not be subject to any kind of scrutiny for operational decisions and suggested that, instead, we should be shifting to the concept of operational responsibilities, where of course a chief constable would have the responsibility to make decisions about operational matters, and so on, but after that operation, would then be held to account for the way in which he had done that, which I think is what we all understand the way the system should work. Do you think that there is any value then for shifting this concept to operational responsibility and enshrining that in some way in legislation?

Rick Muir: I think that is very sensible. Patten was, I think, the first person in a long time to look at this and I think he got it right, that clearly in a democratic society, no public official is independent of the will of the public at some level. Police and chief constables have to be accountable, even for their decisions in individual cases, so when they are applying law in an individual case they have to be accountable after the fact. So they should be called in to justify decisions that they have made in those individual cases, where that is appropriate. So, yes, I think it would be helpful to move to that, because I think the notion of independence has just confused the matter. It is a question of balance between the impartiality of the police and the accountability that we need to the public.

Q37 Nicola Blackwood: So do you think that that should be written down?

Rick Muir: To be written down in some kind of memorandum of understanding between the police and the Home Secretary prior to this happening. I know Hugh Orde told me he disagrees with this, because he said to me that the difference between what is written down and what happens can often be very different. Often it will be about the personalities, there will be cultures that develop in individual organisations, and so on. But I think that we need a starting point and we need something that when these new commissioners come in, who may not be very familiar with all of this, they understand what their job and what the job of the chief constable is, and that is very clearly codified, if you like. So yes, I think that is essential, and will be one way of safeguarding against politicisation.

Nicola Blackwood: Thank you.

Chair: Mr Reckless has another quick question.

Q38 Mark Reckless: Yes. On that point, we have heard from Kit Malthouse previously that police
authorities haven't tended to take a sort of confrontational approach or want to have public disputes, but in the note that has been prepared for us, we understand that the editors of the main text, John Beggs QC and Hugh Davies, have taken the view that Lord Denning's judgment, the doctrine, was an exorbitant one and its legal foundations are very slight. Then they discuss that they recommend the Police Authority should take these matters to judicial review. Their position is there is considerable scope, even within the law as is, for police authorities to have much greater scope in terms of general policy, but it is just that that has not happened. Is that also your understanding of the legal position?

**Rick Muir:** I think that's right, and I think non-confrontational is the way this has developed. I think that has to change. I think one of the problems with the way police authorities operate is, because they are not very visible, what happens—they are public bodies; people can look at the minutes if they want—but I think there is no real sense in many police authorities the way police authorities operate is, because they are confrontational is the way this has developed. I think there has to be a balance struck. Because I think in some police authorities there has been this development of a sort of, "We're there to back up the chief constable". One chief constable kept describing it as, "His Police Authority" as if he owned it, and I think that is wrong. The police authorities are there to represent the public and that has to be clarified. I know people from police authorities will be outraged about what I have just said, but I think that a lot of the people that I interviewed for my research—

**Chair:** We are getting Mr Reckless excited, which is always very dangerous.

**Rick Muir:** Yes. But many of the people that I talk to for my research back that up, people who work with police authorities, who work within police authorities, chief constables and so on.

**Chair:** Thank you very much, Mr Muir. Thank you so much for giving evidence to us this morning. If there is any other information you think is helpful, please don't hesitate to write in to the Committee. That will help us with our deliberations. Thank you.

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**Examination of Witness**

**Witness:** Bernard Hogan-Howe, former Chief Constable of Merseyside, gave evidence.

**Q39 Chair:** Could I call to the dais Bernard Hogan-Howe, from Her Majesty's Inspectorate of Constabulary? Mr Hogan-Howe, thank you very much for giving evidence. I will not give you the introduction again, because you have been sitting in through the proceedings. You are very distinguished, having been an Assistant Commissioner in the Met and a chief constable and involved in policing for all your life. You are now in the Inspectorate. Looking at your experience and the work that you have done, is it not right that it should be the public who are best placed to decide on local policing priorities rather than chief constables?

**Bernard Hogan-Howe:** I think so generally, and I think that there has to be a balance struck. Because I think whatever public service there is, whether it be education, health or policing, then there are times when sometimes people aren’t fully aware of all the threats and all the risks, and if a professional has an opportunity to influence that a bit, I think it is quite wise. But I think the way that policing priorities have developed, over probably the last 20 or 30 years, there has been a balance on this tripartite structure between what central Government suggests and sometimes imposes, sometimes what a local Police Authority—which has been informed by debate with local authority as well—has suggested, and finally, what the police have also put into that mix. Because often there are things that are either covert, or if not secret are not always discussed openly, which I think it is wise to consider when you are trying to evolve a strategy that is going to be effective locally.

**Q40 Chair:** What are your own views on this proposal? Do you support the proposal for elected Commissioners?

**Bernard Hogan-Howe:** I think that there have been various models and I think the starting point for me is: what is the problem that it is intended to remedy? So I think there is no doubt that police authorities have been effective at times. They do hold police chiefs to account. It is a public event; members of the public can go, and quite often that can be an uncomfortable process. I have been there and there are times when the police get it wrong and to be asked questions publicly is a challenging event. You have to provide an answer and it is either a cogent answer or it is not persuasive. So I think that process has had value. The second thing that has had value is that the police authorities have set precepts. What that means is that the negotiation goes on with the local authorities. That helps to justify the spending that people locally put in and also there has been an strategic priority setting as well. So I think that has been a benefit. The area where I think there is an acknowledgement that there have been difficulties is partly about representation. A 17-member authority doesn’t represent every locality within that area. I used to be in Merseyside—1.5 million people. The authority made its best attempt to geographically represent every part of Merseyside, but it didn’t have a representative for every person.

**Q41 Chair:** We will come to that. But, if I may say so, I thought that was a bit of a politician’s answer. Are you in favour of these proposals or against them?

**Bernard Hogan-Howe:** I was trying to avoid answering that question, only on the grounds that it seems to me that is a political judgement.

**Q42 Chair:** But you must have a view in terms of your experience. You must have seen them operate...
Chair: Are you more in favour of sorting them out rather than having an elected commissioner?

Bernard Hogan-Howe: No, I think what we have to do is to explore all the models and I think the speaker before—the witness before—went through the various options that have been looked at. Each of the parties have agreed, I think, that there’s a democratic deficit, that in fact people do not have enough opportunity to influence the priorities of the police and that has led to some pretty wide gaps growing over time. If you have looked at the report of Sir Denis O’Connor over the last few weeks about antisocial behaviour, that was given as one example where the police seem to have taken their eye off the ball. So I think people are agreed there needed to be more accountability. The option of electing a chair of an authority had some merit. The option of electing all the authority, that your previous speaker preferred, clearly had some merit as well, and there are some benefits obviously in electing a single individual. There are some risks, but I have not seen one of the models that has no risk, and the risk of standing still is quite significant, I think.

Q44 Chair: So don’t stand still, but take one of the options, but you cannot tell us which you prefer?

Bernard Hogan-Howe: Well, I think whichever option is decided, I think it ought to fill the democratic deficit. It ought to encourage the police to meet the public’s priorities, and it ought to be a connection between local taxation. I think there ought to be a very clear link, and then the one thing I think, if we do go along with the Government’s preferred option—the Police Crime Commissioner role—is that one of the things we do have to keep a real eye on is the fact that much crime extends beyond the boundaries of the constituency who elect that person. So if we look at serious and organised crime, counter-terrorism, it may be there are no votes in keeping that commissioner targeted around those priorities, but it is an essential fact that local policing has to contribute to counter-terrorism, serious and organised crime and other issues that cross the boundaries. These are the areas I think where the debate probably has to centre.

Chair: Thank you. Bridget Phillipson.

Q45 Bridget Phillipson: The public care very deeply about seeing police on the beat, and that’s certainly something I hear a lot, and I am sure I am not the only one. But at the same time, the concern I have around elected Commissioners is that there will be the natural temptation to headline grab around those issues, which may then be at the detriment of other vital policing work that is not as visible but, without it, our communities will be less safe. I am thinking of issues around serious and organised crime, the child protection work that police do and fraud. What are your views on that?

Bernard Hogan-Howe: There is certainly a risk, but that risk exists now with the police authorities. There isn’t that public debate about what investment goes into serious and organised crime, what investment goes into murder teams. That debate doesn’t happen. So at least what the elected Commissioner gives the opportunity of is to have that public debate once every four or five years, and that can be an open process, so those arguments are brought out. At the moment, the public don’t have that opportunity to influence that debate at all. So there is a risk, but I think this might be one of the things that the Government would look at, in terms of setting up the legislation, is how you ensure that those things that are below the line, the invisible part of policing—remain a priority. So I think it is quite possible to manage that, but if it is a problem for the future for elected Commissioners, I would suggest it has been a problem in the past, where that debate hasn’t happened either.

Q46 Bridget Phillipson: I think the issue is also that this is a time at which the police are facing significant cuts and I know that, for example, public protection units are likely to be at risk. So I think we have the dual issue of both budget cuts, which will put pressure on the more specialised areas of police work, but also that going hand in hand with elected Commissioners, whose focus, in order to win elections, will perhaps be to focus on the visible areas of policing. So I think you have those two issues coming simultaneously.

Bernard Hogan-Howe: I agree entirely. I think if you looked at public protection units or you look at, for example, within that, abuse of children, then quite often if you take your eye off that ball, it takes two, three, four years before that terrible event happens, and we have seen some terrible cases, even within the last couple of years, where that has happened. So I think you have to have a professional responsibility around that type of thing, but I would have thought that a public debate enhances that process rather than diminishes it, and I think commissioners should be held to account for how they spend their money in that particular area. But I think to say that an elected Commissioner is less likely to do that than the Police Authority is unfair, because the police authorities had that opportunity and presumably have that opportunity to make that decision as well, that strategic decision about investment. The police authorities presently have—and the point was made earlier—the opportunity to set a budget. It is one of the biggest strategic opportunities you have to set the direction of an organisation. The challenge to them might be: have they taken it?

Chair: Thank you. Lorraine Fullbrook.

Q47 Lorraine Fullbrook: Thank you, Chairman. Chief Constable, the Home Office consultation paper emphasises the need to increase the public’s trust in the police. It also comments about crime data being published at street level so that local people can see exactly what is happening on the streets, and talking about real figures being published, what the public think matters locally and not what the force considers...
to be important. In most constituencies, that will be antisocial behaviour that most people see on their streets, which is crime. Any way you cut it, antisocial behaviour is crime and it has a devastating impact on the quality of people’s lives. On the BBC north-west news several weeks ago there was a report about your own force, Merseyside, disbanding two or three dedicated antisocial behaviour units and deploying police elsewhere. What do you think that would do to the public’s trust in the police, and to what extent do you think that the new Crime and Police Commissioners will increase the public’s trust?

Bernard Hogan-Howe: Could you just be clear about the question? Is it about the Merseyside decision?

Lorraine Fullbrook: Well, there are two parts really.

Bernard Hogan-Howe: The first one—the Merseyside decision to disband the antisocial behaviour unit—was that around that question?

Lorraine Fullbrook: Yes.

Bernard Hogan-Howe: Right. I’m going to try not to express any views about my successor. These are difficult jobs and with the recession—well, it has hit everybody, and the budgets are about to be announced. So everybody’s doing decisions are going to have to be made. The only thing I would say about what we did with Merseyside—the present chief constable was part of the process with whom we agreed the idea, which is to have this particular unit—is that we went for the repeat victimisation idea. That is the idea, but the approach was that officers who were on the ground were expected to deal with antisocial behaviour. But what you have is that probably a fifth of the victims account for about two-thirds of the antisocial behaviour because the repeat offenders keep going back to the same people and the same places.

So what we did was we just formed a squad. Squads are normally reserved for serious organised crime, for specialist things: murders and all the rest of it, and we just thought if it was important enough then we would dedicate our resources to go to the 10 hot spots and then knock the 10 hot spots off and then we would work out way down the list, and it was a powerful tool and it worked. We had two thirds police and one third fire service, and the idea was that the police would enforce the law and when we received an order in that area the fire brigade would provide diversion and hopefully, therefore, it would not just be seen as a zero tolerance approach; which it wasn’t, but we had to establish the law in some areas that were quite difficult. So that was the idea.

The things can still be done if the police service concentrate smartly their resources where they can have most affect, which is usually repeat locations where the offenders and the victims meet. These people are the same people who keep coming back night after night. They don’t live 20 miles away; they live in the same area. So there are ways the police can be smarter. So I think what I’m trying to say is, first of all, for us at the time we could invest in that with over 100 officers and that was a good thing. When times are tight you have to try and find smarter ways of doing it. I think what Merseyside are doing now is to say we expect all our officers to have a smarter approach to repeat victimisation. You can’t always have squads. It is not always possible to maintain that sort of investment. Now, the second part of your question, if you could just remind me, please?

Q48 Lorraine Fullbrook: It was about the new Crime and Police Commissioners. To what extent do you think they will increase the public’s confidence?

Bernard Hogan-Howe: I think they have an opportunity to do it because I think one of the things that everyone seems to acknowledge is that, in fact, the police authorities don’t have that same visibility that people would hope. So therefore, the public debate becomes centred on the chief constable; they come on the individual officer’s failure. But I think there is a genuine opportunity to both influence public opinion and to receive their feedback, and sometimes criticism, and do something about it, and if that focuses on the individual that is a great opportunity. Sometimes it’s unfair but they know what they are letting themselves in for. I think it’s an easier option than probably having an elected authority, a fully elected authority, which diffuses some of that accountability. So although I realise the risk with Crime Commissioners, there is an opportunity to increase trust for two reasons; first of all, a public debate about what the priority should be and, of course, then, the Commissioner has to deliver. Presumably, if they do not, nor their chief constable or commissioner does, then they have a problem.

Lorraine Fullbrook: Thank you.

Chair: Thank you. Alun Michael?

Q49 Alun Michael: Whether you are dealing with the decisions of a chief constable, a Police Authority, elected Police Commissioner or any other structures, surely one of the big issues is how you get transparency in the system so that people can see what the trends are, what the actual crime is and whether the police locally are succeeding in what Robert Peel described as their primary responsibility, to reduce offending and re-offending. How do we make sure that, whether it is a Police Authority system or a commissioner system, we don’t have things that are driven by opinion, sentiments and general debate, rather than a clinical examination of the facts and that have not really succeeded in managing to provide, with the sophisticated systems that are available now, that sort of transparency already?

Bernard Hogan-Howe: For two reasons: one is that people don’t seem to believe crime statistics. It’s ever so hard. I have stood in front of public meetings—whether it be Liverpool or the rest of Merseyside—and given them the information, and the first response is, “Well, I’m sorry but that does not work in my street”. The only discussion you can then have, even if we are inaccurately recording this information, we are doing it as badly every year or as well every year.

Q50 Alun Michael: So how do you advise an elected Police Commissioner to handle that issue?

Bernard Hogan-Howe: I think it is two things: first, give people access to the raw data, as many of them as we can. The internet gives you a good opportunity to do that. Make it local to them, so if you can put it into their street I think it’s a really good thing. There
is a balance. There is a sensitivity there. If you’re talking about a serious sexual offence and you identify the location and, by default, you identify the victim, you have to be careful. If you are trying to sell a house in an area that people may perceive is blighted by crime or antisocial behaviour and the value of that house goes down, there can be a consequence. So all that can be managed, but I think it’s wise that people go into this knowingly. But generally, share information, and I think from that information you empower people to hold people to account for what is happening locally. What it enables them to do is put it in context; somebody having a really bad time, obviously they would be upset and they’d be concerned and frightened at times, but if they see they are unusual that would be important. If they see they are part of a pattern that can be important. But it is important that they understand what it means for them in their locality, and 500 burglaries in their force area doesn’t mean a lot unless it has hit you, your neighbour, your wife, your parent. So I think to make it as individual as possible, as local as possible and, of course, finally, the thing is to make it current.

Q51 Alun Michael: Irrespective of the structures then.
Bernard Hogan-Howe: Of what, sorry?
Alun Michael: That is advice offered irrespective of the structures.
Bernard Hogan-Howe: I would say so. I think if you can get information out there you also empower local groups to do things with it. If you have a local football team that realise you have an antisocial behaviour problem in an area, put the two together and you have a powerful partnership. Often you find people in the same small area who do not even know there’s a problem or that they could do something to remedy it. The only final point I am going to make was that the information is contemporary. Information published at the end of the year is important for a strategic view about whether burglary went up or down, but you want to know today, from yesterday, what happened on your street yesterday and then you might be able to do something about it.

Chair: Thank you. Thank you, Mr Michael. Mark Reckless.

Q52 Mark Reckless: Regarding operational independence, do you agree with the distinction, which some other witnesses have drawn, between operations at the level of the individual investigation, where it is essential that the police operate entirely independently, and a more general policy in the setting of the budget and priorities within that; if there is more justification for involvement by elected politicians?
Bernard Hogan-Howe: I think so. I think that the first thing that everyone seems to agree with is that the police should have operational independence. in the sense of not starting or stopping an investigation into an individual because of a political interference and policing something or not policing something because of a political view. I think those are the things that seem to be agreed. The benefits I have always found in the past, with working with Police Authorities and perhaps, in the future, with Commissioners, is that in setting strategic directions and big strategic decisions it’s wise to have a group of people around you who you have persuaded. So a board of a company, if they are going to invest and they had a budget of £100 million and they are going to invest £10 million, they would expect to be consulted on that investment. Now, that might be about IT; it might be about buildings; it might be just where you put your people. It seems to me that, with that level of strategic decision-making, it’s important—whether it be an elected Commissioner or a Police Authority—to have their agreement. So that is where I think, for me, there should not be a great debate. What I can see is you have to be careful where you draw the line. If it gets into micro-management—and I think the Deputy Mayor mentioned it—and the Home Secretary should retain powers?

Nicola Blackwood: The majority of our discussion today has been about the interaction between a Police Authority or an elected official and the chief constable; but of course, the third pillar of this model is central Government and the Home Secretary. The consultation paper noted that there has been an increasing tendency for the Home Secretary to intervene in local policing, an attempt to address this accountability deficit and the statement that the idea of the elected official is to try and bring that decision-making closer to local people. But the Home Secretary will no doubt have to retain some responsibilities. What sort of areas do you think the Home Secretary should retain powers?

Bernard Hogan-Howe: I think probably three areas, I would say. The first is if there was failing leadership or dishonest leadership, you would hope that locally people would resolve that. But it seems to me that you have to retain some opportunity to intervene if you see something absolutely awful. How we define “awful”, I think you have to decide. Secondly, we talked about counter-terrorism and serious organised crime. I think there is a state interest and, therefore, a public interest in the nation having an overview of that running across 43 forces, and I don’t think it is okay for one of the 43 just to say, “We’re not playing that game”. You have criminals who do not respect the 1974 local government boundary. So someone has to take an overview of that and I think that’s pretty important. I said three, but I think probably those are the main two that I would pause on as the ones that you would
certainly want to have a central view upon. I think it is going to be a real challenge for any Home Secretary or any Home Office to say, ‘We are not going to get involved in knife crime in London; to not get involved in what is happening in Liverpool if there is a firearms discharge’. We had a terrible incident where an eight-year-old boy was murdered in Liverpool. For the Government not to keep out of that is going to be very difficult as there is a huge public interest in it. So I think these are going to be the challenges of the future.

