House of Commons
Home Affairs Committee

Policing: Police and Crime Commissioners

Second Report of Session 2010–11

Volume II

Additional written evidence

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The Home Affairs Committee

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

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Memorandum submitted by Liberty

ABOUT LIBERTY

Liberty (The National Council for Civil Liberties) is one of the UK’s leading civil liberties and human rights organisations. Liberty works to promote human rights and protect civil liberties through a combination of test case litigation, lobbying, campaigning and research.

LIBERTY POLICY

Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, Inquiries and other policy fora, and undertake independent, funded research.


INTRODUCTION

1. On 15 September 2010 the Home Affairs Committee (HAC) announced an inquiry into British policing in light of the Government’s recent announcement proposing to radically change the structure of the police forces. The inquiry was launched in anticipation of the Police Reform and Social Responsibility Bill (expected this autumn) which is due to implement reforms set out in the Home Office consultation paper Policing in the 21st Century: Reconnecting police and the people, to which Liberty provided a detailed response. Initially the Committee will focus on what it considers to be the most significant aspect of the proposals: the newly created role of elected Police and Crime Commissioner, to replace the current Police Authority system. Liberty welcomes the Committee’s Policing Inquiry and its focus on what we see as the most troubling aspect of these proposals. Given the widespread and serious concerns regarding these reforms scrutiny by the HAC is crucial.

2. Since the consultation was launched, a separate Home Office consultation has recommended changes to PACE Code guidance to remove the requirement for police to make a record when they stop somebody and ask them to account for their presence or actions. While such changes were hinted at in the Policing Review consultation currently under consideration by this Committee an additional and deeply troubling proposal was not—namely allowing a person’s ethnicity to be a factor in a police officer’s decision to stop and search without suspicion under section 60 of the Criminal Justice and Public Order Act 1994. The latter would mean that police guidance would, on its face, advise police to directly discriminate on the grounds of race—arguably breaching human rights and race relations legislation and setting the clock back on the significant progress made since the landmark Inquiry into the tragic case of Stephen Lawrence. The proposal to entirely scrap the recording of “stop and account” could also badly undermine race relations—overturning a clear recommendation made by Sir William Macpherson in his Inquiry. It will mean that there will be no reliable data to hold police to account and to protect against discriminatory use of police powers in respect of such stops. Liberty has produced a detailed response in relation to these proposed changes and we hope that the HAC might also consider reviewing these important and substantive changes before any Codes are amended.

5 It also proposes removing the requirement for officers to make a record when they stop an individual with a view to searching them under statutory authority before eventually deciding not to search.
6 The Home Office is proposing to amend the Codes of Practice which govern the use of police powers under the Police and Criminal Evidence Act 1984 (PACE). We are aware of the changes only through our membership of the PACE Review Group, which is coordinated by the Home Office and which meets a few times a year. We understand from officials that the proposed changes to PACE have not been consulted on beyond this group, and there is no evidence of the proposals having been made publicly available on the Home Office website.
Policing in the United Kingdom

3. British policing has a long and proud history. The vision of Home Secretary Peel, who in the 1800s formulated the revolutionary foundation on which today’s police force is based, was to have “policing by consent” by police officers restrained and reinforced by the principles of non-partisanship and accountability to the rule of law, not to Government. However, in recent years as law and order has moved up the political agenda, so too the pressures on the modern police service and its independence have increased. While the use of discretion has always been an obvious and necessary part of day to day police work, legislation in recent years has seen the Government move away from setting clear parameters to policing powers. Yet broadly defined discretionary powers are not a boon for police. In fact they place a massive burden on individual officers. Creative and broadly defined police powers also bring the raised expectations of a criminal justice system that might cure all of society’s ills including fear, crime, nuisance and irritation, let alone the substance abuse, truancy and other social problems lurking below the surface. To complete this vicious cycle, raised and unrealistic expectations inevitably lead to public dissatisfaction in police performance. Over-broad and onerous policing powers combined with raised expectations about the role of the police have undoubtedly fuelled the idea—real or imagined—that police are not sufficiently accountable to the communities they serve.

Directly Elected Police and Crime Commissioners

4. Recent years have seen increased political interference in operational policing matters, including by the imposition of police performance indicators or targets. There have been numerous changes to British policing over the past decade and it is against this background that the Coalition Programme for Government included a promise to “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”. The Government has said that policing, which relies not only on consent but also on the active cooperation of the people, is not performing because “the bond between the police and local people is not strong enough”. As such the Government proposes abolishing Police Authorities and replacing them with directly elected Police and Crime Commissioners.

5. The Government’s proposals are presented as a necessary and logical step in order to return to a system of effective local policing whereby police officers engage with, and respond to, their communities. In considering whether this radical reform is necessary, Liberty has two main propositions: first that the proposals will not solve the problems identified in policing; and secondly that these solutions could be provided within the policing structures which already exist.

6. There is already a system of local accountability already in place in legislation—with police chiefs and their forces already held accountable to the public by Police Authorities. Police Authorities have a broad remit of securing an efficient and effective police force for the area, and they must hold the chief officer of that force to account in the exercise of his or her functions and those under his or her command. A Police Authority is made up of 17 members, nine of which are local council members (who are directly elected), and eight of which are independent members. Community involvement is statutorily entrenched at the strategic level of policing through the commitment of Police Authorities to take into account community views. These opportunities already give local communities the ability to significantly impact on local policing issues. Police Authorities are also required by statute to make arrangements for obtaining the views of local people on matters concerning policing of their area and obtaining co-operation in preventing crime. The Police Authority must also take into account whether the public in the area have confidence in the police force and whether the public considers that their views are being taken into account.

7. Perceived problems with Police Authorities may well relate more to accessibility and visibility rather than substantive complaints about the role they play in policing. The Home Office itself noted in the consultation paper that Police Authorities remain too invisible to the public, who don’t know how to get involved or how to influence policing in their community. Scapping Authorities altogether and replacing them with an entirely new and untested model for accountability is a extreme way of increasing the visibility of local police accountability. Police Authorities are already statutorily mandated to take into account the views of the public they serve. Liberty believes that this existing system, which requires consideration of community needs and wants, could be made more visible and accessible to the public. This, in conjunction with the rollback of unnecessary and centralised bureaucracy, could well meet the numerous problems...
identified by the Home Office consultation paper and which have been identified by the Home Affairs Committee in recent years. This type of reform should at least be considered before these drastic changes are introduced.

8. It is suggested in the Home Office consultation paper that the role of the Police and Crime Commissioner may in future encompass functions “in respect of the wider criminal justice system as further reforms develop”.15 In the House of Commons the Home Secretary was asked whether the Government would consider extending control of the proposed Police and Crime Commissioner to the Crown Prosecution Service. The response was to the effect that both her department and the Ministry of Justice were looking to “extend the remit of police and crime commissioners further in the criminal justice system”.16 Without further detail it is difficult to comment extensively on the further possible role of the Police and Crime Commissioner. Suffice to say, any steps to give an elected politician any control over the prosecutorial function would be a dangerous move indeed. Giving an elected Commissioner any prosecutorial function would be to risk upsetting our finely balanced separation of powers that ensures that those limbs of the constitution that are elected do not exercise prosecutorial functions—a fundamental safeguard against abuse of coercive powers.

POLITICISATION OF LOCAL POLICING

9. The political independence of the police is as important in a democracy as the political independence of the courts. A crucial principle of UK policing is its operational independence and its faithful adherence to non-partisanship. This is what allows every individual in a community to feel protected by the police regardless of their race, religion or political affiliation. If the way a police force operates is overseen by someone who is politically motivated, as an elected Police and Crime Commissioner will inevitably and necessarily be, maintaining the independence of the police from politics will become increasingly difficult. Any change to the way that the police force operates must ensure that police must remain independent of politics, and government must remain independent of the police.17 Liberty’s concern is that the change to directly elected Police Commissioners will not maintain this crucial division.

10. In reality, many of the functions that would be exercised by the directly elected Commissioner (and are currently exercised by the Police Authority) have the potential to influence police operations—be it budget-setting or strategic police planning.20 At the moment this sensitive fault line between police accountability and the preservation of operational independence is mediated between Chief Constables and Police Authorities. While Liberty does not argue that the current practice is problem-free we do not believe that the case has been made as to why an elected individual will enhance accountability. Under current arrangements the sensitive role of overseeing police operations at a local level is undertaken by 17 individuals with multidisciplinary talents. Their selection is premised on their ability to represent the community they are serving. This will no longer be the case under the new proposals which may well prove counterproductive.

11. The local election process for a directly elected Police and Crime Commissioner will most likely be fraught with difficulty. The sensitive parameters of the Commissioner’s role and the importance of operational independence may well be drowned out as candidates seek popular election on local law and order issues. In the political heat of a local election campaign, expectations about what a directly-elected Commissioner can achieve for local law or order may well be raised to dangerously unrealistic levels. Just as politically partisan national discourse around law and order has undermined trust and confidence in policing, so too will local rhetoric from those who may have no experience or understanding of police work.

12. Once in post, we see a very real risk that someone who has been popularly elected will be reluctant to make an unpopular but perhaps necessary decision. For example, a directly elected Commissioner is most likely going to make visibility their focus. While visibility is undoubtedly a crucial part of policing and public confidence in policing, there is a real risk that, for example, anti-social behaviour will be prioritised over and above the large proportion of work that police do which may be less visible but which is nonetheless key to crime prevention or detection such as serious organised crime, terrorism etc. If an elected Commissioner wishes to ensure a happy electorate then the logical conclusion may be to divert funds from these “behind the scenes” decisions to frontline visible policing. This may be the best way to re-elected, but it may not be the best way to keep the community safe from the perspective of the experienced senior police chief. These concerns were recently raised before the Committee by the current Metropolitan Commissioner, Sir Paul Stephenson, who stated that whatever arrangements are put in place “we must ensure that this does not become just talking about popular visibility issues” Similarly, one could envisage, for example, a Chief Constable wanting to spend some of his or her budget on a marginalized area. This could be restricted or knocked back by a Police and Crime Commissioner conscious that this will not satisfy the community set to re-elect him or her because for example it will mean less visibility in other areas etc.

13. There is also no guarantee that elected Commissioners will in fact be representative of the whole community they are elected to serve. The Police Minister has said that a Police and Crime Commissioner will need “a very large number of votes to secure their election” and consequently will have a strong

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17 Para 2.20 of the Policing in the 21st Century consultation paper, ibid.
18 House of Commons Hansard, 26 July 2010 at column 731.
19 See also Liberty’s evidence to the Home Affairs Select Committee: Policing in the 21st Century (February 2008).
20 See para’s 2.32 to 2.38 of the Policing in the 21st century consultation paper, ibid.
21 Uncorrected evidence to the Home Affairs Committee, 27 July 2010, ibid, at Q 80.
mandate. But this assumes that there will be a high turnout at elections, which of course has not been the case for local elections in recent times. Further, the sheer number of individuals who currently serve on a police authority allows greater opportunity for membership to be drawn from a diverse field. Far from undermining democratic accountability, the involvement of several individuals from all walks of life provides for an important check on local policing. Concentrating police accountability in the hands of one figure risks excluding those from minority or traditionally under-represented groups. This could well serve to exacerbate tensions in communities which are already fractured, for example, along ethnic or religious lines.

A SINGLE SOURCE OF POWER

14. Absolute veto for budgets, priorities and the position of the Chief Constable will rest solely with the Commissioner. There is no requirement that individuals who stand for election have any particular expertise or experience in policing, in fact there is no criteria for selection whatsoever. There is also no requirement that the Police and Crime Commissioner be independent of any political party. In fact the Home Office consultation paper suggests that those with party political affiliation should be encouraged to stand for election. When asked in the House of Commons whether there would be an appropriate level of clearance, the Home Secretary responded that there will be no security clearance required for Commissioner nominees.