Sorry, the final one—now I have remembered—is the fact that if you are going to have central control, then keep it to a central direction or keep it to a very few issues. For example, if you said, ‘Look, value for money means that we ought to have a shared service centre for personnel and finance; if we ought to have one air wing for Britain in terms of all the helicopters we have’, if you can only do that by central control and procurement then probably why hasn’t that happened? If you think that, with 43 forces and 38 aircraft, each costing £5 million, could there be a better way? Sir Philip Green has just reported on how he sees procurement being handled in public service generally. There are things like that where the police service would be no different and the centre should have a view on, particularly around capital investment.

Chair: Thank you. Aidan Burley has the final question.

Q54 Mr Burley: Just picking up on the issue of police statistics, do you think it is time to have an independent body in this country for police and crime statistics? I think I am right in saying that under the previous Government, for example, they reduced the re-offending period from two years to one year and, funnily enough, re-offending rates went down. Do you think it is time to end this sort of political interference, which is undermining the public confidence in crime statistics?

Bernard Hogan-Howe: I think it is difficult because the trouble is if you don’t recognise the fact that society moves on and keep looking at new crime types; if you look at e-crime, as one example, 10 years ago people did not know what e-crime was and now it’s getting to be a more and more intrusive part of peoples’ lives. So I think you have to recognise that in the way you record crime. You have to try, so far as it is possible, not to make it a political football, but I’m not sure if it is that easy. We haven’t seen much evidence of it over the last 20 years; the way that crime and crime types go up and down is a real challenge. So I think the best that we probably could do is to have some independent arbiter who says, ‘These are the crime types.’

Q55 Mr Burley: Notwithstanding that, obviously, there are new types of crime that come on the market, if you like, there are also crimes that are going to stay there in perpetuity. Do you think we need some period of consistency in the way you measure those, so that there isn’t that change in definition?

Bernard Hogan-Howe: I would say, yes, but it is hard to deliver. If you look at the number of murders; the number of murders over the last 20 years has gone down an awful lot, although you would struggle sometimes to believe that, but it has. There was a period in London where the number of young people murdered by knives went up and suddenly people were very interested, quite properly, in that type of recording of crime. They would record knife crime in a different way; so, therefore, we had a period of looking to see whether knife crime was an issue right around the country.

So I think there is no doubt that any Government, any politician or any police ought to be flexible to respond to that type of crime. But in a broad answer to your question, “Should they remain consistent for as long as possible?”—yes, but I don’t think they even have to think that. But when a new challenge comes along somebody will ask, “How many of those have we got?” And I’m afraid that that is as variable as human behaviour.

Q56 Mr Burley: Can I just ask you, finally, do you agree with the Home Secretary’s statement that the police’s job is to cut crime, no more no less, and, if so, how do you explain to the public comments such as those by the chief constable of Cambridge, Julie Spence, who says that only a third of her resource time is spent on cutting crime?

Bernard Hogan-Howe: I said I was not going to try to be controversial, but the only thing I can say is that I do agree that the police’s main mission is to cut crime, and antisocial behaviour. Do they do a lot of other things? Yes, and this is where I think Julie Spence’s point is fair. In Merseyside, we had about—I am just trying to think now—100,000 crimes a year; we had 11,000 sudden deaths to deal with; 7,500 people were hurt on the roads; and I’ll not go on. But there are lots of things to do. The call centres will take lots of things that police officers have to do and this is not counting antisocial behaviour. I can agree with Julie’s point, which is that there are far more things to do. You have to deal with rape victims, where you never catch an offender. You have to deal with community groups who want to know what you are doing in their area. There are lots of things to do, I accept that entirely, but if you are asking the core mission, for me it has not changed much from Sir Robert Peel, which is that the idea is to stop crime happening. If it happens, you sort it out or help the victims as best you can, and the maintenance of order allows other things to flourish, whether it be the economy or whatever else. But it seems to me no one else will do it if the police don’t. Can the police do other things? Yes. But for me, it is a core mission, so in that sense I do agree with the Home Secretary. I am not sure that Julie’s point is antagonistic, necessarily. I know what she meant. There are other priorities, but for me it is a core mission.

Q57 Chair: Do you anticipate a number of your colleagues or former colleagues will be running for me it is a core mission.
earlier that if they do decide to run, I think it would be wise to give a period of cooling off before they were even allowed to be considered. I think it might be intuitively attractive and superficially attractive to many, particularly as they leave some power to try to get back into that power. I think they have to be careful that some of the status, some of the—what’s the word?—I suppose the ego that goes with the status of the role doesn’t confuse that with being popular. I think that a democratic process, as you will know, can be a torturous process and police officers are trained to be professional police officers. They are not trained to be politicians. Some may be okay at it, but it is a different world and I think they have to be careful before they get involved in that role. Probably the final thing, just in terms of propriety and being honourable, is that if you have just left that area, it is pretty hard to say you are not responsible for the legacy you leave, and can you hold someone else to account for that?

**Q58 Chair:** One of the concerns expressed to me by a chief constable privately is not against the proposals, as such, but the timing of the election, which is going to be in May 2012, at the very time that we are preparing for the biggest security operation in the world, where a number of the local forces are going to have to send officers to London and police other areas. Irrespective of whether there is agreement on the issue of elected Commissioners, do you think the timing may be a wrong time? It should either be before or after the Olympics?

**Bernard Hogan-Howe:** I do not particularly agree with that. I have, as an HMI, a role to oversee the preparations for the Olympics and if I have heard the Olympics used as an excuse for not doing something once, I must have heard it a lot of times. It has become almost the routine reason why you would not do something, “The Olympics is on in 2012”, but when you analyse it, it’s not clear.

**Chair:** I do not think the suggestion was to put it off for ever, but just the timing is May 2012.

**Bernard Hogan-Howe:** No. I realise, but I just sort of feed back that quite often, in the policing world particularly, that has become a routine answer: “2012, you can’t do other things”, and I am not sure that’s the case. I think the fact that an election is going on and a new person will arrive—to be fair, I am not sure of the timing in the year, but of course the timing of the Olympics is around June/July to August sort of time—I don’t see it as antagonistic to it. I don’t see it would distract the police from doing their job. It shouldn’t.

**Q59 Chair:** We will be hearing evidence later on in the session from Sir Denis O’Connor about the work of the Inspectorate, but perhaps you could just tell us, since we’re also in our trilogy of reports doing an inquiry into the National Crime Agency, is there work going on in the Inspectorate about the way in which the agency is to operate?

**Bernard Hogan-Howe:** We’re certainly considering how best we can advise the Government, because obviously they’re going through a process of consultation. It is general consultation around the Green Paper, “Policing in the 21st Century.” This is one aspect. We are putting together some feedback for the Government around the NCA proposal and the critical thing I think is to say, “Well, what is it intended to encompass?” because I think there are many options. I think obviously there will be a, “What is attainable by 2012-13?”

**Chair:** Excellent. Mr Hogan-Howe, thank you very much for coming to give evidence to us today.
Tuesday, 19 October 2010

Members present:  Keith Vaz (Chair)

Nicola Blackwood  Steve McCabe
Mr Aidan Burley  Alun Michael
Lorraine Fullbrook  Mark Reckless
Dr Julian Huppert  Mr David Winnick

Examination of Witnesses

Witnesses: Sir Hugh Orde, Chair of ACPO and Mr Mark Rowley, Chief Constable of Surrey Police Force.

Q60 Chair: This is the Committee’s second evidence session for its inquiry into the proposed election of police and crime commissioners. I welcome to the dais Sir Hugh Orde, President of ACPO, and Mr Rowley, the Chief Constable of Surrey. I refer all those present to the register of Members’ interests where the interests of all the Members are noted, but there are specific interests to declare in respect of these proceedings.

Mark Reckless: I am a member of the Kent Police Authority.

Chair: Mr Michael?

Alun Michael: My son is employed as the chief executive in the North Wales Police Authority.

Q61 Chair: Thank you. Sir Hugh, can I put to you a couple of quotes and ask you whether you recall who may have said them: “You can’t have a democratic society where the police are controlled or even perceived to be controlled by anyone in a political position”, and when asked, when the Conservatives came to power, if you would resign you said, “I think I would be deeply uncomfortable. I would leave if the principles of British policing were compromised”. Have you changed your view or do you think the Government has changed its view as far as police and crime commissioners are concerned?

Sir Hugh Orde: I think the key point was the basic principle upon which the British model of policing is built which is operational independence. I take great comfort in the clear recognition in the 21st Century document that operational independence is not to be interfered with in any way, shape or form. It was against that backdrop that my comments were made. I don’t step back from my comments one bit. The world has moved on, of course, because we have a new government, a different government, that is now in power, which has an absolute right to mandate and decide how the police service should be held to account. I think it would be a very foolish chief who said, “I don’t like that model, I want this model”. That is a matter for government. I think the principle of operational independence was best described recently by Lord Patten who made a very clear point that he didn’t like the word “independence” because he felt it meant we could operate without any accountability, which is why he chose the word “responsibility”. He felt we were responsible for operational decision-making. The oversight-makers have then held us to account for what we did.

Q62 Chair: That is your view obviously as President of ACPO; is that the view of the whole of ACPO? Have all the noises off now stopped and recognition that the Government will have its bill and there will be elected police and crime commissioners or is the debate still ongoing?

Sir Hugh Orde: The debate around seeking clarity around how the new model works is a very live one and our response to the 21st Century document is seeking that clarity. The Government has the right to decide how we are held to account but we have an absolute right to clarity about how it works; for two reasons: one is the public need to be reassured there is an effective accountability model in place and, secondly, we need to be reassured it will mesh with the debate around operational independence/ responsibility—take whichever word suits.

Q63 Chair: Will the introduction of these police and crime commissioners mean that the public has a better opportunity to influence local policing priorities?

Sir Hugh Orde: Again, I think we have to wait and see the detail, and the current document is fairly thin on exactly how it is going to work. We have one person on a locally elected mandate to cover the 43 forces. They are big forces: where I live, that is 16 constituencies; Devon and Cornwall, 18 constituencies; the Chief Constable of West Yorkshire has 2.5 million people to protect. So that person is going to be very busy without some structure beneath them. In terms of the information available for people to hold us to account, if I may ask my colleague, who is still operational, to give some examples of how it works now that would be a good starting point.

Q64 Chair: We will be coming to the detail, but just on the principle, Chief Constable, do you think the public will have a greater opportunity to influence priorities?

Mr Rowley: I would support Sir Hugh’s comments that we need to see the detail of proposals but—

Q65 Chair: I don’t recall him mentioning the detail. Is there a problem with getting the detail out of the Government? Is there a problem with the President of ACPO will be in and out of the Home Office every five minutes.

Sir Hugh Orde: I’m not that popular, Chairman.

Chair: But don’t they send you this detail?

Sir Hugh Orde: We have asked for it. We have responded on time to the consultation. We are now waiting for Government to look at the 900 responses...
they have had to come back with that detail. I think it is unfair to expect Government to have done it immediately. The responses only went in a couple of weeks ago. There are many mechanisms from the bottom up—through neighbourhood policing meetings, district policing partnership meetings, crime meetings—that inform the local agenda, which chiefs take very seriously. At the top end, from the top down, is where the police and crime commissioner presumably, who replaces the authority, will have that strategic debate about what are priorities for police force X.

Q66 Chair: The Government has promised that the bill will come out by the end of November, hence these sessions. Are you confident you will have this information by then?

Sir Hugh Orde: It will be very hard to operate without understanding how it’s going to work and the support mechanisms this individual will have. On a very straightforward basic practical issue, we would need to understand who the deputy is, for example. We must have 24-hour access to those who hold us to account so we can keep them fully briefed. So I think that detail will come out. Beneath that is, of course, a matter for Government rather than us to decide how it works.

Q67 Lorraine Fullbrook: Sir Hugh, just to explore a bit more on the detail of this issue, can you, in your experience, tell us what information the public would need for them to be able to decide the local priorities for their local police force?

Sir Hugh Orde: Obviously, basic local crime information is now available. If one looks at the websites of most police forces, an awful lot of information is out there. I think we are happy to take advice on how much more precise it needs to be for the public to make those informed decisions. It’s also about conversations, I think, at the local level. Again, one would see the neighbourhood meetings, the policing meetings, the police crime prevention meetings, those sorts of meetings, as to where that informed debate can take place. My experience is that those who are interested will want to know. I think we have a right to an opportunity to expose their views to the local cops. I think the mechanism currently is quite effective at that. While many people choose not to take it up—some of these meetings are pretty poorly attended—I don’t think that is as important as having a meeting. So we have a right to have that influence.

The challenge we face as leaders, of course, is to balance the needs of the local community with the jobs that we as professionals know we need to do to keep the community safe at the cross-border, national and international level. I don’t think we will ever be in a position where we can give them all the information they need, partly because some of it, by definition, is secret. What we can do is have that conversation so they understand the other things we do.

Q68 Lorraine Fullbrook: Just following on from that, to what extent do you think local police forces will be able to provide the data, and how would that kind of data from the police forces be mandated centrally?

Mr Rowley: We already provide a lot of data and I have some examples here: crime mapping on our websites showing areas of higher and lower crime—it would be much better to do it with dots. There are data protection issues that I am immensely frustrated by, I would like to put dots on maps for the public and I think we don’t want to do that. There is a whole range of other information. The Manchester experiment with Twitter was an interesting way of giving public visibility of what was going on in the force for 24 hours and all the different types of calls that were serviced. I think an overall commitment to transparency requires quite a lot of dimensions ranging from dots on maps to public meetings with police authorities or crime commissioners through to Twitter experiments, through to public meetings where local officers meet with local people and get their perception of things, which is not always replicated in the data we have.

Q69 Dr Huppert: If I can just come back to a comment that was made about there clearly be some aspects of the police operations that must be kept secret from the public, and I appreciate that. Would it be envisaged that the police and crime commissioners would have complete visibility of everything that is happening within the police force? If not, how would they be able to scrutinise some of those things?

Sir Hugh Orde: I think the basic operating principle should be maximum transparency. So whatever one can possibly share one would share. I have shared information of the most sensitive nature with members of a police authority in a difficult piece of territory—but it is getting even more difficult—and have never been compromised. So let’s not get too excited about what we would step back from telling them. However, I have to say I was able to do that because, within the 19 members of the authority I was held to account by, there were a number who were vetted to the highest level who had the confidence of the authority to be briefed on their behalf. So it was a sensible way of doing it and keeping very sensitive information very tight. Again, I think we need to look at how that can be done in the new world, but I am not saying we are not saying anything. I say there would be some very odd occasions where it would be extremely difficult to share everything, simply because of article 2 issues, if nothing else.

Mr Rowley: As the current Chief Constable, I would be very uncomfortable if I wasn’t given all the opportunities possible to be as transparent as I can be with a new Commissioner or whatever body replaces police authorities. There are some difficult questions, such as the ones that Hugh raises around vetting and issues, which we hope Government will look at to give us the opportunity to be as transparent as possible.

Q70 Mark Reckless: Sir Hugh, all our witnesses have accepted that operational independence means that the police should be free to investigate or arrest whoever they choose. But, unlike them, you seem to go further with operational independence and suggest
that the police are, in some way, able to determine where the budget goes, what the priority is and the general policy. There seems to be a difference between that view you put forward on the basis, I think, of what you described as a fine judgment by Lord Denning. We have not found further support for that and since you were last here I have found this excellent book, which I think is the leading textbook in the area by Richard Clayton and Hugh Tomlinson, two QCs, on civil actions against the police. It describes Lord Denning’s judgment as obiter. It states that the authorities he cited don’t support the proposition he then put forward and then says, “The doctrine of operational independence is an exorbitant one and its legal foundations are extremely slight.”

Do you have any comments on that?

Sir Hugh Orde: One can go back further than Lord Denning. Whether it is obiter or not is entirely a matter for lawyers. I’m delighted to say it’s not a matter for me. I think the principle goes back to Peel, which was very much around a police force answerable to the law and not to government. And this where I think the confusion lies, if there is a confusion, deliberate or otherwise, on the part of the authorities. That is not to say that any police service that I’ve worked in, or any whose chief officers I now represent, has any notion that they operate independently of the people who hold them to account. In my last life, we would have spent two or three days a year with our authority looking at the policing plan, which, of course, an authority plan. It is not my plan. I then implement their plan. That is how it works. How do I cut and how I balance my resources has to be in my best professional judgment, but I absolutely accept that I’m then held to account for how I deliver it through that accountability structure. I don’t think there is any gap at all.

Q71 Mark Reckless: Sir Hugh, you referred to Peel and 1829 and the setting up of the Met and that has had a quite distinct tradition because we haven’t wanted the Home Secretary to order that particular force around. But elsewhere forces have traced back to the Municipal Corporations Act 1835 and it was quite normal for watch committees to order officers to do particular things and in 1964 we found a compromise. But it is not one where operational independence just means you get to decide what the police do.

Sir Hugh Orde: Which is exactly why I referred to the views of Lord Patten, which are based on international research by Lord Patten and seen internationally as a very good model for policing. That is probably a good starting point for defining operational independence, then how do I practically decide where to put the resources if there is a spate of a particular type of crime? If I need to move resources into a particular squad perhaps, or there is a growing concern in a particular neighbourhood area and I want to put more resource into that area, or there is a sensitive organised crime problem. That resource agility is a critical part of me being able to discharge my functions both to protect the public and to deliver the policing plan and it’s that degree of operational independence that I think is what we’re talking about. It’s not unchecked and unbalanced and if I make stupid decisions then I expect the police authority to haul me over the coals for that.

Q72 Mark Reckless: Do you agree that a difference between independence in the area of whether to make an arrest or an investigation and these more general policy areas?

Sir Hugh Orde: There’s a difference. In fact, the Greater Manchester experiment is quite helpful on this. It shows the breadth of things that a chief constable is called to deal with. Dismissing the nonsense calls, it ranges from the accidents and the missing people through to organised and fairly sophisticated crime and firearms offences. The chief still has to balance his or her resources across that whole dimension of policing but very mindful of what the policing plan is. Of course, the policing plan is owned by the authority; it’s not owned by the service, which I think deals with your concern that you have some maverick chief who decides, “I’m not taking any notice of that plan.” I’m unaware of any chief that responds to a policing plan in that way. We have a chief here who can perhaps support me on that.

Mr Rowley: My absolute expectation is that I am held robustly to account by the police authority with delivering the policing plan. We work the policing plan up jointly but, when push comes to shove, it is their plan and they make the final decisions on what is in it. So, that is the absolute expectation. I think the line between that being their responsibility and which crimes get investigated being mine is not easy to draw. I think that is the point you are drawing out, Mr Reckless. But if I don’t have the direction and control ability, which is what’s currently in the legislation and is probably a good starting point for defining operational independence, then how do I practically decide where to put the resources if there is a spate of a particular type of crime? If I need to move resources into a particular squad perhaps, or there is a growing concern in a particular neighbourhood area and I want to put more resource into that area, or there is a sensitive organised crime problem. That resource agility is a critical part of me being able to discharge my functions both to protect the public and to deliver the policing plan and it’s that degree of operational independence that I think is what we’re talking about. It’s not unchecked and unbalanced and if I make stupid decisions then I expect the police authority to haul me over the coals for that.

Q73 Mr Burley: Sir Hugh, no one in this room wants to go back to the days of Churchill barking orders in the street; in the Essex Street siege, I think it was.

Sir Hugh Orde: Sidney Street.

Mr Burley: Sidney Street siege, thank you. I wrote down your quote, “How I balance my resources is my best judgment” and you just talked about resource agility. I put it to you that the point of police and crime commissioners is that how you balance your resources becomes their judgment to an extent, because surely all balancing of limited resources is a political judgment. So to take officers off the street,
as we saw throughout the 1980s, and put them in cars and have them on more response was a political judgment on how to balance resources. So if these guys are elected and they decide, “We want to put more resource into dealing with antisocial behaviour and balance it in a different way”, they will be taking away what you have just described as what you feel to be your “operational independence”. So it’s not there going to be perhaps a bigger change than you are envisaging? Because all of this resource balancing is political and this is what they are being elected to do, which is to decide where those resources are prioritised, which is something, at the moment, you are sounding very reluctant to let go.

Sir Hugh Orde: It’s not a matter of reluctance. It is around protecting the public at every level of a very complex policing mission. I think the first point to make is most chiefs will deal with these issues every day with the current structure. It is not new. I can guarantee you that every police authority I’ve had the privilege of meeting or working with wants more officers on the street. Much of that is dealt with by way of sensible conversations. I think we’ve almost got political to how that this mechanism must be head-to-head for it to work. I disagree fundamentally with that. Every experience I have with authorities is that they work very closely with their chief to maximise the impact they make on keeping their people safe that they represent.

So, first of all, I don’t want to suggest this is going to be a huge cavern between what the police service wants to deliver and what the accountability mechanism also wants to deliver. It’s about conversations. But if it is the will of this Government to put chief officers into a position where someone elected on a pretty wide piece of territory can say to the chief, for example, “You will double the number of officers on the street tomorrow, Chief Constable”, I see huge issues with that. Because unless they want to then take the responsibility away from the chief constable for removing officers, by definition, from something else—be it the child protection units, be it the rape units, be it the major crime units, the anti-terrorism units, the things that are currently right on the top of this government’s agenda—then this mechanism must be head-to-head for it to work. I disagree fundamentally with that. Every experience I have with authorities is that they work very closely with their chief to maximise the impact they make on keeping their people safe that they represent.

Q74 Alun Michael: Let’s explore the way that might work a little further. The relationship between a chief constable and a police authority at the present time can be excellent, challenging and mutually supportive, or it can be totally dysfunctional at one end and it can be far too comfortable and even subservient at the other end. So having the structure does not necessarily answer all the problems and I suspect we’ll see the same range in any new arrangement. You have made some comments, Sir Hugh—and I would like to hear Mark Rowley’s comments as well—about the potential role of a police and crime panel. I would like to know what you see as the role of that panel, particularly where there is disagreement between a commissioner and the chief constable but also in relation to the development of the policing plan, given the importance you have stressed for that plan.

Sir Hugh Orde: This has to be speculative because the only information I have currently is what’s available in the government document and our response is a search for clarity around how it’s going to work. As I understand the current vision of Government in that—I think it is very important because it broadens the group of people who are looking at policing in what is a broad police territory. So one hopes it would certainly deal with some of the issues around diversity, around majorities and minorities. Of course, we police everybody; we don’t police any particular group. Quite often, the most vulnerable are the most disenfranchised. So hopefully it will widen the experience of or feed information into the police and crime commissioner so he or she is fully informed on the spectrum of concerns within what is a very large piece of territory. That is how I would guess it would work.

It would appear currently—and again this is purely what exists in my mind—that they have no particular power apart from limited around the referendum to raise a local precept, which may be very important if you are trying to increase local policing. There is some real power there that may add some value, although it is quite limited. They confirm the appointment of chief—and again I am not quite sure what that means—and they have the recourse, of course, to raise things publicly and generate a public debate within the area for which they’re responsible. I don’t think they have any teeth, if that’s what you’re asking. So I think we await developments on that.

We put our views in. Mark deals with these things on a daily basis so he may be helpful.

Mr Rowley: One of the questions that I’ve raised is about whether we, by accident, end up being held to account almost by two bodies. That’s a practical concern from a chief constable’s perspective. I know the Government’s intent is very clear that the panel is there to challenge and scrutinise the commissioner’s role, but I see that being quite difficult to distinguish from the performance of the force and, therefore, the performance of the chief constable, so it may feel like double accountability.

One question for me is whether they are working together with some sort of shared responsibilities, the panel and the commissioner, or whether there is a very adversarial relationship, which probably wouldn’t help. I guess that may be dependent upon the politics of an area as much as anything else. If you have a very mixed political representation in certain areas, then you might have a very adversarial political approach between a commissioner and a panel, where in other areas that may not exist. So looking for clarity would be one point and the second key point for me is if they had a shared ambition about the quality of local policing, that would seem to be better than something that is more about them arguing with each other.

Q75 Alun Michael: I come back to that point where there might be a conflict between the commissioner
and the chief constable. What would you see the role of the panel being there?

**Mr Rowley:** It’s not entirely clear to me from the proposals what their role would be.

**Q76 Nicola Blackwood:** Obviously, the obverse of increasing the role of the public and devolving accountability down was that the Government should have a decreasing role. The consultation document expressed the view that the Government had been intervening in an increasing amount and that was undesirable. But they also said that they intend to maintain some national oversight and they used the phrase, “We will create a new national crime agency to lead the fight against organised crime, protect our borders and provide services best delivered at a national level”. So, in your judgment, what issues do you think the government should retain a strategic role in?

**Sir Hugh Orde:** First of all, certainly all chiefs welcome the freedom to succeed at the local level. I think that has fundamentally changed or increased the opportunities for local police to deliver bespoke policing solutions. We support the concept of a performance framework above it and chiefs find that very helpful. They also recognise, of course, that some things are better delivered nationally. The very current security review tells us that, for example, international terrorism cannot be dealt with in 44 different ways, which is why we have the structure to deliver that at the national level. Likewise, as I think my colleague Bernard Hogan-Howe said a few days ago, organised crime across boundaries, and indeed international, fits better at the national level. In fact, so do some of the other infrastructure issues around policing. For example, the national airway communication system, computer systems; all that is better delivered once.

Mr Rowley:

*stuck in the middle, I expect.*

Sir Hugh Orde:

*We have a real chief constable next to us, so I’ll ask him to deal with that. The answer is stuck in the middle, I expect.*

**Mr Rowley:**

*This is one of the critical issues for me. The way policing is constructed in this country is that issues such as organised crime are a shared responsibility for all 43 forces in England and Wales and, beyond that, co-ordinated increasingly by a national agency and that will be very welcome. Do I have an absolute duty to maintain a credible capability for organised crime in Surrey and make sure it is interoperable and can work with surrounding forces? I think the answer to that question has to be yes, it has to be in the national interests that that is maintained. It is hinted at in the 21st Century document and I think it is very important that there is a very clear expectation that the chief constables have that duty and that the Home Secretary retains some leverage. Without that, if we end up with an increasingly patchwork approach to issues like organised crime, the country is the loser, not just the population that might have voted for somebody who was against it.*

**Q79 Dr Huppert:** On this concept of national issues, can I turn to the role of ACPO, which is something we have discussed in other roles? How will it change with the introduction of police and crime commissioners? Presumably the whole idea is that there is a focus on local priorities for policing and more freedom. That might change ACPO’s role in providing central guidance or, as my police authority describes it, directions.

**Sir Hugh Orde:** Well, of course, every chief is independent and can choose to take ACPO advice or not. In terms of the local priorities, absolutely, there needs to be a clear recognition of local priorities—which is why there are 3,600 neighbourhood teams...
out there, I think that reflects the service’s commitment to local priorities—but balanced by national need as described only very recently in terms of the national threat assessment. All of which, of course, impacts on policing, be it cyber-crime, terrorism or indeed flooding. One only has to look at Gloucestershire, which just for the record has a police service of 1,374 officers, not the 400 more Malthouse thought it had. It is slightly bigger. But, again, all these issues have to be covered by the police service. So, where does ACPO fit? Well, I think, again, trying to deliver a sensible national framework is where I would like to be. I am not in the business of giving over-detailed prescription. That is a matter for chiefs and what will be police and crime commissioners. But the inter-operability issue is critical. You have to have one approach to public order because of the way we are structured: 43 forces have to come together. The Olympics is critical. The armed response has to be the same so forces can work together safely to protect the public. So I see there are some areas where we can add and do add huge value. But where I see ACPO going in the new world is something we have discussed before. It is away from this unfortunate mechanism of being a PLC, which is deeply unsatisfactory as I said in my first appearance here over a year ago as the Chairman will remember, towards a chartered institute with a proper governance structure but losing the operational parts of the business. Again, this raises a central issue of where do things like ACRO go because, without question, delivering a central system for the public to get their certificates so they can travel makes absolute sense—43 forces frankly would be a madness—but it is not something I’d want because, of course, it gives me access to personal information that I have no oversight body to hold me to account for releasing in the way we have.

Q80 Mark Reckless: There seems to be a divergence of view between yourself and your organisation and the Home Office. On your website, you state that ACPO leads and co-ordinates the direction and development of the police service, which some of us think would be more properly seen as a role for the Home Office. However, on 8 September the Policing Minister told the House of Commons, “The hon. Member for Islwyn spoke of the risk of politicians being in charge of police forces. Who else should be in charge of police forces, other than elected people? Police forces must answer to someone and I suggest to the hon. Gentleman that it might be right and proper for them to answer to democratically elected people”. Do you accept that he has a mandate for that?

Sir Hugh Orde: As I said, I think, in my opening response to your answer, Chairman, we absolutely accept that the Government has an absolute right to decide how the police are held to account. We are currently, as I have said, held to account by police authorities. I know of no chief that goes shooting off and doing whatever he or she wants to do without taking proper notice and listening to their authority. I think there is a danger of trying to create a chasm that doesn’t exist. My experience has not been this sort of continual head-to-head, because the common good is universal. Chief officers want to protect the public. Police authorities want to make sure they protect them as best as they can with the resources they have got, so I don’t see any difference.

On the issue around ACPO, which Dr Huppert asked, the other bit I think that is important, bearing in mind the decluttering, I think is the phrase, of the centre, is that the development of the profession of policing should be an ACPO responsibility. With the NPIA going, I am sensing some considerable support from Government and, indeed, the Home Secretary, on taking us in that direction, so we do get a—

Chair: We will come to that. We are going to look at the landscaping of policing. Dr Huppert has another supplementary and then Mr Burley has one, but we need to make progress on this.

Q81 Dr Huppert: Just in terms of ACPO’s role requiring some leadership—we discussed democratic accountability before—would it make sense for the commissioners to be involved in ACPO as well as just chief officers?

Sir Hugh Orde: I think under a new chartered institute, you should have a transparent accountability framework overarching it. I think that is one of the great opportunities. I have been held to account for several years fairly robustly. I have no difficulty with proper challenge. I think one needs to also look, for example, at proper non-execs, bringing expertise to the party, if we’re going to spend public money on developing the leadership of the profession.

Q82 Mr Burley: You have talked about ACPO’s role being to make forces work together on terrorism and so on and the 43-force model is madness. I was just wondering whether you think, going forward, there is a role for ACPO in making forces work together to make efficiencies in the back office? HMIC has identified this £1 billion of savings that can be made without affecting the frontline 12% of budgets. But does it worry you that that saving hasn’t already been made? Do you think there is a role for ACPO, and indeed, the police and crime commissioners, to drive through joint procurement of uniforms and motor vehicles and so on to try and make these savings in the back office?

Sir Hugh Orde: Firstly, this is not virgin territory. A huge amount has been done to collaborate to achieve some of those savings. Frankly, I think much of the procurement saving will be delivered by police forces just not buying stuff because they have no money and they are trying to focus on the frontline service delivery. I can’t make forces do anything, frankly. Irritatingly, I have no power whatsoever. What we can do is to try and influence and make sure they do work together. I have been around every region at least once since I took over. What I am seeing is huge effort—

and I have conversations with the Policing Minister on this almost weekly—of chiefs trying to bring this together.

If one looks at Hertfordshire and Bedfordshire, there was a case study and two ACPO teams saying, “We can have one head office. We can have one chief officer team. We can save a lot of money, which we can put into frontline policing”. That didn’t happen. I
think amalgamations are off the agenda. So it is
around collaboration. Forces start at different places.
There are rich forces or better-off forces than others.
I might not be forgiven for suggesting they are rich
but there are some with reserves, there are some with
not. There are some authorities that are more
amenable to this—and you’re hearing from the chair
of the APA shortly—and there are different positions
that make it challenging to do voluntarily. So I think
some central leadership on that is quite important.

Q83 Mr Burley: Does it need to be mandated?
Sir Hugh Orde: I think on occasions there may be a
need, as the power now exists if a force is having a
particular difficulty, sometimes to say, “Look, 42
forces are signed up to this. We need the other one to
make it work.” In the current model of policing, that
is a power that’s now available to Government. My
hope would be the 44 forces’ oversight bodies come
together to make it happen, because it’s the right thing
to do at the national level, which is exactly the
challenge Mr Reckless articulated, that we have the
local agenda and the national good. If one authority
chair says, “I’m not playing” or one police
commissioner says, “I’m not playing” sometimes the
national good can suffer.

Q84 Mr Winnick: Can you see a situation where a
chief constable, even in his own area, decides once
he’s resigned that position, which he would have to
do, standing for the position of police and crime
commissioner?
Sir Hugh Orde: Well, I have indicated I may stand to
the Policing Minister as I share his constituency in
Sussex and he’s undertaken to be my campaign
manager, which should finish me off. I think it’s
possible. I think it’s not a matter for us, frankly. We
have chosen, quite properly, I think, not to say who
we think should be or shouldn’t be the people that
hold us to account and I am mindful of the evidence
that’s been given to date. I am not sure you can
exclude or include or encourage anyone in particular.
My sense of it is whoever is going to be successful
will need some infrastructure across a very large area.
So it’s highly likely that the majority—and this is a
personal judgment—will be those on a party basis.

Q85 Mr Winnick: I agree and that came out in the
questions to witnesses last week: if one political party
puts up a candidate, inevitably the other two would
decide to do so. But I’m wondering whether it’s
desirable that a chief constable, once retired, more or
less immediately stands for the position that the
Government wants to bring about?
Sir Hugh Orde: If I was an operational chief, the
thought is fairly terrifying. But I don’t think you
should exclude anyone. Indeed, I was at a local
government association meeting last week where a
member of the police authority was a retired police
officer, who told me about a very innovative solution
to an antisocial behaviour problem in Newquay, where
his expertise, plus 31 other agencies’ expertise, had
brought a proper solution to what has been an ongoing
problem in Newquay. So I think maybe seeing retired
officers at a PCP meeting is probably a more likely
scenario.

Q86 Mr Winnick: One of your predecessors some
years ago as president of ACPO was, of course, a
chief constable and he had got into some controversy.
It is alleged, for example, that at the time when he
was chief constable, due to retire, he said that he may
be a prophet with a direct line to God. Even if one or
two politicians may believe that, they wouldn’t say so
publicly. It is that sort of person, perhaps a powerful
personality who believes he has a divine mission, who
could decide this would be an excellent opportunity
to get elected.

Sir Hugh Orde: I think Mr Anderton, whom I think
you are referring to, from Greater Manchester has
disappeared. I think there will be some strong
personalities who will be police and crime
commissioners. I think that is a good thing. If this is
all about visibility and holding to account, I don’t
want a shrinking violet. I want someone that stands
up and says, “I care about my whole constituency, not
just the people I’ve been elected by and I’m going
to hold the chief to account to make sure the whole
community is protected.” That is a big job.
Chair: Sir Hugh, thank you, as usual, for your
evidence. We look forward to seeing you at the
Cannock Chase summit meeting that we are having
with all political parties and stakeholders—
Mr Winnick: And the President of the United States.
Chair: to look at the new landscape of policing. No,
President Obama can’t come.
Sir Hugh Orde: I can’t wait, Chairman. Thank you
very much.
Chair: But you will be there, the President of ACPO.
Sir Hugh Orde: I look forward to it.
Chair: Thank you very much.
I call to the dais Rob Garnham, the Chairman of the
APA.
Witness: Rob Garnham, Chair of Association of Police Authorities, gave evidence.

Q87 Chair: Mr Garnham, thank you very much for coming to give evidence to us today and congratulations on your appointment. A figure was given by the APA that it would cost £100 million to implement the new proposals to elect police and crime commissioners. Where did this figure come from?

Mr Garnham: When we went to the public, one of the first questions the public ask us about any new system is, “How much is it going to cost?” So we felt, as the APA, that we ought to get some independent advice on how much it would cost. There was no detail produced from the Home Office on what it would cost, so we thought, “We need to answer that.” So we independently appointed a company to have a look at what the cost might be—both the elections and also the running costs. They came up with £101 million costing extra over the first four years of running a PCC/PCP model, which included the costs of elections and also those transition costs and other costs that don’t seem to have been brought out yet. So we said about £101 million would be the additional financial burden.

Q88 Chair: How much do you think these police and crime commissioners ought to be paid, if it’s a salary that is going to be given to them?

Mr Garnham: That could put me in a very awkward situation, but how much should they be paid? I think we’re looking at the responsibility of this person, looking at the wide geographical nature, the demographic nature, the population they’ll be serving. This is a big job and you’ll be looking at people who will be giving up perhaps other career opportunities, other streams of income. So they’ll need to be recompensed. The argument I’ve seen in some quarters is, “Should it be as much as a chief constable?” Well, I’m a councillor and I’ve never thought that councillors should get paid as much as chief executives.

Q89 Chair: What is your chief constable paid in Gloucestershire?

Mr Garnham: Upwards, I think, £140,000, £150,000.

Q90 Chair: So would that be the kind of salary you would pay someone who was a police and crime commissioner?

Mr Garnham: I think that would have to be for the public to decide and I think it would be wrong to go into an election, anybody going into an election, saying, “Here’s a new system and, by the way, this is what I’ll be demanding if you elect me.” I think that that’s a discussion outside of perhaps potential candidates and it perhaps should be some figures that we’re looking at from what the Home Office and the Government will be recommending.

Q91 Chair: From discussion with your colleagues, and you’ve heard the exchange with Sir Hugh about former chief constables who might stand, do you think there are former chairs of local police authorities who will put their names forward?