15. The implications of these proposals should not be underestimated. We need only imagine the extreme, but by no means necessarily unlikely or rare, example of a far-right elected Commissioner. Would such a Commissioner seek to ensure protection for all members of the community under the law? The Home Secretary, when asked in the House of Commons what would happen if a member of the BNP would stand for one of these posts, responded that the BNP has never managed to get more than 15% of the vote in one election. We believe this response is short-sighted. Recent voter-turn out in local elections has been notoriously low and it is easy to imagine that voter turn-out for a directly-elected Commissioner could be even lower. Further, there is no indication that the BNP will not continue to grow in strength—the party may not have won a seat in the last General Election but their overall vote did increase, and there are particular constituencies where the threat of a BNP seat in Parliament was a real one.

16. If this model is to go ahead, unless power is at least shared between an elected Commissioner and the Police and Crime Panel, as we suggest below, the impact on public confidence in areas where a rogue Commissioner is voted in may be irreversible. It could also create a minefield of litigation given Commissioners will be subject to judicial review, and will of course be required to comply with the relevant equalities duties and their obligations under the Human Rights Act 1998. In Liberty’s opinion the risk of introducing politics to policing in this way, without adequate procedural safeguards, is too great and is an unnecessary reform to UK policing.

THE NEED FOR CHECKS AND BALANCES

17. If the planned reform is to go ahead Liberty believes there will, at the very least, need to be a number of amendments to the proposed relationship between the directly elected Commissioners and the Police and Crime Panels. Much will of course depend on the detail of the changes as set out in legislation. If there are to be directly elected Commissioners, we recommend that the Panels operate more like the already existing Police Authorities, with a balanced two-way relationship. That is, the Panels must have more than an advisory role—which under current proposals the Commissioner could potentially ignore. The checks on elected Commissioners that the Home Office consultation paper only vaguely proposes must be reinforced so that there is robust accountability of the elected Commissioner to the Panel. The Chief Constable, the directly-elected Commissioner and the Panel should draw up, as a collective, the budget and the strategic plan for the area. The Commissioner could still perform the function of holding the Chief Constable to account—principally by being responsible for engaging with the public and feeding back local views—but any decisions which may affect operations (such as dismissal of a Chief Constable etc) must take place in an appropriate way through the Panel. There must also be clear structures and systems in place for when there is a disagreement between the Chief Constable and the elected Commissioner. We do not consider that the current proposal—is that the two may have publicly aired disputes—to be sufficient nor particularly helpful for the public.

CONCLUSION

18. Liberty whole-heartedly agrees that a key part of British policing is that all police officers, from the Constable to the Chief, are held accountable. This must mean that police officers who abuse their powers are answerable by way of disciplinary or court hearings and that the needs and security of the local community are heard and are met by those directing operations at the local level. Accountability must not
be directly to politicians (whether on the national or local stage) nor must it be solely to those individuals who have the time or inclination to join the police on the beat. Police are, and must remain, first and foremost answerable to the rule of law.

19. The potential costs of the proposal to replace Police Authorities with a directly elected politician could be enormous both to the public purse and the rule of law. These reforms could seriously politicise policing in the UK, damaging that central tenet of independence and undermining community trust and confidence. We believe that scrapping excessive targets and unnecessary demands on police time as well providing the public with more information about the accountability structures which already exist would go a long way to ensuring that police are more locally engaged. If this approach is not adopted, we believe at the very least there must be a much greater balance between the elected Commissioner and their Police and Crime Panel than currently envisaged.

October 2010

Memorandum submitted by the Metropolitan Police Authority

Executive Summary

— Many of the building blocks required to deliver the Government’s plans for police reform are already in place in London. (1.2)
— In London, the Mayor must be the Police and Crime Commissioner (PCC), but with the power to designate a nominated person to discharge the functions. Given the scale of the mission in London, the PCC should be supported by an advisory panel of non-executive “Assistant Commissioners”. (2.1)
— The PCC must be the “body corporate” for the police service, with the full range of powers and levers required for driving performance and improvement. This must include the ability to set priorities and strategies, holding the budget and owing the assets. (2.2)
— The London Assembly should undertake the Police and Crime Panel (PCP) scrutiny function. (1.2, 5.1)
— Both the PCC and the PCP will require appropriately skilled staff to support them.
— There are risks associated with trying to define “operational independence”. Establishing a shared understanding of “operational responsibility” may be more helpful. (3.1, 3.2)
— Some targets are desirable, to ensure that forces are steered to deliver across a range of targets and to ensure that Government able to be satisfied that forces are effective across a range of functions. Public access to timely and meaningful data is key. (4.1, 4.2)

1. Introduction

1.1 This is a written submission to the Home Affairs Select Committee Policing Inquiry from the Metropolitan Police Authority (MPA), based on the MPA’s response to the coalition Government’s plans for police reform, as set out in the paper entitled “Policing in the 21st Century: reconnecting police and the people”.

1.2 London is in a different position from the rest of country in terms of existing local government structures. With fully functioning regional structures and an elected mayor in place, London can quickly adopt the principles of directly elected accountability for policing. The London Assembly provides a ready-made scrutiny function, capable of ensuring open and transparent accountability, and providing the necessary checks and balances on the exercise of the Police and Crime Commissioner’s (PCC) functions.

1.3 London is also different in that the Metropolitan Police Service (MPS) has a range of national and international responsibilities for which it will be necessary to put in place accountability mechanisms.

1.4 The MPA regards it as important that the principles of effective corporate governance and democratic accountability should be consistently applied throughout the country. These principles include: transparency, public accessibility of information, responsibility for community safety and criminal justice, independent scrutiny, value for money, management of risk, maintenance of probity and public accountability to the electorate. The cost of governance should not be seen as an overhead; governance is vital to manage risk, maintain probity, transparency and accountability to the electorate.

2. The relationship between Chief Constables and elected Police and Crime Commissioners

2.1 In London, the Mayor should be the PCC, with a power to designate a nominated person to discharge the functions of this role. 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. It is for consideration whether some functions, possibly including the selection and dismissal of the MPS Commissioner, should remain the responsibility of the Mayor, not to be delegated. To provide democratic legitimacy, the individual designated
by the Mayor must be an elected politician and Assembly Members should be eligible. It is for consideration whether there should be a separate democratic process, or whether mayoral candidates might be required to nominate a "running mate" to be designated as the deputy PCC.

2.2 The MPA, in its short life, has made a significant impact on the way in which the MPS has shaped its priorities and conducted its business. It is important that the PCC in London, as elsewhere, has at the very least the same powers that police authorities currently possess, in order to ensure that they can be equally, if not more, effective. To this end, the PCC must be a legal entity with a range of powers and levers to guide and steer performance of the service, including:

- Setting the strategy.
- Setting the priorities and performance outcomes.
- Setting the standards.
- Holding and controlling the budget.
- Owning the assets and contracts.
- Owning and controlling the estate.
- Owning the data.
- Employing police staff.

2.3 The PCC should have the capacity to delegate as appropriate the functions and responsibilities which pertain to him or her as the body corporate to the MPS Commissioner.

2.4 Given the scale of responsibilities in London, overseeing a budget of £3.6 billion and a workforce of over 52,000, it is desirable that the PCC should have a non-executive advisory board, to be named the Mayor’s Police and Crime Commission, to support him or her. Given the national and international policing responsibilities of the MPS, the Home Secretary should consider whether it would be appropriate to retain the right to make an appointment to the Board. Appointments of “Assistant Commissioners” to the Commission should be a matter for the Mayor, subject to Nolan principles. Whilst again there should be no constraints on eligibility, any Mayor would be well advised to make appointments from those with appropriate expertise and to take the opportunity to ensure representative diversity in the oversight of London’s policing, including members of other tiers of London Government. This could include London Assembly members (who should then be excluded from sitting on the Police and Crime Panel to avoid a conflict of interest—experience to date has shown that it is essential to separate post hoc scrutiny from executive decision-making).

2.5 As far as is possible, the business of the Commission should be conducted openly and in public and should be subject to the Freedom of Information Act, including the requirement to publish all documents unless exempt, including meeting minutes, under the publication scheme. Individuals or organisations should retain the right to request information held by a public authority. There would need to be systems in place to respond to these and any requests made under the Data Protection Act.

2.6 The power structure within policing is complex and whilst there are pitfalls in seeking to be too prescriptive regarding such concepts as operational responsibility, it is necessary to provide checks and balances in the shape of independent executive control over police budgets and assets. Without the power to determine, as a matter of last resort, where resources are directed, the PCC’s capacity to ensure that the democratic mandate upon which he or she is elected can be adequately fulfilled will be constrained.

2.7 To ensure financial probity and the avoidance of conflicts of interest the PCC will require statutory officers (including a finance officer to fulfil the role of a s151 officer under current local authority legislation) separate to those performing similar roles within the GLA. He or she will also require the capacity to manage audit, risk, and assurance independently of the force. None of this need add to bureaucracy, and resource neutrality could be achieved through increased cost effectiveness resulting from the sharing of services. Under the proposed model some of the staff currently working in finance and estate management within the MPS might be deployed to work directly for the PCC. There is also a case to be made for a proportion of the performance analysis and research functions to be also deployed directly by the PCC.

2.8 In addition to the fundamental responsibilities of the PCC to set priorities and to control the budget, there are a number of functions that need to be discharged. The PCC should be able to make recommendations to The Queen regarding the appointment of the Metropolitan Police Commissioner and Deputy Commissioner, taking into account the representations of the Home Secretary, and should have the power to dismiss the Commissioner. There should also be a requirement in place for the PCC to approve appointments made by the MPS Commissioner of Association of Police Chief Officers (ACPO officers) and senior police staff.

2.9 An independent element in the regulation of professional standards and conduct matters relating to ACPO officers is a matter of principle and a PCC role within this should be maintained. Linked to this is an argument for the PCC to have control over the system to respond to complaints and concerns about the quality of service throughout the police and it is our view that the complaints function currently carried out within the MPS should be transferred to the PCC. It is for consideration whether a national framework should be put in place to support and ensure quality of service across the country.
2.10 London is probably the most diverse city in the world, presenting huge opportunities as well as some policing challenges. The PCC should be given explicit duties to promote equalities, not just in terms of ensuring that the MPS is representative in its makeup, but also to make sure the policing response engages with, and meets the needs of, all Londoners.

2.11 To fulfil national and international responsibilities, the PCC should be a statutory member of any oversight board to be established for the National Crime Agency, and the Bill should enable the PCC to establish arrangements to oversee criminal justice and community safety joint working in London. A statutory duty should be placed upon the Mayor as PCC to make adequate arrangements for counter-terrorism and protective services.

2.12 All of these roles and responsibilities require support staff with specialist skills in, for example, consultation with local people, planning, performance, finance, risk management, communications and community engagement. Much of this exists currently and would need to be maintained and managed through the transition period so as not to lose the experience and expertise built over many years.

2.13 We recommend that the legislation place a duty on the MPS Commissioner to support the PCC in the discharge of his or her statutory responsibilities. It should also confer on the PCC a power of direction over the Commissioner in the event that such support is not forthcoming. On a point of semantics, we are extremely concerned that the new arrangements will create significant confusion in the minds of Londoners about the respective roles of the Mayor and the police.

2.14 Although combining the roles of Mayor of London and Police and Crime Commissioner is both logical and attractive, it does dilute the efficacy of the ultimate safeguard of the ballot box in judging the success or failure of the PCC given that will not be the only factor on which the electorate will decide to vote. Nonetheless it is a powerful motivator for the incumbent to demonstrate how well he or she has performed in setting strategic direction and holding the MPS Commissioner to account.

3. How “operational independence” will be defined

3.1 What constitutes “operational policing” has never been defined by Parliament and there are potential risks in doing so. As per paragraph 2.13, the PCC should have a power of direction over the Commissioner if co-operation is not forthcoming.