Mr Garnham: I imagine there will be.

Q92 Chair: Do you think that would be a good thing?

Mr Garnham: Yes, I think it will, because I think what’s happened over the years of police authorities is that you have dedicated people, you have elected people and independents who haven’t done it for the glory or for the visibility. They’ve done it because they believe in good governance of policing. For those people to walk away from the world of policing just as a major change such as this is happening, I think to lose all that expertise would be harmful to policing. So I can see the continuing need to maintain that expertise, maintain that input. So I imagine people will want to carry on with the job that they’re doing now.

Q93 Chair: Can you help the Committee with the issue of elected mayors? Obviously the Government is pursuing the idea of elected mayors in the top 12 cities in England and Wales. Would local people elect a mayor as well as a police and crime commissioner or would the mayor take responsibility, as the mayor does in London?

Mr Garnham: I’d seek further clarity from the Government on that because I think you have a potential conflict. If you have a commissioner who is in charge of policing but you also have the mayor who, perhaps under his banner or her banner, is saying, “Well, I’m in charge of community safety” and all that entails with the partnership working, you have two electoral mandates that might come into conflict with each other.

Q94 Mr Burley: You will be aware that the Cabinet Office Review in 2007 revealed that only 7% of the public knew who their police authority was. Why do you think the public are so unaware of who their police authority is and who sits on it?

Mr Garnham: I think in 2007, three or four years ago, there was a low figure there. We put in our submission to the Home Office paper evidence from police authorities that would say that figure was much higher. But there is a question, we cannot deny, over visibility. Now, I could say, for instance, that I know in Gloucestershire when it came to setting the council tax, that the police authority was there in the media and we were reported as pegging the council tax to a certain level. That was visibility for the council tax payers throughout the county, probably as much as anyone needed. So I think we have to look at the argument of visibility and the argument of effectiveness as well.

Q95 Mr Burley: You also heard a figure that only 8%, I think, of wards elect a councillor who becomes a police authority member. Would you and the APA accept that there is simply no direct way at the
moment for the public to choose who represents them on a police authority? That is the problem we are trying to solve with police and crime commissioners.

Mr Garnham: That’s right. I’m on the police authority because I’m a councillor. I’m there because of my political party through the county council. Elections put different parties in control and we go out on policies of law and order at local elections and what we want to do, including perhaps funding officers or funding PCSOs. As a chairman of a police authority you can turn to and I think that’s important.

Q96 Mr Burley: I was a councillor for four years until this May and I can tell you that from knocking on doors a lot of people say to me, “I have no idea how to influence the priorities in my ward or on my street or to talk to the police or I don’t know how to hold them to account”. I put it to you—tie those two things together—if you only have 8% of wards that elect a member of the police authority and you have research showing that people don’t know who is on their police authority, don’t you think it’s a bit arrogant of the APA to issue briefings to MPs that say, “The British model of accountability is the envy of the world”? Isn’t that a rather arrogant briefing to send to MPs?

Mr Garnham: I don’t think it’s arrogant and I’m sure neither you nor I would say, when you were a councillor, and I am a councillor, that everyone in my ward knows who I am. I can probably walk down the High Street and not be recognised; no problem. But when they want something, they rapidly find out who they can turn to and I think that’s important.

Q97 Mr Burley: Just finally on the Chairman’s point about having members of current police authorities standing to be the elected crime commissioners, who then have—I know it has been threshed out—some kind of board that sits underneath them to support them. If that board is essentially the other 16 members of the police authority, which it could be, and the 17th could be yourself as the police and crime commissioner, do you see that that may not solve the problem, because essentially what you have is the same system, just with one member of the old police authority now being the guy in charge.

Mr Garnham: I think, and we’ve seen as well as all the best practice and the positive attributes given to police authorities from the HMIC reports, that there are things we can improve on, whatever role we’re talking about. In that context, what do you think a police commissioner is going to have to do to acquire the publicity and recognition that the Home Office thinks is so vital to making policing more accountable?

Mr Garnham: If you are going to seek that electoral mandate you’re going to have to appeal to people and I think you’re going to have to do that on local issues. You run the risk of the PCC running on a manifesto of, “I will sort out the local issues.” So you’re not only building up public expectation, but you’re not addressing the wider regional cross-county crime and that tie-in that I think will be essential for PCC all the way through to the national, so you stop those local versus national debates and the arguments over resources. You’re in danger of having a commissioner appealing to electorates and certain parts of the electorate just on local issues. Then when they get into power and find, “Well, actually I can’t do all that and it’s a bit more responsibility that I need to show”, then perhaps that public expectation may not be met. What effect does that have on public confidence and policing if they say, “Here you are; here’s the person who’s going to solve all the issues”, and that person gets elected and then says, “Actually we can’t solve all those issues because I have other responsibilities as well”?

Q98 Steve McCabe: Are you saying the risk is that there are areas of policing that are probably not sexy but have to be tackled but they won’t figure in any of the election programmes; so the risk is they’ll be neglected in this populist appeal? Is that your fear?

Mr Garnham: That is one concern and I think that’s the beauty of current police authorities. I’m chairman because I’m nominated by my group but I’m kept in position by the votes of the independent members. If I suddenly say to the chief constable at a weekly meeting, “I think we should be putting resources here or doing this and we don’t need to collaborate with our other four forces in the southwest, let’s go down this avenue”, my colleagues on the police authority very quickly say to me, “Hold on, Rob, what’s happening on this? What’s happening on that? Why are we going down this avenue”? They make sure that we keep an eye on the national situation, and that’s going to be even more important. You’re going to have a national crime agency being set up and if you don’t tie in the new form of governance from the local all the way through to the top, you will end up with commissioners and chief constables being pulled on the local agenda and having the concerns about how they are going to resource the national.

Q100 Lorraine Fullbrook: I just want to go back to your statement you made to Mr McCabe that it would be a shame if the commissioners are elected and then find that they can’t solve all the problems. Do you think, as a councillor, you can’t solve all the problems. So are you saying they shouldn’t be councillors or, indeed, MPs?

Mr Garnham: No, I’m saying that you have to make sure that when you campaign and lay out your stall...
and have a manifesto that you do it on responsible matters, not just trying to appeal on very local policing matters in one area; that is, we will sort this policing matter. You have an awful lot of policing matters and I think a manifesto commitment from those seeking that powerful mandate is not just going to be on one or two issues. You’re going to have to talk about, if this goes ahead, how one person has taken the role perhaps of 17; how one person is going to reflect the diversity. All those kind of things, I think, will have to be brought out into the open.

Q101 Alun Michael: Can we put aside the question of which would be the most preferable system and look at the actual role, the job that needs to be done? What do you see as the key differences between the current role and powers of the police authority and the role of powers proposed for the police and crime commissioner?

Mr Garnham: Not an awful lot of difference. We are saying the police and crime commissioner will be able to hire and fire the chief constable. The police authority has that role at the moment. I believe that the role of the Senior Appointments Panel will be removed. Set the policing plan; we do that at the moment. Set the policing budget; we do that at the moment. So I think the main driver in going for PCC is not perhaps the functions that they will be given but we have a new Government and it’s the new Government’s wish that there is that democratic link between one individual who holds the chief constable to account.

Q102 Alun Michael: As far as the functions are concerned, you would say the main difference is that it transfers from being a group of people who become members of the police authority by the different channels and an individual taking those decisions. In that event, you have the experience of operating through the police authority. What kind of support teams will the police and crime commissioners need? Will it be much the same as the current police authority or will there be differences?

Mr Garnham: I think it will be different. First of all you’ll have to work out the exact nature of the Police and Crime Panel, which we don’t know yet. Will the Police and Crime Panel be the commissioner—maybe a deputy commissioner, one or two—and perform the scrutiny or will the Police and Crime Panel consist of all of that but the scrutiny is done at local government level, through community safety scrutiny committees, for instance? So I can see a change in the structure. The structure will change because if the theory is right that suddenly here is a person holding the chief constable to account and who will do that better than police authorities—let’s say that is the argument—as we’ve seen in London, that police authority or that PCC is suddenly going to have an awful lot more people knocking on their door. You’re going to have a lot more letters coming in that at the moment may go to the constabulary or may go to other arenas. So as much as you may have your policy officers, you may have your scrutiny officers on an authority, you’re going to have to think about a set-up where you’re going to need an organisation to deal with these public expectations as well.

Q103 Lorraine Fullbrook: Could you tell the Committee what happens currently if there is a difference of opinion between the chief constable and the police authority over the priorities of local policing matters?

Mr Garnham: I haven’t seen, in my personal experience, where we’ve had that difference of opinion because we have both brought into it. I say “both”: the police authority and the constabulary. I go along to local beat meetings and I’m seeing what’s happening in the local area, as do my 16 colleagues in their geographical area. So they’re intertwined with what the local inspector, what the local safer community team are trying to do on the ground. The discussions will come about at a more strategic level. It’s happened to me that a chief constable has said they need so much money; they need to put up the council tax by X amount. As chair of the authority I said, “I don’t think the police authority will agree with that”, and we didn’t give the chief constable, in that case, the council tax rise that he, in his professional capacity, said that he needed. So we had a disagreement there but the police authority discussed the various budgets that were proposed and came down on the side of saying, “We are here to represent the public and this is what we think the public will pay.”

Q104 Lorraine Fullbrook: Just going on from that, if you’re saying that the police authority basically tells the chief constable, what is your understanding of operational independence?

Mr Garnham: Operational independence worries me insomuch as if I now as chairman of a police authority, or in any future governance, we ask what’s our role? We’re there to make sure there’s safe and effective policing on behalf of the public and give them that service at a price they’re willing to pay. If I went into a discussion with the chief constable and the chief constable said, “That’s operational, I can’t tell you about that”, I would insist that he or she tells me about that because that’s not right. I think operational responsibility is a greater understanding because you will have those discussions, especially under a new model. If a PCC has been elected by the public and has that democratic mandate and a chief constable says to them, “There are areas I cannot talk to you about”, I think the democratic mandate will be the stronger card.

Q105 Mark Reckless: Mr Garnham, in this briefing you’ve provided us, speaking about the police and crime panels, at one point you say that they’ll have no stake in the success of policing and that this could establish an adversarial model with the risk of perpetual institutional conflict. Somewhat later you make the suggestion that they must have political proportionality with the panel and that it must be required to carry the vote of the crime commissioner or vice versa. It seems to me there you’re almost trying to reinvent the panel as a police authority.
Mr Garnham: If we’re going through this huge reform of policing and police governance, you have to make sure—why would everyone go through this, elect someone and then they cannot achieve what they want because there’s a panel and every time they want something the panel says, “No, you can’t have that”. Why would we all go through that pain? But I think the current system shows the strengths in having political proportionality: the representation, the value of independents and politicians working together to provide checks and balances. So we’re saying that we acknowledge that we should not go through all this process and then tie the hands of the elected individual. But you have to have a panel that is strong enough and has enough influence with the PCC so that they’re not the maverick; so that they do not run away with their ideas, but its responsibility is practised.

Q106 Mark Reckless: Wouldn’t the local council or their nominated deputies have that role?
Mr Garnham: I’d want to see, as well, some role for the independents; whether that is in non-executive or co-opted or whatever. I’ve been in the system since 1996 and the role of the independents has been so worthwhile when it comes down to some of these political decisions. You could say, “Hold on, you don’t have independents in councils, for instance, making the decisions in Parliament.” I think policing is pretty unique. We need the co-operation of all the diverse communities that we serve. We need their buy-in. We police by consent. Having an independent view sometimes helps us achieve that rather than just play with, shall I say, politics or local politics.

Q107 Mr Burley: You will be aware that it’s envisaged that one of the roles of the PCC is to control budgets and to try and find savings, especially the back office, and to mandate their chief constable to work with other forces—to have joint procurement of uniforms and vehicles, whatever it might be—so that money is saved for the frontline because that simply isn’t a role that’s being done at the moment, as the HMIC report that identified £1 billion of savings has shown. Is that a role that you relish and can you see any problems with that in the role of the PCC or is that just a really good opportunity as part of these reforms?
Mr Garnham: I think it builds on the strengths of what we have now. I’m reminded of Gwent and their recent inspection where they were praised for driving forward some of those budget cuts and efficiencies. I’m sure all chairmen have sat down with chief constables and said, “We need to drive out inefficiencies”. Now, I’m not saying chief constables won’t do that if they didn’t have chairmen. But the chairmen have the budget, they set the precept, they own the assets and the police authorities have that power and I think that’s a power that we build on and definitely should stay with commissioners or whatever, rather than transfer that to the chief constable.

Q108 Mr Burley: Do you have the power to say to your chief constable, “You will not buy any uniforms unless you do joint procurement with at least two other forces”, and can they turn around and say, “Sorry, we need to buy uniforms”?
Mr Garnham: In the southwest, the five chairmen of police authorities sat down with the five chief constables and we said, “Here are five projects we want you to lead on. One of those is uniforms, one of them is cars. We want you to procure jointly, not individually, and we will want you as chief constables to come back to the joint committee of the authorities in the southwest and tell us whether you’ve achieved it and if you haven’t, why not”. We have that power to do this.

Q109 Chair: And did they do that? Well, when did this meeting take place?
Mr Garnham: The meeting took place earlier this year. We moved to a new system of accountability, where the—
Chair: The meeting took place earlier this year?
Mr Garnham: Yes.

Q110 Chair: You gave them your view, the five chairmen of the police authorities?
Mr Garnham: Yes.

Q111 Chair: Have they come back and followed your view?
Mr Garnham: It’s work ongoing because the first problem was with the uniform, which as we thought it might—

Q112 Chair: Hold that thought for a moment. We don’t need to go through the individual procurement. But it’s taken a very, very long time for what Members of this Committee in the past have said is a no brainer: that you don’t go off and buy different cars. I was in Kent with Mr Reckless. They bought Skodas. Next door, they bought Rovers. Do Rovers still exist in their old form? But you know what I mean. Why has it taken half a century to get five chairs around the table and why has it taken so many months for them to follow up on what you’ve suggested? Isn’t that the whole point of having an elected police and crime commissioner, so they can get things done?
Mr Garnham: I’d agree.
Chair: Good. I think we’ll stop there then. Nicola Blackwood?

Q113 Nicola Blackwood: We’ve been discussing this slightly. Part of the Government’s plans for tackling this situation are to bring local accountability down, but part of it is to retain some national oversight on issues like serious and organised crime, counter-terrorism, and you have raised concerns that directly elected commissioners will somehow be more isolated than police authorities, though I’m not quite sure how. Nevertheless, it has been stated in the consultation document that, “Police and crime commissioners will need to play a key role in a range of operational and back office support functions for which it is not sensible to have 43 different approaches”, as we have now, apparently, “and to ensure that there is a correct balance between local priorities and national priorities”. So can you tell us a little bit in perhaps
Mr Garnham: I think extremely effectively, but through the Association of Police Authorities, who are one leg of the tripartite structure and who are a statutory consultee on Home Office and Government policies on policing. So you have that tie-in from the local, through our organisation—chairs of police authorities coming to our policy groups, coming to our board, coming to our council—and those members then being on various Home Office boards, various tripartite boards. For instance, I’m a board member of the NPJA as well. You have total local buy-in through police authorities to the national, so we’re influencing the national at the moment. I think that works. The danger is if we move to a new model and you say, “PCCs, you can just operate in your local levels. That’s fine.” How is that governance—all the way through to setting up new structures like the NCA, overseeing the huge amount of work we do on national bodies—going to continue? We raise that as a risk, saying we need to make sure there is still a national platform for policing governance to be able to operate at that level.

Q114 Nicola Blackwood: How can you say that police authorities are working together very effectively if you still don’t have neighbouring forces sharing procurement, let alone lining up on national priorities? It can’t be working effectively.

Mr Garnham: Well, no, I think it is. Everyone says, “Okay, why haven’t you bought the same cars? Why haven’t you bought the same uniforms?” They don’t say, “We’d like to congratulate you on the fact that you’re buying a joint firearms training unit, that you’re fighting serious and organised crime together, that you have your regional asset recovery squads, that you’re doing dog training in one area.” People focus on, shall I say, the minority rather than the majority of where good collaboration has worked.

Q115 Nicola Blackwood: Although I believe that when we had Supt Stephenson in, he stated that there were serious concerns about local forces’ ability to deal with serious organised crime, because they weren’t prioritising national issues as opposed to local policing.

Mr Garnham: Again, I’d say look at the southwest just as one example. Okay, keep away from the southwest; there is Kent and Essex joining together to look at serious and organised crime, how we’re going to fight it. There are areas that if we spent the time, we could say, “This is working.” Is it perfect? No, it’s not, but there are areas of good practice.

Q116 Nicola Blackwood: So how do you recommend going forward in any other way than retaining police authorities? If you have the PCCs, do you think that it would be a good idea to have some kind of national group of a forum of police and crime commissioners or an association of police and crime commissioners?

Mr Burley: And what would be the collective now—a menace?

Mr Garnham: A solution, maybe? I would say we need a national platform for policing governance, if that’s commissioners. You will need to bring those people together, because, for instance, let’s look at the NCA. If it is fighting crime on a national level, that’s going to mean it’s going to have tentacles everywhere, it’s going to call on local resources. It may even call on local chief constables on tasking and co-ordination. If your PCC is not brought into that, you will then have, “Hold on, Chief Constable, that’s national. I do not want them coming down here saying that they are going to do this and this with our resources”. So you have to give that commissioner, that governance body, the responsibility to say, “We acknowledge that they’re going to come down here from time to time.”

Q117 Chair: Mr Garnham, you have heard Sir Hugh; he has not ruled out the possibility of these commissioners joining ACPO.

Mr Garnham: I think you will see ACPO change. Is it right for—

Q118 Chair: Basically, all this is up for grabs, isn’t it?

Mr Garnham: It is. The funding of ACPO is rather strange as well, when police authorities fund ACPO to the tune of £800,000. Some people could say, “Hold on. Those holding them to account are paying them cash. Is that a good system?”

Q119 Steve McCabe: I just wanted to clarify a tiny point. I think we all agree that there are examples of police authorities not co-operating as well as they could. What in the documentation gives you absolute confidence that police commissioners will have to co-operate with each other and what’s to stop the police commissioner of a big authority like West Midlands saying, “I’m fed up with these people in Staffordshire”?

Mr Garnham: What gives me the feeling that that is going to be all right? I don’t think it is there. I still raise it as a risk. I think you will need in a Bill something that says there is that duty to have, yes, the local solution, that’s why you’re there.

Q120 Steve McCabe: So it wouldn’t be any different unless we legislate to say they have to co-operate? It wouldn’t be any different from the current situation we’ve been questioning you about?

Mr Garnham: I think you need that duty to look at the regional, to look at the national and that collaboration as well.

Chair: Mr Garnham, thank you. I will write to you, just to follow up on the meeting that you had earlier this year concerning the purchasing of uniforms and other interesting matters of that kind. And I’d be most grateful for a reply, because I think the idea was a good one. It’s just whether or not it was implemented that I think would be of interest to this Committee.
Thank you so much for coming in. If there is anything else that you would like to put before the Committee on behalf of your association before we complete our inquiry, please do write to us.

Mr Garnham: Okay.
Chair: Thank you.

I call to the dais Councillor Richard Kemp, the Vice-Chair of the Local Government Association.

Examination of Witness

Witness: Richard Kemp, Vice-Chair of the Local Government Association, gave evidence.

Q121 Chair: Councillor Kemp, are police and crime commissioners and crime panels now a done deal? Do we accept them as a principle? Do you accept the Government will have a Bill on this and is it a question of working out the detail?
Mr Kemp: Well, we accept the Government will have a Bill. That doesn’t mean to say we are satisfied with the Bill. The view of the Local Government Association is that police and crime commissioners and all the paraphernalia that go with it, where there is still an uncertain architecture, will not produce the results that the Government want. In fact, we believe that they will be dangerous for policing. We are suggesting an alternative in the papers we have given you that would replace the police authorities with a system that produces much greater interconnectivity with the police and all the other parts of the public sector, which must work together to create safe neighbourhoods and communities for our people to live in, in a cost-effective way.

Q122 Chair: Is that an acceptance basically that the current system doesn’t work?
Mr Kemp: Yes. We are not supporting current police authorities and the way they’re formed. We suggest a much closer link with portfolio holders for community safety in local authorities.

Q123 Chair: What kind of influence would you like to see local government have on the way in which police and crime commissioners operate?
Mr Kemp: Well, as I don’t believe you should have police and crime commissioners it’s very hard to say how we think we should relate to them. And I think there is a difficulty, whether we are talking about police commissioners, a police authority or our proposals, to differentiate between the operational interconnectivity between councils and the police force and any sort of police authority. In Merseyside, we work with the police at five levels, where there is a clear, defined relationship between appropriate councillors and appropriate police officers. They start with the neighbourhood, it goes through to the wards, it goes through to the district, it goes through to the city and it goes through to the conurbation. On all those, I can show interconnectivity and I can show the police being responsive to the views of local people expressed through the forums that the local authority have, which relate not only to the police but to all the other public service agencies that have to work together.

Q124 Chair: Do you have meetings with, say, the chief constable of Manchester and others and the chair of the police authority in Manchester—you’re representing Liverpool—to discuss things like, “Where do you buy your uniforms from”?
Mr Kemp: No, I don’t. I assume at the moment that is a function of the police authority, though I would point out that better procurement doesn’t always mean bigger procurement. DCLG last week announced the closure of its Firebuy programme, which was the programme to bring procurement of fire engines and similar things to the Fire Service. That didn’t work. It ended up being more expensive to do big procurement than small procurement. So we must not make assumptions.

Q125 Chair: You mean different areas are still buying different fire engines?
Mr Kemp: Well, they have different needs. If you’re an urban fire authority you might need a different fire engine than Cumbria, for example, for a variety of reasons.
Chair: Of course, absolutely. David Winnick?

Q126 Mr Winnick: Is Mr Kemp, your association, as we’ve seen in the paper that has been submitted to us, is far from enthusiastic about the election of police and crime commissioners. What would you say if the Government or those who are in favour say, in effect, “You have a special interest and, therefore, one shouldn’t be surprised”? Mr Kemp: I would say to anyone who says that that they ought to look at the overall policies that are contained within the coalition agreement. And there are two areas where I think the police commissioner proposal varies from them and these are two related areas. The first is my understanding is that Government will support tomorrow the concept of place-based budgeting, which understands that to deal with any problem you need to bring a range of agencies to bear on them, and that there is tremendous waste within the system. So we want to bring those budgets together. That leads us to the other point that in the police commissioners’ proposal, in our view, you’re not only entrenching a silo, you will make a silo situation worse. So what is being proposed here is not in accordance with most of the things that I understand and we understand to be in the coalition agreement.

Q127 Mr Winnick: I represent a West Midlands’ constituency. We will be affected if this goes through—as it probably will, since the Government has a majority—but London is not. Isn’t there something odd when the capital is exempted for all kinds of reasons, which I won’t go into now, that the Government justifies? Why should London be treated
I think, because we’re concentrating here on just a very simplistic view of the elected governance arrangements for the police, we’re ignoring all those other interdependencies. There are lots of similarities, for example, between the London system and the Merseyside system; a lot of activity based on wards; the role of the BCU — basic command unit — commanders and, in this case, the borough leader and in Liverpool’s case two BCU commanders. So there is a series of interdependencies between the police and the rest of the public sector that are very similar in different urban areas and between urban areas and rural areas where I can trace the same sort of pattern.

Q128 Mr Winnick: Do you consider that the previous government, having suggested and proposed what the present government is doing, decided because of the representations that were made from all kinds of bodies — including your own, I believe — to drop it? Do you think the previous government were willing to drop it?

Mr Kemp: I have no doubt at all that the overwhelming evidence provided by all the parties in local government to the previous government was successful. I hope that similar lobbying, which will take place if this Bill goes ahead, will be equally successful.

Mr Winnick: Thank you very much.

Chair: It was a recommendation of the Select Committee, in fact, that caused the previous government to drop it.

Mr Kemp: We can all take the credit; I hope we helped you.

Mr Winnick: Who could doubt that for one moment?

Q129 Mark Reckless: Mr Kemp, you were concerned about police commissioners operating in a silo potentially. But, to a degree, wouldn’t you agree we have silo issues with the system as now? Would one way to mitigate this perhaps be to have the commissioner overseen by a panel of local government leaders or the portfolio holders?

Mr Kemp: Clearly, in the evidence we are giving, we believe that the current constitution of the police authorities is almost as unconnected as the police commissioners would be. That is why I keep coming back to the fact that we relate at a number of different levels and we do it incredibly effectively. If I were to talk to all 23,000 councillors and put them in a room and we had a vote on who was most likely to be our best partner consistently, a very high proportion of them would give the police.

So what we have to look at is ways of enhancing the interconnectability which currently works, which can be built on. So we are proposing that you work on those and introduce a system whereby the portfolio holders for community safety, which go back into the local authority and have their own connectivity, come together. Our fallback position for the Bill is if you insist, as a Government, on having the police commissioners, would the Government change its view on the way it’s trying to put the support and the scrutiny mechanisms in place to adopt our proposal because that would improve what we considered to be a poor job, but it would make a poor job better?

Q130 Dr Huppert: Thank you, Councillor Kemp, for coming. Can I say Mr Burley is apparently quite envious of your lapel pin; I don’t know if you have a spare one for him?

Mr Kemp: I will let you have one. It is £2.50, Julian. I know you don’t want to pay.

Dr Huppert: Can I ask about the powers and membership of the panels? If I can firstly just look at the powers, I think that is probably the most important thing to look at first. Your comment is you are not very happy with the range of powers and there are various things in the consultation paper. Can you say a bit more about what powers you think there ought to be within the police and crime panel?

Mr Kemp: Well, again, I don’t believe there should be a police and crime panel in that way. Our proposals will be to bring all the resources of the public sector together in a strategic body across a county, across a conurbation, in order that they can work together with the police; with operational dependence but also perhaps operational interdependence, because I believe that’s what the police effectively has. I know of no police force which is an island unto itself anywhere and if there were I think we would all have serious concerns about it. So what I want to do is to see a strategic body, in my case across Merseyside, which looks across the round at the needs and that relates the policing needs to the other needs we have as a community and makes sure the police is a full partner.

I have very little difficulty with that. I sometimes think I’m here to get promoted by the chief constable. We have very good working relationships with the Merseyside police and this is true of all the five districts. As I said, we could show that councillors very much buy into this. So it is a strategic interconnection. Then someone will have to set the level of council tax. That is a proper discussion that should be taken, to my mind, not by one person but by a group of people who come from the councils because they will have to bear in mind the consequences across all the city, across all the conurbation, of inappropriate financial decisions.

Q131 Dr Huppert: I appreciate your concerns about the role and I am reminded, somewhat belatedly, Chair, that I should declare an interest as the vice-president of the LGA. While I accept your concerns about the whole system and the roles of the panels, if you were told that there was no option — that Government was not prepared to look at that differently and there were going to be these police and crime panels — what then would you say ought to be their powers and membership?

Mr Kemp: Well, their membership should be elected members. I have no doubt that the Government is absolutely right to say that bodies that make public decisions should be elected. In this case, I believe they should be indirectly elected for obvious reasons. But I am very comfortable with the approach that the Government has taken getting rid of a whole range of
quangos, layers of government, which have stood in the way of good governance. So they should be elected. They should have maximum powers of scrutiny but they should also be responsible for the relationship back from the one police commissioner, which I think is an unsatisfactory state and I can’t repeat that too often, back into the wider public sector. I have just come from a meeting at the Department of Health about how we are bringing public health back into local government.

Chair: Yes, thank you. We understand. A lun Michael?

Q132 Alun Michael: In the paper, and in what you’ve said this morning you’ve specifically referred to governance, which I think is important because it is a topic that people are rarely bothered about until it’s too late as we found with the banks. I’m interested in the impact of these changes on the local work of crime and disorder reduction partnerships. I suppose I ought to say that I introduced those in the 1998 Act and, therefore, I’ve obviously followed them with some interest.

Chair: So you can’t criticise them.

Mr Kemp: If I can criticise the Government my party is a member of—

Alun Michael: You can criticise the operation of them, I am sure.

Chair: Yes, Mr Michael, sorry.

Alun Michael: Behave yourself, Chairman. But how would the introduction of a police and crime commissioner affect that, particularly because they are partnerships that operate very much at the BCU level and below rather than on a force-wide basis?

Mr Kemp: Yes, I think that is one of our principal concerns. There are certain elements of this system which are working very well and I’m not, again, just being nice to you because as you know I haven’t been necessarily in the past. But I think the crime and disorder partnerships, after a rocky start, and it was a rocky start as we had to learn to do things, are now very powerful. In a way, the way I see Merseyside developing—I apologise if I keep coming back to my own area—is that we see this as being a coalition of crime and disorder reduction partnerships which work at a more strategic level, because they will have there a range of people who can deliver back into their own authorities. Now, we have real difficulty with the composition of police authorities at the moment. We don’t believe that they should be unelected. We don’t believe that magistrates or independents should be there. There is a role for them as co-opted or advisory; I’m not saying that councillors know everything. But at the moment it is very difficult to get leading members in many areas to go on the police authorities because they can do more to influence crime and antisocial behaviour activity by being a cabinet member within their own authority than they can by being a member of a police authority that has very little real authority. So we’re trying to link the two together in our proposal.

Q133 Alun Michael: To play devil’s advocate to that, isn’t the police and crime commissioner likely to work with those cabinet members, a system I don’t like very much, in the local authorities within the police area?

Mr Kemp: It’s a question of scale, isn’t it? If we’re looking at the areas these people will cover, it’s between 500,000 and, say, 2.5 million. The 2.5 million one is 50% bigger than Northern Ireland, which not only has its own parliament but it has its own justice minister, its own select committee, its own scrutiny activity. Perhaps this would work on the smaller end of the existing police forces, but I come from a conurbation and I cannot see someone knowing enough about the 1.45 million people that live in the area and probably something like 1,000 neighbourhoods to bring much to bear on the detailed knowledge that a cabinet member for this subject has working with—in Liverpool’s case—89 colleagues who do know their areas backwards.

Q134 Alun Michael: I have seen a suggestion that police and crime commissioners should have a role in commissioning community safety work. I’m not sure what commissioning community safety work would mean. Do you have any views on that?

Mr Kemp: I think I could say I’m in the same position as you are.

Q135 Steve McCabe: The Deputy Prime Minister believes the best way to maximise turnout is to have multiple elections and contests on the same day. What’s going to be the best way to maximise turnout for police commissioners if we are due to elect them for the first time in 2012?

Mr Kemp: Well, I don’t think there are any gimmicks to get increasing turnout. I’m sure my good friend the Deputy Prime Minister has some very good ideas about how to do it, but turnout increases with the relevance that people see of the people they’re electing. Generally, the turnouts are better in small areas where people know the individual than they are in big areas. So the turnout, for example, is much greater in rural areas proportionally than in urban areas. In rural areas, the wards are not small geographically but small in population terms. So my feeling is that the bigger the area, the less the turnout will be because people will say, “Who is this person? I don’t know what they’re doing. I don’t understand this”, because people want to talk about the crime problems in their street not their conurbation.

Q136 Steve McCabe: How low would the turnout have to be before you feared that the person didn’t have a mandate at all?

Mr Kemp: I don’t think that’s a question I can answer just in the context of elected police commissioners. The mandate for a lot of us is quite fragile. I get 28% of the population of my ward out to vote for me.

Q137 Steve McCabe: I think Mr Burley quoted a figure of 8% for local councillors earlier. If it was less than 8% would that person have a mandate, in your judgment?

Mr Kemp: They would have a legal mandate but not a moral one.
Q138 Mr Burley: There has been a lot of discussion about the types of people who would stand for this post and whether they will be from a mainstream party, whether they will be independent or even whether they will be from some of the fringe far-right parties that you wouldn’t want standing. Do you have a view on the type of people who will stand for this post and do you share any of the concerns that we could have the BNP or so on going for this kind of thing?

Mr Kemp: I have very little thoughts about who might stand because in a democracy, providing they are sentient, not criminals, live in the area, work or whatever, they are entitled to stand and I wouldn’t do anything to stop them. I do have a view, though, that none of them will get elected, which is the most important thing. If you are doing an election across the 1.45 million—that must be about 1.1 million electors on Merseyside—you’re going to need a machine. And that will mean that I would be almost 100% certain, unless some really peculiar person came along or really marvellous person, all these political commissioners will come from the three main political parties.

Q139 Mr Burley: You don’t think there needs to be any restrictions at all on who could stand—for example, we talked earlier about a chief constable who had just retired and whether that person should have a breathing space before they can stand—or do you just think there should be no restrictions?

Mr Kemp: I think that would be incredibly bad practice. I think it would be, therefore, an incredibly bad idea. But if he is legally able to stand in any other way, I don’t see why we would put a restriction on him. But gamekeepers turned poachers have never done very well in a variety of ways. So I don’t think it’s a good idea but, at the end of the day, if we’re having elections, it is up to the electorate to decide whether they should have an ex-chief constable or not. And if they’re standing as a Liberal Democrat—sorry, all parties are here. I had forgotten.

Q140 Chair: We are indeed. Just going on to the timetable, it has been suggested that May 2012, with the Olympic Games and so on—there is a lot happening in 2012—is not the best time because police resources are going to have to be borrowed from around the country in order to prop up what’s happening in London. Is this a valid point for the Committee or is it just detail that we shouldn’t really be worried about?

Mr Kemp: I don’t see that that would make all that much difference to the establishment—

Chair: Okay.

Mr Kemp: But I would say I have great worries about the timetable of the Bill, which I think is too hurried. Hurred legislation is almost invariably poor legislation.

Chair: We have noted that. Nicola Blackwood?

Q141 Nicola Blackwood: You mention in your submission, Mr Kemp, that the LGA supports making the police more responsive to the public. I don’t think anybody would argue with that; especially given this horrific statistic that says that only 7% of people would know to go to their police authority if they have a problem with local policing, which certainly chimes with my experience on the doorstep. How do you think that police and crime commissioners, suspending for a moment your objection to the principle—

Mr Kemp: My disbelief, yes.

Nicola Blackwood: How do you think they might best make the public aware of their work and their role? We had some evidence earlier from Mark Rowley, the Chief Constable of Surrey, saying that the police already have public meetings, they use crime mapping, they use web, they use social media. What do you think might improve that and do you think that the makeup of the crime commissioners’ support team might be relevant here?

Mr Kemp: People want to know about things that interest them. The people of south Liverpool aren’t interested in what the elected police commissioner, or for that matter the chief constable, is doing in north Liverpool, never mind Southport. In fact, they’re not really interested in south Liverpool; they’re interested in their neighbourhood, their school, their shopping centre. If the elected police commissioner wants to make their presence known, then they have to do it in the way that the police do it now—really bringing it back to the local level so the police and the council and, in my view, all the public sector agencies ought to be working together on consistent messages. For example, in Liverpool the police no longer have their own police forums because we have one a quarter in every ward where everyone comes to. We’re now trying to refine the situation where the police don’t put out their own communications any more than the public health department or the council do. We’re trying to get ward-based newsletters which encompass what the public sector does. So whether it’s a police commissioner, a chief constable, whatever your governance arrangements, is almost irrelevant to that. The police—that’s who people are interested in. They’re not interested in any of this, actually. They want to know that the police know what’s going on in their area and are responding to needs. It’s their area that counts.

Q142 Mark Reckless: In terms of discovering these local priorities and seeking to get the police to act on them, are you comfortable with the idea that—you can decide whether it is elected commissioners or local government— it is appropriate for local politicians to discover what those priorities are and to ensure the police tackle them?

Mr Kemp: A bsolutely, and that’s why there is a close relationship at ward level. Half my case work comes because we have a district centre with lots of licensed premises. That takes up a quarter of all the police time in my ward. So it wouldn’t make sense for me and the inspector for the area not to work together closely on licensing, planning and highways issues which relate to licensing. Sometimes he will go to the
licensing committee rather than me because we work out in each case who is the most appropriate. Working together means operational efficiency and it means a response to local needs.

Q143 Mark Reckless: But the idea that the police should just answer to the law and these sort of issues of operational independence are just for them to determine, would you reject that?

Mr Kemp: I don’t think the police would want it, I certainly wouldn’t want it, and it wouldn’t work.

Chair: Thank you, Councillor Kemp. You have been very open and transparent with us today. We are most grateful. If there is further information you wish to put before the Committee then please do so. We anticipate getting our report ready by the end of November.

Mr Kemp: Thank you very much, Chair.

Chair: Thank you very much.
Tuesday 26 October 2010

Witness: Professor Jonathan Shepherd, Cardiff University, gave evidence.

Q143 Mr Winnick [in the Chair]: Would any member of the Committee like to declare an interest? Alun Michael: I have a son who is employed as a Chief Executive of the North Wales Police Authority. Mark Reckless: I am a member of Kent Police Authority.

Q144 Mr Winnick [in the Chair]: Professor Shepherd, the Chair is absent due to another meeting and I have taken his place for the moment. Thank you very much for coming along to give evidence to us on the Government’s proposals to establish elected police commissioners and so on. You have written quite a bit about the subject and are undoubtedly an authority. We look forward very much to your evidence. May I begin by asking a question or would you like to make an introductory statement? Professor Shepherd: I am happy to take questions.

Q145 Mr Winnick [in the Chair]: Thank you. How far do you believe the Government’s suggestion that police and crime commissioners should be elected will improve the position of the police in England and Wales as far as offending and reoffending are concerned? Will it make any difference? Professor Shepherd: It may make a difference if the commissioners commission continues scientific crime data collection and analysis and use, and if it commissions tasking of police services based on highly scientific, rigorous data on a continuous basis, particularly from offending and reoffending. That role is essential and if it is lost in the new world of police and crime commissioners, we are going to take a backward step in levels of crime.