3.2 There will be areas where the aspirations of the PCC may overlap with the operational independence of the force. For example, the style of policing at demonstrations such as that at G20 in London could be considered an operational matter, but something that the PCC, operating in the interests of the public would feel a duty to influence. Consideration could be given to the notion of “operational responsibility” outlined in the report of the Independent Commission on Policing for Northern Ireland, published in 1999 (see chapter 6 of their report).

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

4.1 We suggest that forces must be steered to deliver effectively across the range of policing functions and not just those considered priorities by communities. Whilst an array of output targets, such as sanction detection rates, can be counterproductive, we suggest that some targets driving key outcomes and to allow the Government to be satisfied that forces are effective across the range of functions are required.

4.2 We agree that local data must also be made available to the public to enable them to assess the performance of their force, PCC and panel. Relevant diversity data should also be collated and monitored to ensure equality of access and the development of appropriately targeted services. This is also particularly important in the context of London’s diverse communities and their historical experiences and understanding of policing and community safety by different groups.

4.3 Data provision and transparency should be a wider responsibility shared between the PCCs and community safety partnerships (CSPs). In London, for example, we have worked with CSPs to improve public accountability by integrating CSPs into the borough community police engagement group structure, so that community safety information (data and information on local initiatives) is regularly provided to local people through an open forum and the community safety team are held to account for the services they provide.

5. The role of Police and Crime Panels

5.1 In London, scrutiny of the performance and decision-making of the PCC should be conducted by a panel of the London Assembly, the Police and Crime Panel for London.

5.2 This panel should have appropriate powers and resources to enable it to fulfil its scrutiny role; that is, the Assembly’s existing and agreed new powers in relation to the Mayor’s budget, strategies, staff and information should also apply to the London Police and Crime Commissioner. The Assembly should be empowered to summons information, the London Police and Crime Commissioner and senior officers from the MPS and other relevant bodies in London such as the City of London Police, and should receive papers sent to the London Police and Crime Commissioner. The Assembly would expect to refer matters to internal audit for investigation where appropriate, to confirm appointments to the Commission and to report the
PCC to the Local Government Ombudsman for any alleged misconduct (not to the IPCC as envisaged in the consultation paper). The Assembly would also need appropriate resources to support its scrutiny function, including specialist audit and finance expertise.

5.3 In the current statutory structure, the MPA is subject to the Members Code of Conduct and is required to have a standards committee with various statutory functions which include promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and assisting members and co-opted members of the authority to observe the authority’s code of conduct. We consider it vital that the PCC and PCP should be included in any new standards regime, whether that has a statutory or voluntary basis. Consideration needs to be given the role of the PCC and the role of the Mayor and any possible conflicts of interest, as well as the PCP. To ensure probity in standards and governance issues, a key role will be that of monitoring officer.

5.4 The Assembly scrutiny arrangements have already provided evidence that robust public scrutiny can be effective. Making that panel a statutory consultee on the strategic priorities and giving it a power to hold confirmatory hearings for appointees to the Mayor’s Police and Crime Commission would provide extra safeguards against potential abuse of the PCC’s position.

October 2010

Memorandum submitted by the Association of Police Authority Chief Executives (APACE)

EXECUTIVE SUMMARY

— The Association of Police Authority Chief Executives is the professional body representing chief executives and other senior staff within police authorities. We welcome the opportunity of contributing to the Committee’s considerations. (1.1)

— Whatever model of policing governance is settled upon it is crucial that the parameters and limitations are fully understood by all from the outset, along with the projected workloads and necessary resource implications. (2.1)

— Any model of governance must reinforce and facilitate the functions given by Parliament to the governance entity. A key consideration will be the nature of the “body corporate” and the division of assets. (2.4)

— Identifying the employer, the owner of the police estate and other assets, the holder of the police fund and the body having responsibility for proper financial administration and internal audit arrangements are fundamental building blocks of any governance arrangements. (2.5)

— Creation of a substantial electorate and the attendant public expectations highlights the need to rebalance power locally between the police and their governors. If Commissioners and Panels are to deliver what the Government wants them to deliver, they need the powers and resources to do the job. The electoral mandate alone will not determine success. (2.5)

— The Principles of Good Governance provide a well-established framework for any governance arrangements in public bodies and should be maintained. (2.6)

— Clarity is need on transitional arrangements. (2.7)

— The proposed arrangements offer an opportunity to improve local management of complaints and we encourage a review of the relevant legislation. Complaints against Commissioners and legal challenge to their decisions have to be addressed and we question whether the IPCC is the appropriate body. (2.9)

— Operational policing has never been defined by Parliament; it is unclear how this settled and important constitutional principle will sit with duties on, and expectations of Commissioners. (3.1)

— Some organisational decisions fall outside “operational policing” however defined. (3.2)

— A duty upon Commissioners to collaborate will be necessary. (3.3)

— There will be areas where the aspirations of Commissioners will overlap and possibly conflict with the operational independence of chief officers. (3.4)

— It would be helpful to reinforce the respective functions of Commissioners and chief constables with a small number of powers and mutual duties to help balance the roles and give effect to the intention behind the new arrangements. (3.5)

— There should be local flexibility on targets with data/information to allow benchmarking and comparative analysis. (4.1–4.4)

— There is need for adequate and proportionate checks and balances. The paper recognises that those are best achieved by a combination of locally elected councillors and independent/lay members from local communities; members’ continued involvement would bring stability and clarity particularly during any transitional stage(s). (5.1)
1. Introduction

1.1 We welcome the opportunity to submit this paper and note that the Committee will focus on the introduction of Police and Crime Commissioners, as a key element of the Police Reform and Social Responsibility Bill.

1.2 Chief executives have supported their respective authorities developing their local response and these views have contributed to the development of the national APA submission. However we believe we can complement both of these viewpoints from the specific strategic and structural perspective of the statutory role fulfilled by chief executives.