Q146 Mr Winnick [in the Chair]: The Government seem determined to go ahead with what many believe to be a controversial subject. As you will know very well, Professor, the previous Government intended to do the same and made a decision in view of the protests that were made and opposition from this Committee. I am not suggesting that that was the deciding factor, but there was certainly much more opposition to the idea than otherwise and they dropped the proposal. Do you feel that this Government are likely to listen to the views of those who have many doubts, not least within the police force and police authorities, about elected commissioners? Professor Shepherd: The roles of the commissioners do need to be defined and defined well. It would be a backward step if there were a free-for-all and the police commissioners were given complete freedom. The parameters need to be defined. For me, as I’ve said, that includes commissioning continuous data so that the patterns of crime can be identified and carrying out or commissioning rigorous surveys, perhaps using police community support officers, to gather information on citizens’ fears and concerns about crime. That is important because fear of crime is just as important as crime itself and the drivers of those things are different. It reminds me of the situation in the NHS where there is a lot of demand from the worried well, particularly in middle-class areas. It seems to me that unless the community is surveyed properly to find out what citizens’ concerns and fears really are, then there will be a bias in commissioning that would perhaps reflect anecdotes and the views of let’s call them the fearful safe—people who think that crime is a major problem in their areas and are worried about it, but in fact are just like the worried well; there is not really a problem. So I think that the Government need to listen to pleas for a rigorous approach to commissioning based not on anecdote, not on fad and fashion, but on real scientific data about crime and the fear of crime.

Q147 Mr Winnick [in the Chair]: Have you yourself made representations to the present Home Secretary on this issue? Professor Shepherd: I was privileged to be asked, just before the general election, to write a report for the Home Office on violence prevention, particularly data sharing. But no, I have had no contact with the present Home Secretary.

Q148 Mr Winnick [in the Chair]: Does that stop you from having such contact in the future? Professor Shepherd: In fact, as I understand it, the Home Secretary sat here and promised, fairly recently, to visit Cardiff to see the data-sharing enterprise in process.
Mr Winnick (in the Chair): I’m sure that would be an interesting visit for her. Perhaps we will find out what happens later on.

Q149 Nicola Blackwood: Professor Shepherd, I wonder if I can just follow on from that and ask whether you have any evidence that the Government intend to set their policing strategy on the basis of fad, rather than on scientific evidence?
Professor Shepherd: No, indeed. I mention that simply because it is a potential pitfall. With a focus on greater responsiveness to and engagement with the public, that needs to be balanced in my view with the rigour of high-quality data about crime and the fear of crime. I wasn’t suggesting for a moment that the Government were ignoring that, but I think it is a pitfall.

Q150 Nicola Blackwood: My understanding is that they want to bring in data by street so that people are much more informed about the exact nature of crime in their area and can respond accordingly. Do you think that that will help to alleviate that risk?
Professor Shepherd: I think that that street-level information about crime is really important—yes, I do. We have learned in the Cardiff community safety partnership over the years that information, that intelligence if you like, down to the micro level about, for example, violence and antisocial behaviour inside, or immediately adjacent to, a licensed premises is key to tackling the problem. Whether people will understand exactly what’s happening in their street or pub is another matter. Their opinions are certainly important, and the public can be powerful advocates for change, but that needs to be balanced with the rigorous crime data that I have been talking about.

Q151 Mr Burley: You mentioned a couple of times the need for scientific data and not policing by anecdote, but I think that people know what is and isn’t going on in their neighbourhoods. They know whether they see police on the streets, whether they are getting the response to things such as antisocial behaviour and whether the police are tied up in bureaucracy. Anecdote is, perhaps, more important than the scientific evidence that you cite. Do you think that the public currently have sufficient opportunities and information to influence the priorities of the police locally?
Mr Winnick (in the Chair): Before you answer the question, may I say to my colleagues that sometimes I ask witnesses to speak up, and there is certainly no necessity to ask you, Professor, but my colleagues also need to speak up. With all due respect, Mr Burley, this is not a private meeting.
Professor Shepherd: On the first point, let us take the analogy with health. Would we expect people to know the size of a measles or Legionnaire’s disease outbreak, the size of the problem of road accidents or to know about vaccination programmes? We’d expect them to have a view and to be able to tell doctors and other officials about their experiences of the NHS, but we wouldn’t expect them to know how many cases there had been in their community. That’s why we have public health bodies and good health surveillance to do that for us. By the same token, I don’t think that we can expect people to know objectively about the size of any particular problem in their area. Sure, they’ll have examples, which they can cite, but the analogy with health is a really persuasive one. Stories and anecdotes are important, but the data are also important. Forgive me, I’ve missed the last question.

Q152 Mr Burley: It was whether on the back of that you think that the public feel that they have sufficient opportunity to influence policing locally.
Professor Shepherd: I think that the proposals to do with beat meetings are welcome. The formation of community safety partnerships was a really first-class step in enabling different sectors of the community to contribute to crime reduction policy. It was remarkable, and perhaps an example of the big society in action, to see community safety partnerships coming together for the first time 15 years ago and to see communities forming in front of one’s eyes as people met who had never met previously, but that has more to do with the representatives of the different agencies than the public.

Q153 Mr Burley: How do you think that that situation will change with the Government’s proposals for elected police and crime commissioners and the panels that will sit under them to support them, as opposed to the situation now with police authorities?
Professor Shepherd: That would increase the participation of local people, but I’d be surprised if, on its own, it drove down crime further. We have seen year-on-year decreases according to the British crime surveys over the past 15 years. From emergency department information about injuries sustained in violent crime we can see reductions year-on-year. Behind that the secret is better targeted policing and ever greater reliance on good clinical—if I can use that term—analysis of what is happening. If we neglect that then we are throwing the baby out with the bath water. We must retain that; we cannot depend on individual stories as the basis for strategy in this area, important though the stories undoubtedly are.

Q154 Dr Huppert: I am delighted to hear your comments. I think that for far too many years Government policy in this area has been driven by anecdote and the Daily Mail, rather than by evidence of what is actually happening. I applaud all efforts and I hope that the new Government will take greater account of the evidence base. There is a tension between a localist agenda and an evidence-based agenda here, because we know that public perception of crime prevalence does not fit with what is actually happening; there are numerous examples of that. Are you concerned that increased localism and increased power for the police commissioners would mean that resources would go to the people who shout the most, rather than the people who actually need the most?
Professor Shepherd: In a way, localism is already represented by CSPs, so I think that it is an excellent decision. The Minister, James Brokenshire, has written recently to those of us who chair CSPs, saying...
that they would be strengthened. That should be the basis of the localism.
To avoid the sorts of biases that you are talking about, the commissioners need to ensure that CSPs are well managed. They need to ensure that CSPs have adequate analytical capacity and that analysts are prominent and not seen as backroom staff, away from the front line of advice locally. By the same token, it is important that the commissioners ensure that CSPs are delivering the coalition commitment to data sharing and use, which has been shown to reduce violence in particular substantially.

Mr Winnick (in the Chair): Professor, forgive me, but we have a very crowded agenda. Please keep your answers brief as far as possible, because we are already—unbelievably—running out of time.

Dr Huppert: I will take your hint and finish.

Q155 Mark Reckless: On that point, Professor Shepherd, your idea is to have the CSPs perhaps managing performance to some degree, with an appropriate analytical focus, working with the police and crime commissioners. How would you see that process working into the planning and crime panel that will be a check and balance for the commissioner? In particular, would you support the idea of the council portfolio holders forming part of that panel?

Professor Shepherd: I do not really know the detail of what is being proposed there, so I do not have a view. All I would say is that there is duplication at the moment, which needs to be tackled. There are too many bean counters and not enough analysts who have the professionalism and expertise to direct and advise at the senior level, so that would need to be protected and enhanced.

Perhaps the panel could also ensure that crime prevention is evidence-based and that the strategies that are implemented have a strong basis in evidence about what works. My experience has been that CSPs and policing can be innovative, but can lack the vigour to find out whether the innovation is working. A brake has to be applied to innovation that has not yet been tried and tested.

Q156 Alun Michael: I have two questions. First, you referred earlier to the use of data by police. Do you accept that data— including your A and E data, on which you have given evidence — are being used better and better by the police in terms of understanding where they can intervene, particularly in relation to violence, but that that information is not shared in a way that is really informative to the local community? It is at a macro level but not at the community level.

My second question concerns the definition of the role of the commissioner. The Government are clearly going to go ahead with the election of commissioners. How would you define the role and responsibility of the commissioner in order to maintain the effectiveness of the crime and disorder reduction partnerships which you have referred to and the key to localism?

Professor Shepherd: It seems to me that from the inception of community safety partnerships after the 1998 Act, policing has become slowly more scientific. One of the more recent manifestations of that has been the adoption of the national crime recording standard, which has brought more uniformity to the recording of crime in the forces. That is to be welcomed but we’ve still got a distance to go, I would submit. My own team when giving a seminar about the data-sharing arrangements in the north-east found that there was one particular area where the use even of police data by the local force for resource allocation seemed to be somewhat of a foreign concept. It is patchy and there is room for an ever more scientific approach to this.

With regard to the commissioner’s roles, I have outlined some of the roles here but for me they need to be defined and put into a job specification so we are not left in a situation where the commissioners do not know what the distinctive contribution of each partner agency is. That would be important. So, for example, the commissioner would need to know what the distinctive contribution of the health sector would be and the distinctive contribution of the CPS needs to be spelled out. The induction process for them is going to be really important.

Q157 Lorraine Fullbrook: Professor Shepherd, the Home Office consultation paper discusses the role of local partnership working and proposes giving local community partnerships greater flexibility to decide how best they should deal with their communities. It also gives the commissioners a role in commissioning community safety partnership work. What are your views on the Home Office consultation paper with regard to those two issues?

Professor Shepherd: Local flexibility is good. One of the real strengths of community safety partnerships is that they provide that ability to be flexible locally and to address the real problems in that community, which may be very different even from the community next door. There is a “but”: I think it is flexibility but within certain parameters. So, for example, we would not want to see crime prevention or crime reduction strategies introduced that were known not to work or were even positively harmful. I think of the Scared Straight initiative where the idea was to introduce young people to prisons to show them how awful prisons were and to deter them from behaving in a criminal or antisocial way. It had precisely the opposite effect: these young people were attracted by the lives of some of the prisoners and so it increased rather than decreased crime.

Q158 Mr Winnick (in the Chair): So showing people round prisons, far from acting as a deterrent, impressed them?

Professor Shepherd: Yes. It is known as the Scared Straight initiative and it was shown to increase offending rather than decrease it. That is an example of, with the best will in the world, doing more harm than good. It is the same in health care, of course.

Q159 Lorraine Fullbrook: In essence, Professor Shepherd, you would agree with the consultation proposals to give community safety partnerships greater flexibility to decide how best to deliver community working in their areas?
Professor Shepherd: Yes, I would, but not to the extent that the partnerships were delivering things that didn’t work or hadn’t been proven to be effective.

Q160 Lorraine Fullbrook: What about the role of the commissioners in commissioning work locally? How do you feel about that?

Professor Shepherd: One of the lessons I learned in my review of data sharing for violence prevention is the crucial importance of the management of community safety partnerships, which are comprised of round-table representatives of various agencies. It is very important that such partnerships are well managed so that each person at the table knows what their distinctive contribution should be. The current situation is one of suits turning up to a meeting where they don’t really know what they’re supposed to be doing. There is potential for real waste, because those practitioners, and others, might better serve the public by being back at their hospital or in their police station rather than in meetings.

Q161 Lorraine Fullbrook: In essence, the role of the commissioner is that of a chief executive, if you like, which would accommodate what you’re saying.

Professor Shepherd: Yes, indeed. I very much agree. If the commissioners are able to bring a higher level of management to partnerships, that would be very helpful.

Mr Winnick (in the Chair): Thank you very much, Professor, for coming along today. The evidence that you have presented to us has been very useful. Again, we very much appreciate your giving your time.

Professor Shepherd: A pleasure, Sir.
Written evidence

Memorandum submitted by The Local Government Association

1. The Local Government Association (LGA) is a voluntary membership body and our 422 member authorities cover every part of England and Wales. Together they represent over 50 million people and spend around £113 billion a year on local services.

2. Though the Welsh Local Government Association is in membership of the LGA, they have submitted separate evidence to the Committee and this evidence therefore just covers police commissioners in an English context.

EXECUTIVE SUMMARY

3. The LGA supports making the police more responsive to the public, but does not believe introducing directly elected individuals is the best way of strengthening police accountability. The LGA has therefore developed an alternative model for strengthening police accountability.

4. Though we welcome less emphasis on targets, we are concerned that the government’s proposals leave too much ability for Whitehall to dictate what chief constables do, and also leave the chief constable in a stronger position in relation to police and crime commissioners than they enjoyed under police authorities.

5. The ability of the police and crime commissioner to hold the chief constable to account is further undermined in the LGA’s view by the commitment to maintaining operational independence, and it would be better to replace it with the concept of operational responsibility.

6. The LGA believes it is important that police and crime commissioners, if introduced, are held to account and their decisions scrutinised. We do not believe the current proposals around the Crime and Police Panels will allow the panels to robustly hold commissioners to account.

IMPROVING POLICE ACCOUNTABILITY

7. Since 2008 the LGA has argued that police accountability structures in England have needed to be reformed. We believe that the tripartite police accountability structure established in the mid-1960s has become unbalanced, with the Home Secretary acquiring more and more powers at the expense of chief constables and police authorities.

8. As a result of these distortions in the tripartite structure the police have in the last few decades become increasingly focused on Whitehall set targets and performance measures at the expense of local priorities and the crime and anti-social behaviour issues the public want to see dealt with. This has resulted in a worrying disconnection between the police and the public in England, so that even though crime has fallen since the mid-1990s, the public believe that crime has been increasing nationally.

9. Leaving the public without a say in how their communities are policed will, in the LGA’s view, have serious consequences in the long term for the fight against crime. We believe that successful policing depends, more than it does for other public services, on the public making choices: choosing to report a crime; choosing to provide evidence; and turning up at court to give that evidence. Without that active cooperation it would be much more difficult for the police to cut crime.

10. The LGA agrees with the government’s analysis that the remedy for addressing the disconnect between the police and the public in England is to increase local accountability and giving people a say in how their streets and neighbourhoods are policed. Indeed in our view the bond between the police and the public in England will only be restored if police accountability structures:

— anchor the police in the communities they serve, thereby giving them greater legitimacy;
— reassure the public that they and the communities they live in can set the policing priorities for their area; and
— ensure the police are more clearly democratically accountable to their local community.

11. The LGA does not therefore believe that introducing directly elected individuals is the best way to strengthen police accountability. We believe reforming police accountability in this way could weaken the ability of the police, councils and other public services to cut crime. In particular we are concerned the proposals could fragment local partnerships as competing electoral mandates pull the police and councils in different directions. We also believe the same competing electoral mandates will make it more difficult to pool public service budgets in one area into “local budgets” due to the differing priorities for councils and the police. The LGA is further concerned that election campaigns for the directly elected individuals will lead to commitments to more visible forms of local policing at the expense of less visible but just as important work such as tackling serious and organised crime or domestic violence. Additionally we are concerned at the ability of directly elected individuals to engage with all sections of the communities they represent. In urban areas the size of the electorate and diversity of communities will present particular challenges, while in more rural areas such as Devon and Cornwall the geographical extent of the forces responsibilities will
The relationship between Chief Constables and elected Police and Crime Commissioners

14. The lack of detail in the proposals contained in the Home Office’s “Policing in the 21st Century” consultation makes it difficult to be sure what the parameters of the relationship between the commissioner and the chief constable will be. Based on what is set out in the Home Office’s proposals we have concerns about the balance in the relationship between chief constables and Police and Crime Commissioners (PCCs). In particular we have concerns about the ability of the PCCs to hold chief constables and the police to account. It is not clear what powers commissioners will have from the Home Office’s proposals but they appear to give PCCs no greater powers than police authorities in for example setting local priorities and the appointment of the chief constable, and lesser powers in some areas with chief constables appointing all their top management team and the police precept being subject to a referendum.

15. Though it seems chief constables will be less accountable to commissioners than they are to police authorities, they will still be subject to a considerable degree of central control. Though centrally set targets have disappeared, Whitehall will be able to exert significant influence through its direction of centralised procurement; the strong duty on PCCs and forces to collaborate on tackling cross border, national and international crimes; and the as yet unspecified powers retained by the Home Secretary to deal with areas of significant risk or national importance. There is the strong possibility that the structure the Home Office is proposing will leave chief constables less accountable locally than they are now, as they continue to pay more attention to central government priorities and concerns than those in their local communities.

How operational independence will be defined

16. The commitment to absolute protection of police operational independence will in the LGA’s view add to the difficulties PCCs face in holding to hold chief constables to account. In our view it will provide a means for chief constables to obfuscate and sidestep answering to the commissioner should they wish to do so. It is of course right that the police operate free from political interference, but we agree with the Independent Commission on policing for Northern Ireland which stated that all public officials including chiefs of police should be fully accountable, and therefore proposed that operational independence be replaced by the concept of operational responsibility. The LGA believes that replacing operational independence with operational responsibility would mean that chief constables’ ability to conduct operations as they see fit would be unimpaired, but they could be held to account for the way in which they exercise their responsibilities.

17. Moving from operational independence to operational responsibility is especially important in light of two points made in Policing in the 21st Century. The consultation states that PCCs will appoint and lead their own support teams, with PCCs expected to demonstrate value for money to the electorate. Making the size of the support teams surrounding a PCC part of the electoral process is likely to mean they are small. This will make it more difficult for commissioners to genuinely hold the police to account.

18. The second point is that police authority members are able to support each other in holding senior police officers to account. PCCs will be isolated in comparison without even having any deputys. Deputies could be provided by, for example, drawing them from local government. Such deputies would strengthen the ability of PCCs to hold the chief constable to account, and also make day to day management of the police force easier as senior officers would have someone to consult if the PCC were unavailable. If the government does not allow PCCs to have deputies then replacing operational independence with operational responsibility will put PCCs in a stronger position to hold the chief constable to account. Such a change is also important given the role the government’s proposals look to give the Association of Chief Police Officers in providing professional leadership and standards for the service for example around protective services.
The extent to which there will still be a need for national targets

19. The previous government and the new government have in the LGA’s view moved in the right way by reducing the national targets for the police. As has been set out earlier the LGA’s view is that national targets from Whitehall meant the police concentrated on meeting those targets rather than on local priorities, which is part of the reason that in England a disconnect has come to exist between the police and the public. The LGA’s believes the police should be focusing on the priorities of communities and the public in their area, and re-introducing national targets would be contrary to that.

20. In place of national targets there should be local targets agreed between the key local agencies involved in reducing crime and anti-social behaviour, with these agencies being responsible to local people for their performance against those targets. Given the scale of cuts facing all public services the LGA also believes that local public services need to pool budgets if they are to protect and improve frontline community safety services. These local budgets would be aligned with the local targets to deliver on local community priorities.

The role of the Police and Crime Panels

21. The LGA believes that it is important that PCCs are held to account between elections. The Police and Crime Panels provide the means of doing this. However we do not believe the powers and roles proposed for them are strong enough to ensure commissioners are robustly held to account. One of the strongest checks and balances on executive posts is by giving those holding them a role in budget setting. For example directly elected mayors in England do not have the powers to set their budgets. While they draw them up responsibility for setting the budget remains with the council and all councillors on the authority.

22. However in the government’s proposals PCCs will have the ability to set policy and budgets on their own, subject to the Police and Crime Panel triggering a referendum on the policing precept. The details of how many members of the panel will need to agree to a referendum before it is triggered has yet to be provided, but in our view it is unlikely that many budgets will be subject to a referendum in part due to the technical difficulties of holding a referendum in the current council tax setting cycle.

23. The current annual budget cycle in councils and police authorities, is determined by the regulations around setting council taxes, and these mean local authorities cannot set the council tax without the police precept being agreed. If a PCC’s draft budget is only likely to available in January or February meaning any referendum would have to be triggered and held in a matter of a few weeks if the local government statutory requirements on setting council taxes and issuing bills for the coming financial year are to be met. It is also unclear from the consultation who would bear the cost of holding a referendum in which up to two million people could potentially vote. We believe a less expensive, speedier and more effective means of providing a check on PCCs would be to adopt the London mayoral model where the Greater London Assembly has a power to amend the mayor’s budget on a two-thirds majority.

24. No indication is given in Policing in the 21st Century of the expected size of the Police and Crime Panels. If the panels are to be an effective check on commissioners their composition is as important as their powers—a panel dominated by the same political party as that of the PCC is unlikely to provide robust challenge all the time.

25. The LGA therefore believes the size of the panels should be for the member authorities to agree with there being a correlation between the number of members they nominate and their population size, and there then being a set number of independent and lay members per panel. This membership would, as with police authorities, have to reflect the overall political balance across the authorities involved. If necessary the panel’s chair would have to come from a councillor from a different political party to that of the PCC.

26. In addition to the powers set out in Policing in the 21st Century, the LGA is of the view that panels should have the power to require the chief constable and other police officers to attend the panel so they can give evidence about the impact of the PCC’s decisions on the force and its ability to do its jobs, and should have the power of veto in the confirmation hearings on the appointment of a new chief constable.

October 2010

Memorandum submitted by the Association of Police Authorities

EXECUTIVE SUMMARY

The Association of Police Authorities has significant concerns about government proposals for Police and Crime Commissioners (PCCs) and opposes the model of police governance being proposed.

We believe that there has been insufficient rigour applied to the policy development process which increases the risk of failure. Survey work that we have commissioned has found little appetite for such fundamental change, and indeed we would welcome analysis and publication of the 800 plus responses to the 21st Century Policing consultation received by the government.
The APA has concerns about the cost of transition and the timing. Stability in governance will be critical, particularly when the police service will be under considerable fiscal pressure. In addition we have concerns about low voter turnout in elections thus undermining confidence in the outcome.

One of our concerns is in the ability of a single PCC to take on the functions of a 17 member organisation, and the loss of representation, skills and experience of those 17 members. One individual will be unable to represent the diverse communities within a force wide area and we believe that this will result in a democratic deficit. There is also a danger of the politicisation of policing with a single party representative or individual interest taking sole decisions on policing.

If proposals to introduce PCCs do go ahead we have a range of suggestions to mitigate the risks. In order to avoid devolving excessive power to chief constables, thereby reducing the ability of local people to influence policing, we believe that any new arrangements must ensure that the PCC has the necessary powers to discharge their primary functions, and that the Police and Crime Panel (PCP) must have sufficient powers and influence to challenge the decisions of the PCC.

To retain the “golden thread” between local and national policing, PCCs must be engaged at the national level and supported by a platform independent of central government.

1. **THE ASSOCIATION OF POLICE AUTHORITIES**

1.0 The Association of Police Authorities (APA) represents all police authorities in England, Wales and Northern Ireland as well as non-geographic police authorities. As members of the tripartite, police authorities are statutory consultees. Since 1995, police authorities have worked hard on behalf of the communities we serve to hold the police service to account and to ensure that the forces we govern continue to become more efficient and effective. This has delivered results—crime has fallen significantly and public confidence in the police is rising.

2. **INTRODUCTION**

2.0 At the heart of government proposals is the intention to “transfer power back to the people and replace police authorities with PCCs.” However, we have concerns that this power will be handed from central government not to local people through the PCC but to the chief constable, thereby achieving exactly the opposite outcome intended and heralded by the government.

2.1 The APA contests the logic on which arguments for the abolition of police authorities are based. There is no significant evidence of weakness. Over half of all police authorities have now been inspected, with no authorities being found to be performing poorly, most judged as satisfactory and some performing very well. The evidence coming from the HMIC and Audit Commission inspections is not of a model of governance and accountability that is so broken that it needs to be entirely replaced.

2.2 Changes to legislation of this kind are normally subject to a Green and White paper but this rational decision making process has not been followed. In addition no equality impact assessment has yet been undertaken and we are concerned that there will be a negative impact on the representation of diverse communities.

2.3 Evidence from police authority surveys on government proposals suggests that at best there is apathy towards them with little evidence of active enthusiasm.

2.4 We oppose the model of policing governance being proposed due to the significant risks inherent in it. We strongly challenge the assertion that there is a democratic deficit in police accountability given that the majority of police authority members are locally elected councillors from across the entire policing area. We believe the inability of a single individual to effectively represent such large geographical areas covering huge populations and diverse communities will result in a democratic deficit.

2.5 We believe the direct election of a PCC will inject overt party politics into policing, with a single party representative or individual interest taking decisions on policing. This will inevitably give rise to a short-term focus, local political conflict, and tensions with partners. Established consultative structures with communities will be lost, thus shutting many groups out from meaningful influence over the police. Recently updated statistics on police authority membership nationally show that just under a third of all members are female and nearly ten per cent are from black and minority ethnic (BME) communities. Currently we have over 700 elected or appointed police authority members nationally actively engaged with communities on policing. This would be reduced to 42 commissioners under government proposals. The balance of independent and councillor members contributes to the effective representation and encourages the inclusion and active involvement of diverse communities in local policing. We believe that this diversity of representation will be lost under government proposals. In addition there are clear links to local democratic structures through elected councillors on police authorities as well as direct links to the criminal justice system through magistrate members.
3. **The Relationship between Chief Constables and Elected PCCs**

3.0 There is an imbalance between the centre and the local as a consequence of the accretion of power by successive Home Secretaries, and we welcome the intention to reduce Whitehall interference in determining local policing needs. However, the proposals as they stand run the risk of placing the balance of power in the hands of the professionals responsible for running the service at the expense of local people who will lose their ability to influence.

3.1 Due to the accumulation of power by chief constables over time the ability of existing police authorities to produce outcomes on behalf of the people they represent is limited, and if PCCs have no greater ability to direct chief police officers than currently, they will be no more successful in delivering the outcomes that local people want.

3.2 Regardless of the governance model, what actually matters in ensuring that the police are directly accountable to local people are the responsibilities placed upon the governance body and its powers and resources. PCCs must be able to exercise their mandate. To ensure this, a duty could be placed on the chief constable to co-operate with the PCC in the execution of their statutory duties.

3.3 In addition to the power of the PCC to dismiss the chief constable, and in order to reduce the need for this, consideration should be given to providing the PCC with a power of direction over the chief constable. This power would be limited to the PCCs statutory duties and would therefore not interfere with operational independence.

3.4 In suggesting this we are in accord with government thinking in respect of empowering and freeing up the professionals to concentrate on policing while ensuring that the governance body can manage the strategic direction of the force.

4. **How “Operational Independence” will be Defined**

4.0 It is most unlikely that operational independence will be defined, at least not in statute. Essentially the issue around operational independence is a debate around the separation of responsibilities between the police force and the governance body, and where specifically the boundaries fall. The APA absolutely recognises the requirement for the chief constable to have operational independence and to base those operational decisions on their professional judgement alone. However, setting strategic direction and ensuring good governance is the responsibility of the governance body.

4.1 At the heart of this is a debate between policing professionals and governors about the extent and limits of their respective areas of responsibility. As a basic example of this, although the governance body should have no say in when a taser might be discharged in an operational situation, it will have an interest in whether or not tasers are deployed in certain public order situations, and will most certainly have an interest in how tasers are purchased to ensure the best value for money across 43 forces.

4.2 Resources need to be allocated and employed in a way that delivers the policing plan and priorities set by the PCC. Currently police authorities are responsible for budget, staff, estate and other assets. The authority is then able to allocate and exercise overall accountability to achieve its statutory functions. Without these responsibilities and assets the leverage and practical means to influence the chief constable to ensure that the communities’ policing priorities are delivered are significantly reduced.

4.3 ACPO are recommending that budgets, staff and assets are transferred to the force to ensure that there is no political interference from PCCs and “operational independence” is sustained. This is a misnomer. Transferring such significant power to chief constables will in fact emasculate the PCC and reduce local accountability due to the inability of the PCC to influence and strategically direct the chief constable.

4.4 The addition of the powers proposed above—a duty on the chief constable to co-operate and a power of direction for the PCC in respect of their statutory duties—together with operational independence for chief constables, creates an environment where there is greater equity and clarity between the two parties. In effect this would create a legislative framework which respects the operational role of the chief constable and the governance and accountability role of the PCC.

5. **The Role of the Police and Crime Panel**

5.0 We welcome the government’s recognition of the need for checks and balances. The suggested PCP has to be constructed in such a way that it does not create an additional layer of bureaucracy in the governance structure. The PCP will create a situation whereby the experience and expertise of elected councillors and independent members becomes removed from any governance responsibility in relation to the force. As currently outlined the PCP has no direct stake in the success of policing which could establish an adversarial model with the risk of perpetual institutional conflict.

5.1 The options available to the PCP do not represent a reasonable range of sanctions and would effectively mean that it would be unable to exercise any real influence over the PCC. While we would accept that the PCC must not be overly constrained by the PCP, in the public’s view there ought to be an appropriate level of influence from the PCP to challenge the decisions of the commissioner.
5.2 Ensuring the correct balance and relationship between the commissioner and the PCP is fundamental to ensure that the PCC is appropriately held to account, but also to ensure that the balance between the commissioner and the chief constable is such that the PCC has sufficient power to undertake their primary functions. For these reasons, while allowing for local flexibility in the composition of PCPs, we believe that the PCP must have political proportionality and the PCC should be required to carry the vote of the PCP rather than merely seek its advice on the key issues of budget, policing plan, and appointment of the chief constable.

6. The extent to which there will still be a need for national targets

6.0 National Targets in themselves are not a bad thing if they help to focus effort and achieve outcomes. What we need to ensure is that they are related to the concerns and needs of communities locally. In addition, there are a number of critical areas of policing with a national focus which will require a mechanism to ensure local contribution.

6.1 What may be required on critical policing issues is not national targets, but national direction, and the ability to retain the “golden thread” which links local voices through to national issues. We believe for this to happen there needs to be a national representative body for PCCs.

7. The likely impact of proposals on the prevention and reduction of crime and anti-social behaviour, and their practical implications

7.0 The ultimate concern of the APA is to ensure that the policing that our communities want is sustained, and is delivered in an effective and efficient manner. We believe that the current governance model provides an effective conduit between communities and police to facilitate this.

7.1 We would have concerns about a change to a directly elected governance model at any time, but particularly in the current financial climate, we believe there are significant threats to policing and crime and anti-social behaviour levels. Police authorities are currently using their expertise and experience to ensure that the impact of cuts to police budgets is alleviated in terms of the policing service in our communities.

7.2 We also have concerns about the potential impact of locally elected and therefore locally focussed PCCs on level 2/3 policing where policing activity is often not visible to the public and has a regional and/or national focus, eg counter terrorism and serious and organized crime. PCCs will be seeking re-election within a specified geographic area and there is a danger that cross-border and national threats may be neglected. Placing a statutory duty on PCCs to have regard to serious and organised crime and protective services may not be sufficient without creating the right conditions for their engagement at a regional and national level, potentially through a national representative body for PCCs.

8. Recommendations

(a) We believe that there needs to be an additional consultation period which would allow the government to develop a business plan with an evidence base for change, as well as a full costing of the proposed changes and a clear transition plan. The APA has offered to establish and oversee a transition board.

(b) Consideration of delaying implementation until 2014 which would at least allow for the anticipated reductions in service to be implemented without the unnecessary disruption of structural change during this period. In addition a pathfinder programme should be established to allow piloting directly elected PCCs in a small number of areas to test risks and unintended consequences.

(c) In order to ensure the correct balance between the chief constable, the PCC, and the PCP, budgets, estates and other assets must remain with the PCC and be complemented with reciprocal duties on the chief constable to cooperate with the PCC.

(d) There is a need for governance in policing from the local to the national which is currently carried out by police authority members through the APA. There should be a national representative body for PCCs to fulfil governance on national policing issues such as serious and organized crime and counter-terrorism as well as providing a national structure through which tripartite representation can be made, and the voice of communities can be effectively represented at a national level.

October 2010

Supplementary memorandum submitted by the Association of Police Authorities

Whilst not wishing to change or resubmit our written and aural evidence, we are grateful for the opportunity to provide the Committee with some factual information which will hope to answer the questions they posed at the session on 19th. This information was either too detailed for presentation at the session or beyond the scope of our formal written submission.
Rt Hon Keith Vaz MP, Chair: *How did the APA arrive at a cost of £100 million for the introduction of PCCs?*

**Police Governance Change Programme: Cost, Benefits, Risks, Uncertainties**

*Report prepared by Boxwood Consultants, September 2010*

- This report examined the relative costs of a “do nothing” option—the current Police Authority structure, a “minimum change” suggestion, and the Home Office model (direct Election of a Police and Crime Commissioner in each of 43 force areas). The summary figures assumed for each of these possible scenarios are presented at the end of this briefing at Appendix A.

**Findings**

- The total cost differential between the current structure and 43 DPC elections is £101 million. This is in essence the removal of over 600 police from the front line.
- The Home Office’s new proposed structure will have a cost of £453 million—based on current assumptions (These include the Home Office range of structure costs: £440 million–£574 million, and our calculation that the elections for Commissioners will cost £1.47 per elector).
- The cost of the “do minimum” suggestion is £417 million.
- The net present cost differential is: £86 million (at 3.5% discount).
- The main differential costs between the three alternative scenarios are:
  - 4 yearly election £64 million.
  - 4 yearly transition costs £12 million (redundancy/recruit of team and chief/council tax changes).
  - Policy and parliamentary £1 million (Home Office team and Police Authority costs).
  - Operational costs £24 million (complaints/uncharged services/town hall meetings).

**Assumptions and Evidence Base**

- Cost over the five years from 2011–12 to 2015–16 of the current Police Authority structure, as evidenced from present costings is £352 million (only one election in this period).
- Costings are predicated on a five year period: 2011–16. This period was chosen because it includes one election and the transition year.
- The first elections are taken as May 2012 (when 20% of areas have scheduled elections).
- Election Costs are assumed at £1.47 per elector (this reflects evidence presented by electoral registration officers in Devon and Cornwall, West Sussex, Hampshire and the assumptions of the Electoral Commission):
  - Hampshire’s estimate based on responses from electoral officers throughout Hampshire was approximately £2 million on a electorate population of about 1.1m (spend of £1.80 per elector).
  - West Sussex estimate about £1.2 million spend (if the elections all occur in parallel with local government elections) on an electorate of about 0.6 million (spend of £2.00 per elector).
  - Devon and Cornwall calculated £1.9 million on a police authority spend of £1.5 million and 1.0 million electorate (election spend of £1.90 per elector).
- The Electoral Commission report for 2008–09 is unclear on direct comparison but clearly states that preferential voting systems will cost more than FPTP.
- Evidence from Scotland suggests that using more complex voting procedures will increase the cost substantially.
- According to the Council concerned, the most recent borough-wide election for a single individual in the UK (for a Directly Elected Mayor of the London Borough of Tower Hamlets) cost £4.11 per elector.
- The overall additional average cost of a Directly Elected Police Commissioner, per elector (less registration) = £3.02 less £1.55 (the cost of existing police authorities) ie £1.47 per elector.
- UK electoral statistics 2009 (ONS) state the electorate to be 40 million.
- 40 million electors x £1.47, divided by the cost of an officer (£40,000) = 1,400 beat police officers.
- Other costs are taken as Salaries, Allowances, Accommodation, Other Overheads, Transition (The Home Office, APA, Authorities), Policy change costs, Legal costs of TUPE and changes to contracts.
Other potential cost risks include:
- Reissuing council tax bills.
- New legal costs of transferring contracts.
- Increased likelihood of sacking of the Chief Constables and consequent payments.
- Political appointments of staff could result in increased HR cost.
- Increased complaints and private office costs.
- More communication and PR.
- Change in the electoral franchise (eg 16 year olds voting).

Aiden Burley MP: The 2007 Casey Cabinet Office review revealed that only 7% of the public knew about police authorities. Why are the public so unaware of your members’ existence?

This issue of a perceived lack of visibility and accessibility, found four years ago, appears to be a key principle behind the government’s reform proposals. The APA would question the government’s perception of the level of public awareness on the basis of many local surveys. To take just two examples:

- A local policing survey across the Northumbria police authority area in 2010 revealed that 88% of residents were aware of the authority.
- A 2010 public survey undertaken by police authorities in Wales found that 97% of respondents had heard of police authorities and 82% understood what a police authority does.

Aiden Burley MP: Is the APA’s proposed “alternative model” for governance not simply the same police authority system with the addition of a PCC?

- The APA has not proposed a like for like or “one size fits all” model—it recognizes that there are considerable differences between areas and believes that it would be sensible for the Government’s proposals to reflect this variety.

THE INDEPENDENT BASIS FOR THE PRINCIPLES BEHIND OUR SUGGESTED ALTERNATIVE MODELS

- The APA’s alternative model is also built on the findings of independent qualitative research carried out by IPSOS MORI designed to explore public perceptions of police governance structures, and more specifically who the public feel should hold the Police to account.

- The research took place in four Police Force regions across England and Wales during the week commencing 23 August 2010. One workshop took place in each of four Police Force areas. Workshops were deliberative in nature and were designed to allow participants to explore different options, including those proposed in the “Policing in the 21st Century—Reconnecting Police and the People” consultation paper.

- The full report from IPSOS MORI is attached at Appendix B (not printed).

- This research revealed some public appetite for a visible figurehead for police accountability, but opposition to accountability being vested in just one individual.

- The research clearly showed that there is a general desire for greater visibility in police accountability. Participants felt a sense of reassurance in knowing the Police were currently and would continue to be held to account, and as such they wanted to be made more aware of any future model of governance.