1.3 The following commentary is organised around the Committee’s four key lines of enquiry within its terms of reference:

2. The relationship between Chief Constables and elected Police and Crime Commissioners

2.1 We are concerned that, without appropriate balance between the Commissioner, the Panel and the relevant chief officer the proposed model will invite conflict, add further bureaucracy and ultimately reduce the scrutiny given to policing locally, regionally and nationally.

2.2 A Commissioner's greatest strength will be their local mandate derived from a substantial electorate that will greatly exceed that of any parliamentary constituency. However they will be required to balance this local mandate with statutory duties to ensure that the full range of policing services is delivered to their communities. Their conspicuousness can be expected to drive their workload particularly around consultation, communication and complaints. It will therefore be crucial that the governance arrangements are fully understood by all at the point of election and that the many and varied promises on which a Commissioner may choose to campaign will, in fact and in law, be within his or her control on appointment. A realistic understanding of the necessary administration and the ability to access the appropriate level of resources will also be critical to the success of any governance model.

2.3 The election of Commissioners is likely to bring greater political influence into policing at two levels: the Commissioner and the Police and Crime Panel. A strong Panel with some independent members and responsibility to work with the Commissioner would mitigate any risks that might accompany greater politicisation. Steps will be needed to ensure candidates come from a wide range of backgrounds, although we offer no suggestion on how this might be achieved. Those with the resources and backing of mainstream political parties will stand the most realistic prospect of election and there is a risk of a Commissioner being elected from a body with extremist views.

2.4 The model of governance will need to reinforce and facilitate the Commissioner's functions and its selection will be a fundamental decision directly impacting on the key considerations in the paper. Other models relay on a Non-Departmental Public Body (NDPB) arrangement. Aside from any considerations attending the creation of 41 new “quangos” there are practical difficulties with this model principal among which is the fact that NDPBs are arms' length emanations of central government whose administrative arrangements allow the sponsor department to call in or override decisions. This, together with the attendant bureaucracy and administrative infrastructure (and considerations around the Accounting Officer function) appears to contradict the paper’s intentions and therefore makes such a model unlikely. Commissioners will need a separate legal entity (perhaps as a statutory corporation or a trust) and this will have a significant impact on the necessary support and transition arrangements.

2.5 Defining the “body corporate” needs to be determined early. Identifying the employer, the owner of the police estate and other assets, the holder of the police fund and the body having responsibility for proper financial administration and internal audit arrangements are fundamental building blocks of any governance arrangements. The extent to which these functions are transferred to the Commissioner will impact significantly on the influence the Commissioner is able to bring to bear. Creation of the substantial electorate referred to above, and the attendant public expectations highlights the need to rebalance power locally between the police and their governors. If Commissioners are to deliver what the Government wants them to deliver, they need the powers and resources to do the job. The electoral mandate alone will not be determinative of success, particularly if devolution of power from the Home Office to chief constables significantly increases the powers of the latter.

2.6 The CiPFA Principles of Good Governance provide a well-established framework for any public body and should be maintained.

2.7 The complexity and inter-related nature of existing governance arrangements make an instant transfer from the current to the new framework very unlikely. Among the many considerations (including the setting of budgets, the straddling of financial years, the creation of statutory transfer schemes and the handover of outstanding matters such as maternity leave, complaints and investigations) will be the need for continuity and due diligence. Clarity is needed on transitional arrangements and beyond for police authority

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27 For example the Police Complaints Commissioner for Scotland.
statutory officers together with early agreement on how any future statutory officers are to be appointed, dismissed and protected. To ease the transition period we suggest that the Panels contain current police authority members.

2.8 Much has been made of the Commissioner’s powers to “hire and fire” chief constables. While an important feature of any “employment” relationship, the power to dismiss a senior individual is usually one of last resort and invariably involves substantial cost. At this level the key governance issues will generally be around performance, capability and capacity rather than conduct.

2.9 The Commissioner will need to have some responsibility for complaints, if only by reason of public expectation. The role of Commissioners in relation to complaints about senior officers (a role currently undertaken by police authorities) will need clarification and we believe that there is an opportunity for Commissioners’ offices to play a significant part in commissioning or overseeing the resolution of community grievances and non-criminal complaints. We would encourage a parallel review of the relevant legislation. The question of complaints against Commissioners and legal challenge to their decisions/action has to be considered carefully and we anticipate a substantial workload to arise from their prominence/novelty. We question whether the IPCC is the appropriate body for addressing such complaints. Consideration must also be given to complaints against members of the Police and Crime Panels.

3. How “operational independence” will be defined

3.1 What constitutes “operational policing” has never been defined by Parliament and the authorities at common law are sparse though well-established. It is unclear how this settled and important constitutional principle will sit with duties on, and expectations of Commissioners.

3.2 Decisions to purchase goods and services surely fall outside “operational policing” however defined.

3.3 The focus on localism has the potential to detract from the key strategic work required around collaboration. Section 6ZA of the Police Act 1996 places a duty on police authorities to secure effective collaboration and we believe a correlative duty will be necessary for a Commissioner.

3.4 There will be areas where the aspirations of the Commissioner will overlap and possibly conflict with the operational independence of the relevant chief officer. Examples have been submitted elsewhere but include a promise to increase visibility of police officers in neighbourhoods, the use of sensitive counter-terrorism powers and the practice of “kettling” crowds in policing public order operations. Each of these illustrates the potential for conflict and confusion in a setting where each party may legitimately claim to be acting within the scope of their statutory functions and the best interests of their communities. We suggest these fundamental matters must be addressed as clearly and as early as possible.

3.5 The ability to hire and fire a chief constable, set a budget and the strategic direction provide the Commissioner with some powerful aids to fulfill their role. However, a small number of further complementary powers might produce greater equality and clarity between the roles. We suggest that the power implicit in an electoral mandate needs to be made explicit in the legislative framework and it would be helpful to place chief constables under a duty to co-operate with the Commissioner in meeting the latter’s statutory duties (including any duty to collaborate with others). Binding this duty to those of the Commissioner addresses the risks of Commissioners moving into areas of operational independence. Where a Commissioner considers that the Chief Constable is not co-operating the Commissioner might require a power of administrative direction, not one that is capable of overriding an operational decision but sufficient to resolve any organisational or managerial dispute that might arise. The exercise of such a power could be put into the public domain. These simple but significant powers and duties, together with the preservation of operational responsibility for chief officers, would help balance the roles and functions of the two parties, giving effect to their respective functions.

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

4.1 We agree that the public must be able to see the performance of their police in dealing with crime and anti-social behaviour and have access to meaningful data about crime in their neighbourhoods. HMIC has recognised that information above force level has little meaning for communities and at the local level we feel there is no need for national targets.

4.2 National targets provide a useful focus for local planning/target setting for forces, authorities and Community Safety Partnerships. However, “being useful” is not the same thing as “being necessary”. Forces, authorities and partnerships identify what crime and anti-social behaviour is a priority through regular strategic assessments and local intelligence gathering. Local engagement activity, consultation and feedback from community meetings, mean police authorities know what concerns their communities and what their crime and ASB priorities are. Local, visible targets and how these are achieved are likely to be of greater importance than any determined centrally.

28 See for example R v Metropolitan Police Commissioner, ex parte Blackburn (No 2) [1968] 2 All ER 319.
4.3 Sharing of best practice and information enabling forces and authorities to benchmark and undertake comparative analysis is useful in reviewing and informing delivery, but should not be imposed at the expense of responding to local needs.

4.4 Commissioners will need access to effective consultation mechanisms and to information that is relevant, consistent and reliable. In many cases the size and diversity of the communities covered by their jurisdiction together with the size of their force will alone make this a significant challenge.

5. Role of Police and Crime Panels

5.1 We note that Panels are to sit “at the core” of the proposals for checks and balances. We welcome recognition of the need for adequate and proportionate checks and balances within any new framework. We particularly welcome the recognition that those checks and balances are best achieved by a combination of locally elected councillors and independent/lay members from the local communities. Police authorities already have these arrangements in place and their members’ continued involvement in this core function would bring stability and clarity particularly during any transitional stage(s).

5.2 One effect of the proposed arrangements is replacing the tripartite arrangement with a quadripartite (Home Office, ACPO, Police & Crime Panel and Commissioner). Aside from the additional bureaucracy, cost and complexity, there is also a risk, without careful crafting of statutory duties and powers, of Commissioners being the most conspicuous but least effective party. All parties within the governance model ought to have a shared primary duty to ensure the best outcomes for their communities in terms of policing.

5.3 All Panel members, whether lay members or directly elected, should serve a term of four years. This would end the annual “revolving door” of elected members and the attendant loss of knowledge, skills and experience.

October 2010

REFERENCES

i see for example the responses submitted by the Association of Police Authority Chief Executives May and July 2010.


Memorandum submitted by the Police Federation

Whilst it is not for the Police Federation which represents 140,000 rank and file officers up to and including the rank of Chief Inspector to adopt a position in relation to accountability with regards to the relationship between Chief Constables and the proposed Police Crime Commissioners, we do however accept the ethos of PCC’s and the fact that the proposals focus on PCC’s that are locally elected and locally accountable. There needs to be an understanding and a will to continue to support regional and national policing initiatives.

We do however submit the following points to assist the committee in it’s enquiry in relation to Police and crime Commissioners.

1. The Police Federation has always been a fierce defender of the political independence of the police service and will do everything to ensure that this fundamental aspect of the constitution is maintained.

2. These issues have been outlined in the Police Federations response to the HMIC Policing in the 21st Century: reconnecting Police and the People.

3. The Police Federation is concerned that information gathering for the PCC should not add to the bureaucratic burden on the police service.

4. There is a lack of detail in the current proposal outlining how the PPC and the Chief Constable would work together and we also have concerns that there is no legal definition of the principle of “operational independence”.

5. There appears to have been little cognisance given as to how the PCCs sit within the devolved government in Wales and the responsibilities of ministers in the Welsh assembly.

6. 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.
Memorandum submitted Cumbria Police Authority

Cumbria Police Authority is the body charged with the provision of an efficient and effective police service for Cumbria. The Police Authority welcomes the opportunity to submit written comments to the Select Committee. We have already commented on the Home Office consultation paper “Policing in the 21st Century: Reconnecting Police and the People”, though it was disappointing that consultees were only been allowed eight weeks to respond to these important proposals rather than the twelve weeks recommended by the Cabinet Office. The fact that the Select Committee is giving the proposals detailed scrutiny is particularly appreciated.

We support the vision of achieving a free, fair and responsible society and the aspiration to move control away from central government to people and communities. The Police Authority also welcomes the proposed reduction of bureaucratic burden on forces and a return to “common sense” policing, more local autonomy and the removal of central direction. It also acknowledges the need to seek further efficiencies and welcomes the proposed relaxation in barriers to collaboration.

We would support the removal of national targets but would hope that at least some national standards can be retained for benchmarking assessments.

However, the Police Authority is concerned that now is not the right time for such radical changes to the governance of policing, given the current financial position and sustained falls in crime. This is especially so as there is no evidence that the public want to see changes to the governance arrangements for policing. Nor is there evidence that the proposed introduction of Police and Crime Commissioners (PCCs) will either strengthen local accountability arrangements or reduce costs. However, the Government’s right to propose change is acknowledged.

The Police Authority Is also adamant that no national reform programme should be at the expense of local service delivery.

The relationship between Chief Constables and elected Police and Crime Commissioners

1. There is real concern that, as currently drafted, the proposals will either lead the relationship between the PCC and Chief Constable being either too “cosy” or confrontational. The latter is most likely, though both are undesirable. The current system with 17 Member authorities dilutes the potential for conflict between the Chief Constable and Chair.