- This translated into a strong preference for a visible and named figurehead for police accountability in each area. Participants thought that this figurehead should not only provide an element of visibility, but should also be a symbol of transparency and independence.

- Indeed, the need for independence was a particular focus for participants throughout discussions. Firstly, there was strong feeling that the role of a figurehead could not be carried out by someone with an obvious political allegiance. Secondly, it was felt that the role of the Police themselves in accountability needed to maintain a balance between ensuring their experience and expertise is maximised, while not allowing them to appear self-regulating in any sense. The role of the Chief Constable was seen to be of great importance as providing a crucial link between Police Forces and the individual or body holding the Police to account.

- Despite participants having a strong preference for a local “figurehead”, only a minority of participants wanted an individual who would be solely responsible for holding the Police to account. The most common preferences for where responsibility should fall were either through a structure similar to that currently in place, or through a named-individual plus a scrutiny panel. Participants favouring this latter option envisaged that a scrutiny panel would work alongside a figurehead in both an advisory and scrutiny role.

1 http://www.homeoffice.gov.uk/publications/consultations/policing-21st-century/
— Interestingly, the desire for visibility and transparency did not necessarily translate into support for greater democratic involvement. Factors, such as a preconceived cynicism towards any Government devolving responsibility, and a questioning of the knowledge base on which an electorate would begin to decide who should take responsibility, made participants question this. For example, concerns were raised about possible divisive or corrupt candidates and as such there were calls for stringent vetting processes should it be decided that elections should take place. Participants also raised concerns about the cost burden of a formal election process.

— There was also a general consensus that those with relevant experience and expertise could be trusted to make suitable appointments for commissioner or panel roles.

What mattered more to participants in terms of lay involvement would include:

— being able to feedback their experiences and opinions on crime in their local area to Police Officers through regular meetings, which those holding the Police to account would attend;

— making sure community members are in some way represented on an advisory or scrutiny panel, possibly through a process of election; and

— making sure the voices of key lay individuals are included in decision-making. This included groups such as victims of crime and young people.

The preferred structure looks on paper very similar to that currently in place, with a collective of expert panel members responsible for key decisions. However, what is notable is the support for the inclusion of a figurehead who is visible to the public.

— Alongside the preference for lay involvement in the advisory and scrutiny panel, participants felt the inclusion of experts was important. However, how this would look was not so clear cut. Certainly, there was a strong resistance to the involvement of politicians, and in some respects this translated to local councillors, though opinions were mixed. Some participants felt the inclusion of those from the business community would be beneficial given the business and financial acumen they could bring.

— The figurehead would exert any powers, such as determining budgets or setting local priorities, through a process of negotiation with the advisory panel and Chief Constable of a force area.

— Finally, participants were on the whole supportive of another layer of governance to oversee those holding the police to account, and there was a feeling that Her Majesty’s Inspectorate of Constabulary would, as they currently do, be best placed to do this.

The full text of the APA’s suggested alternative models, as informed by MORI’s work, is detailed below:

THE APA’S PRINCIPLES FOR ALTERNATIVE MODELS


The APA has developed a range of proposals relating to the “form and functions” of the government’s proposed model.

1. Critical to the issue of tripartite rebalancing is that budgets, audit, estates and other assets must remain within the purview of the governance body and this will also avoid the need for unnecessary expenditure relating to the transfer of contracts. Reducing local accountability by allowing budgets to be held by the Chief Constable instead of those who represent the public is not only an abrogation of responsibility but also introduces a complexity into the relationship that will only lead to confusion.

2. In addition, there are certain functions currently under the direction and control of chief constables, which may be more effective and independent if managed by the governance body, for example, professional standards, performance analysis, and information provision. This would appear logical in enabling the PCC to fulfill their five key functions effectively, and would not represent additional cost.

3. Where duties are placed on PCCs there is a need for reciprocal duties to ensure the cooperation of the Chief Constable.

4. We recommend that a detailed appeals process is developed to ensure transparency to the public in the case of Chief Constable dismissals.
5. Ensuring the correct balance and relationship between the Commissioner and the PCP is fundamental in ensuring that the balance between the Commissioner and the chief constable is such that the PCC has sufficient power to undertake their five primary functions. On the basis that consistency of function nationally delivered through locally determined arrangements is paramount, we offer two options below. These options are predicated on the fact that good governance starts with a body corporate and that appointments to governance bodies should be made on Nolan Principles.²

Option 1

The directly elected PCC should serve as head of the PCP with a requirement to carry the vote of the panel on key issues rather than merely seeking its advice. We would advise that these key issues are budget, policing plan and appointment of Chief Constable. This would mitigate the risk of vesting substantial public functions in a single individual.

Local authorities (joint committees where appropriate) and the PCC working together would agree membership of the Police and Crime Panel which the PCC would chair. The panel would be comprised of both local councillors (in accordance with political proportionality) and independent members, but the specific details of the structure would be decided locally.

Option 2

Enabling the PCC to appoint a deputy and assistant commissioners within their office to create resilience, ensure appropriate local representation and create a forum for the exchange of ideas and advice. A separate Police and Crime Panel would be selected (in accordance with political proportionality) through local authorities. The PCP would provide the scrutiny function of the Commissioner and act as a consultee in relation to the five key functions of the Commissioner. If the PCP is to truly act as an independent check on the PCC then the recruitment and selection of individuals comprising the body should be independent of the PCC.

In relation to elements of the procedural issues surrounding elections and transition we would recommend the following:

6. It is proposed that the new arrangements are fully costed and then assessed against the perceived benefits of the proposals.

7. In order to reduce the costs of election of PCCs they should be staggered so that they take place when the majority of local elections take place in each force area.

8. The Government should consider the funding mechanism required to ensure equality of opportunity amongst all candidates.

9. As per serving members of the force becoming independent members of police authorities, the same four year moratorium on retiring police officers standing for election as PCC should be introduced. Mechanisms are required to allow consideration of the suitability of candidates for a post of this nature.

10. We would urge consideration of delaying implementation until 2014 which would at least allow for the anticipated reductions in service to be implemented without the unnecessary disruption of structural change during this period.

11. Effective arrangements for transition from existing police authorities to Police and Crime Commissioners is critical. If elections are held in May 2012 we would propose that the new Commissioners do not fully take the helm until the following budget and planning period.

12. The role of existing police authority staff will be indispensable in ensuring effective transition. We are concerned that police authorities risk losing experienced staff at a local and national level leading up to proposed changes in 2012 and recommend that the Home Office make a statement of intent in relation to protection of existing staff in the transition process.

13. Strategic continuity is inherent in the current system through the gradual rollover of membership of police authorities. The potential stop/start transfer from one PCC to another would undermine the investment needed around long-term planning identified by HMIC and we recommend that continuity is ensured within the proposed model.

14. The initially established Police and Crime Panel should be comprised primarily of existing police authority members to enable effective transition.

² The six principles of the Independent Commission on Good Governance in Public Services can be found at http://www.cipfa.org.uk/pt/download/governance_standard.pdf
Rt Hon Keith Vaz MP: Has the South West implemented plans for joint procurement of uniforms yet?

Update on the South West Collaboration Programme

— The uniforms issue, understandably the focus of the Committees’ attention, is best viewed as one aspect of the South West Regional Collaboration Programme, overseen by the Police Authorities Joint Committee (PAJC).

— Last year successful regional initiatives on collaboration included cash savings on vehicles, telecommunications and recruitment advertising and operational improvements in areas such as counter-terrorism, covert policing, firearms, automatic number plate recognition (ANPR) and kidnap and extortion. A Regional Asset Recovery Team was fully established.

— The 2010–11 programme business plan focuses on the adoption of a regional Serious Organised Crime Lead Force model, steps towards regional ICT convergence and shared procurement and the achievement of a common set of uniform and equipment by 2012.

— At its last meeting, PAJC commissioned a feasibility study for moving to a single ICT Department for the South West, linked to the national ISIS (Information Services Improvement Strategy) programme.

— Corporate Services across the South West have recently undergone a benchmarking exercise to consider how best to move processes and structures in HR and Finance toward the current lowest cost base. The PAJC will review progress towards this in early 2011.

— The next PAJC meeting (November) will select an external supplier to assist four authorities to establish an in-house shared service for procurement.

Realised and Projected Savings from the South West Collaboration Programme (For More Details, Please see the Attached Appendix C)

Cash savings achieved to date (these are mostly ongoing year on year savings):

— Recruitment advertising £25,000 per annum.
— Telecoms Procurement £150,000 per annum.
— Transport Procurement £147,000 per annum.
— Uniform Procurement £10,000 per annum.

Cash savings in the pipeline:

— Procurement shared service £5 million per annum.
— Telephone SPOC Shared Service £250,000 per annum.
— Firearms Training Service c £10 million capital plus £150,000 per annum revenue.

Uniform and Equipment—Progress Towards Joint Procurement

— Autumn 2008: The five Chief Constables and Chairs in the region agreed in principle to move towards a common standard of uniform and equipment. A detailed assessment identified opportunities to rationalise specifications and reduce variation.

— Throughout 2009: Practitioner workshops held to identify the best options to improve interoperability and provide value for money.

— May 2010: Recommended options for standardisation of uniform by 2012 agreed.

— June 2010: The five Chief Constables expressed their preference for a regional catalogue of items from which each Force could choose its favoured option—effectively a commonality of choice rather than a common uniform.

The five Chairs accepted that the use of a regional catalogue represented a pragmatic way forward in the circumstances, but were disappointed that after two years of work, it had not been possible to embark on a more ambitious programme of standardisation. This disappointment was a catalyst for introducing fundamental changes to the governance arrangements underpinning future police collaboration in the South West.

New Governance Structure

— August 2010: Following a dialogue involving the five Chairs and Chief Constables, the South West Police Authority Joint Committee (PAJC) agreed to a radical overhaul of the arrangements for overseeing the collaborative arrangements to facilitate swifter and better informed decision-making.

The Lead Force approach to the Programme means that individual Chief Constables will now be held accountable for specific work streams by project boards within their own Police Authority. The Police Authorities’ Joint Committee agreed that six specific Tier 1 business areas will be progressed under the allocated Lead Force model as follows:

- Procurement—Devon and Cornwall
- Learning and Development—Avon and Somerset
- ICT convergence—Wiltshire
- Corporate Services Transformation—Devon and Cornwall
- Forensics—Dorset
- Transactional Processes—Gloucestershire

Aiden Burley MP: Authorities have control over procurement now? How have they delivered savings?

Nicola Blackwood MP: How are authorities working together now?

There are numerous independently-celebrated examples of Police Authorities’ best practice: Savings through collaboration and cutting “back office” costs.

Drawn from Audit Commission and HMIC Reports to 2010:
http://www.hmic.gov.uk/Inspections/Pages/PoliceAuthorityInspections.aspx

1. Surrey: Whole System Service Transformation
   - The Authority has driven a whole systems service programme, established in 2007, which identifies how the force can achieve benefits through structural changes, the efficient use of resources and automated technologies. This is expected to save £92 million over five years.
   - Surrey centralised its HR services reducing 78 posts including 50 police staff and 28 police officers saving £1.5 million in 2009–10. It expects to make annual savings of £2.2 million from 2010–11 or 1% of spending with total savings of £5.7 million over five years. The centralised service provides professional guidance and support complemented by local business partners in basic command units (BCUs) and a transactional service centre. Centralising meant the ratio of HR staff to force establishment changed from 1:36 to 1:77. It achieves 64% public confidence compared with a 61% average for similar forces.

2. Bedfordshire and Hertfordshire: Collaboration
   - On Friday 22 October 2010 both Bedfordshire and Hertfordshire Police Authorities gave the go-ahead for the establishment of a joint Information and Communication Technology (ICT) Department from December this year. They also agreed to set up a joint Police Pensions Administration function from November this year, in preparation for delivering the service across both forces from April 2011.
   - The phased implementation of the joint ICT function will initially save the two forces a total of £350,000 per year. This will increase substantially as work progresses, with savings in the region of £1.7 million a year expected within five years.
   - The joint Police Pensions Administration function for the two forces will bring further efficiencies of around £105,000 from the start of April 2011.
   - These decisions follow the establishment of a number of successful collaborative initiatives for the two forces over recent years, including a joint Dog Unit, Firearms Support Unit and Major Crime Unit.

3. Gwent Police Authority: Staying Ahead Review
   Gwent Police Authority’s Staying Ahead review is a wide-ranging and ambitious strategic review of policing in Gwent. It aims to deliver high-quality services to the public within the available resources.
   - The Staying Ahead review incorporates a new approach to policing in Gwent. It plans to provide efficiencies as well as delivering better customer service with a community based ethos. Its key priority is to enable the Force to meet the challenges of providing future services in line with national and local priorities.
   - The Authority’s projections in 2007–08 showed a budget shortfall of £14 million by 2010–11, representing more than 12% of the net revenue expenditure. Because of the shortfall it was clear the Authority and the Force had to carry out a major budget savings exercise. The Authority implemented the Staying Ahead review to help achieve this.
   - The Staying Ahead review involves all the Authority members in a change management programme affecting the Force. The aim is make greater efficiencies and improve service delivery to the public. The review also set out to reform the structure of the Force, including revised roles for officers and support staff.
— So far the review has produced an increase in efficiency savings and the operational resources used. The savings achieved have enabled the Authority to reduce the Protective Services gap by £2 million without increasing resources. The Authority has reviewed and realigned its committee structures to ensure it has suitable arrangements in place to manage its new policing vision.

— The Authority has systematic processes in place for assessing and measuring the benefits of the Staying Ahead review. There has been a 22% increase in the resources deployed on neighbourhood policing and an increased allocation to roads policing. The Authority expects efficiency savings of £14.4 million between 2009 and 2013, approximately £3.1 million above its efficiency and productivity target.

— The authority is also an established user of collaborative arrangements provided by Value Wales. The authority continues to benefit from the work of the South West and Wales Regional Procurement Group. It has also collaborated with other partners including Newport Transport, Chepstow Town Council, the Forestry Commission and Coleg Gwent.

We hope that this submission fulfils the Committee’s specific request for further information, and should be delighted to provide any additional details or clarification requested at any time.

October 2010
## APPENDIX A

### THE COSTS OF CHANGE: POLICE GOVERNANCE, 2011–16

<table>
<thead>
<tr>
<th></th>
<th>Option 1 Do nothing (£'000)</th>
<th>Option 2 Do minimum (£'000)</th>
<th>Option 3 HO White Paper approach (£'000)</th>
</tr>
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<td>Democratic representations—members allowances</td>
<td>£46,312</td>
<td>£46,312</td>
<td>£46,647</td>
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<tr>
<td>Democratic representation other costs (eg travel and subsidence, recruitment, training and consultation)</td>
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<td>22,030</td>
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<td>Police Authority Support costs—staff (eg audit, legal, premises, supplies and services)</td>
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<td>138,456</td>
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<td>71,741</td>
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<td>4,635</td>
<td>4,635</td>
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<tr>
<td>Other non staff costs (eg external audit, subscriptions, publications)</td>
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<td>68,568</td>
<td>84,117</td>
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<td>Transition costs</td>
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<td>Policy and Parliamentary</td>
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<td>Total costs</td>
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APPENDIX C

ITEM 3D SWPAJC 6 AUGUST 2010—COSTS AND BENEFITS LOG

SOUTH WEST POLICE—REGIONAL COLLaborATION PROGRAMME—ONGOING FINANCIAL SUMMARY

1. Financing the Overall Project

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<td><strong>Regional Budget:</strong></td>
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<td>Income</td>
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<td>from Police Authorities</td>
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<td>other</td>
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2. Impact of Individual Programme Strands

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<th>Est Reg Expenditure (Dr) or Savings (Cr) Investment</th>
<th>Actual 2010–11</th>
<th>Actual 2011–12</th>
<th>Actual 2012–13</th>
<th>Actual 2013–14</th>
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<td>A. Approved Savings-Generating Projects</td>
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<td>1 Recruitment Advertising</td>
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<td>24,669</td>
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<td>4 Uniform Procurement</td>
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<td>5 Identity Access Management</td>
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<td>6 Firearms Facility</td>
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<td><strong>Total Savings</strong></td>
<td><strong>276,448</strong></td>
<td><strong>267,833</strong></td>
<td><strong>267,833</strong></td>
<td><strong>314,058</strong></td>
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<td>B. Grant Receipts Secured by Programme</td>
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<td>1 ANPR</td>
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<td>2 Mobile Information</td>
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<td><strong>Total Grants Secured to Date</strong></td>
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<td>C. Approved Capacity-Building Projects—Additional Costs Absorbed by Protective Service</td>
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<td>1 Regional Asset Recovery Team</td>
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<td>TRC Revenue neutral</td>
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<td>D. Pipeline Projects—Awaiting approval</td>
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<td>1 Uniform and Equipment</td>
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Memorandum submitted by Professor Jonathan Shepherd

1. In my experience as chairman of a CSP strategy group, there is a danger that the people who make the most noise will have undue influence on policy and crime reduction practice. I can recall more than one example over the past 10 years when a particular concern, for example about antisocial behaviour in a particular location, dominated discussion disproportionately. On the other hand, the organised, systematic gathering of information about citizens’ crime concerns has been very valuable and, rightly, has helped a great deal to set local policy. The survey method developed by the Cardiff University Police Institute, which capitalises cost effectively on existing PCSO community contacts is a good example and has already informed the HMIC report on the policing of antisocial behaviour.
2. To summarise my comparisons with health, there is an obvious parallel between the worried well who can dominate the health agenda and consume resources at the expense of people with real needs who do not come forward and the fearful safe (my term) whose views and keen participation in discussions about crime reduction could, potentially, divert attention and resources away from locations and communities where people are at far greater risk.

3. With regard to the proposal that CSPs might be brought together at force level, my concern is that if local partnerships are merged into force wide partnerships, localism will be lost as partnerships cease to be community entities. To illustrate this, I well remember when the Cardiff CSP redesignated the violence reduction group which I chair as a strategic rather than a task group. This step, taken with the best of intentions of course, turned out to be detrimental because it diverted effort away from the identification and targeting of local violence hotspots. Violence reduction suffered as a consequence. Effectiveness was only restored when new neighbourhood management teams were trained in the importance of local, data driven violence reduction. My advice to the Committee would be to recommend every possible step to strengthen local, feet on the ground delivery and keep strategic groups and panels to a minimum. During the review for the Home Office to which I referred when giving evidence, I discovered that one East Midlands city has four different and often contradictory strategies for tackling alcohol misuse.

Force areas often include more than one city, as in South Wales. A force wide partnership would, unless local CSPs are maintained and strengthened, lose its focus on the particular problems of individual cities and ownership by the partners of local problems and solutions. Quite apart from the fact that many partners would, for logistic reasons, be unable to attend force wide partnership meetings as well as the more important local CSP meetings, having a two tier approach would add confusing complexity and significant cost. I think there are dangers here.

October 2010