2. The Police Authority is concerned that one individual cannot effectively represent the half million people living in England’s second largest geographic county. Neither would it be practical to actively engage with them. It is difficult to see how a single person can actively engage at the partnership level and make a valued contribution—a task that is difficult for an existing body of 17 people. How will one individual ensure that they represent the views of the entire population of such a large area as Cumbria and not just those from their immediate area? There is also concern that PCC elections might be particularly vulnerable to being hijacked by single issue politics rather than a mature, wider consideration of policing issues as is clearly the Government’s intention. The election of a single issue candidate might be greater if the turnout for PCC elections is low. It is also possible that the election the election of the PCC could be used by the electorate as a referendum on the policies on the government of the day rather than considering the merits and policies of the local candidates.

3. The issue of elections is important as the PCCs greatest asset in terms of their relationship with the Chief Constable will be their electoral mandate. It is vital, therefore, that they have legitimacy across the whole of the police force area. This has to considered in the context of current constituencies in terms of number of electors and geographic area for other elected representatives in England and Wales.

4. PCCs need to be equipped with adequate powers—as opposed to duties—to enable them to fulfill their statutory roles and their electoral mandate. These powers should be augmented with control over finance, strategic direction and the police estate. This is essential to ensure that there is balance with the role of Chief Constable, who should retain full operational independence and provide the PCC with the necessary leverage to fulfill their statutory functions.

5. It is suggested that the Government should consider placing a duty on Chief Constable’s to co-operate with the PCC in fulfilling the statutory and electoral mandate. This could be supplemented by a limited power of direction in those instances when the Chief Constable does not co-operate. This would serve to give the PCC with a course of action that would fall short of resorting to seek the dismissal of the Chief Constable. The current experience of police authorities is that having the power to set strategic priorities does not automatically lead to them being delivered by the force. While acknowledging the Chief Constable’s operational independence there will need to be clarity over who has precedence given that the PCC will have a democratic mandate.

6. It is appropriate that the PCC appoints the Chief Constable. However, some safeguards need to be built into the process to ensure that the PCC does not abuse their position in making appointments—this is particularly important in the light of concerns expressed earlier about the possible election of a single issue candidate. It would be appropriate for the PCC to have a role in the appointment of all ACPO officers and ACPO equivalent staff.
7. In striving to increase accountability and transparency the Government may wish to consider giving responsibility for dealing with complaints to the PCC. The public are likely to see the PCC as the person to whom complaints about policing should be addressed and it would approve accountability, transparency and increase confidence if the PCC has responsibility for handling complaints. It is important that complaints are seen to be handled in a fair and objective way; something which could be achieved by removing this activity from police forces.

8. It is important that the role of PCC and Chief Constable are seen as equal.

How “operational independence” will be defined

9. Essentially “operational independence” is already in place in police authorities who have a structured scheme of delegation which clearly sets out where the responsibilities of forces and authorities lie. Generally, the current model of governance has worked well, and police authorities and Chief Constables have found pragmatic ways of dealing with the issue of “operational independence”. It is difficult to envisage how this could be further defined, although in the area of business management there could be a potential for discussions regarding what constitutes operational policing.

10. Police authorities generally restrict themselves to strategic matters, though the strategic decisions they make may impinge on the delivery of policing. However, 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. This likely to be the main source of the potential conflict referred to above. Ultimately the PCC has the power to dismiss the Chief Constable and the development of a mediation process to prevent recourse to that situation might usefully be explored.

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

11. 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. If forces all collected data in a standard way then there would be no need for expensive central collation of information, but the information would still be available for reliable benchmarking. Accurate benchmarking information will be important for PCCs to enable them to hold the Chief Constable to account.

12. We would like to see HMIC, as the primary inspection body reducing their need for the creation of audit trails solely to satisfy their inspection and audit regime. Revision and updating of inspection criteria for HMIC and the various other agencies who inspect police forces so that they do not push authorities and forces to set targets and collect a raft of data but look beyond this at how the force is performing and is held to account.

13. Forces should only be collecting data that enables them to conduct their business. Any data provision or requests for information should be balanced against this test.

The role of the Police and Crime Panels

14. The Police and Crime Panel (PCP), as currently envisaged, is not strong enough to adequately scrutinise the PCC. It would also be beneficial if it had a role in supporting the PCC.

15. It is pleasing that the Government is proposing drawing its membership from local authorities in the force area and retaining independent members. This is due to their ability to represent the interests of the large geographic areas and to draw on the varied expertise of independent members which has proved so valuable in police authorities.

16. It may be appropriate to provide the PCP with clear roles in regards to equality and standards to ensure that the PCC complies with all the necessary legislation in these key areas. It is not clear who will provide the necessary support to the PCP. They will require the same expertise and support as the PCC if they are to have an adequate understanding the financial and policing information they are scrutinising.

17. Finally, there is an irony in having a panel of people, the PCP, to scrutinise the PCC but only one person, the PCC, to scrutinise the Chief Constable. Surely, if there is a case for a body of people to scrutinise the PCC then the same case could be made for the scrutiny and governance of the Chief Constable. Perhaps there is a case for retaining police authorities after all?

October 2010
Memorandum submitted By ACPO Cymru

EXECUTIVE SUMMARY

POLICING IN WALES

Community safety straddles the devolved and non-devolved partnership landscape which makes the context for policing in Wales unique.

The influence of the Welsh Assembly Government on our devolved partners is as important as the department for Communities and Local Government in England. In developing our relations with partners a significant benefit has arisen from the fact that a high proportion of elected Police Authority members are also senior local authority politicians. That seniority of representation also reflects the importance of the police element of the precept to local authorities and the Welsh Assembly Government.

Since 2006 we have developed an All Wales approach to collaboration through the innovative Police Authorities of Wales, which allows for a flexible local, regional or national approach as appropriate. Our collaborative structure also enables us to quickly respond to the Welsh Assembly Government on issues where a single policing response is appropriate. As part of our collaborative approach to protective services we established TARIAN and the Wales Extremist and Counter Terrorism Unit (WECTU). These units recognise the fact that organised crime and terrorism require specific responses and they provide Welsh forces with a flexible level two capability. Losing significant staff to the borders element of the National Crime Agency (NCA) alongside cuts from the ACPO TAM budget would seriously impact on the viability of WECTU in the future.

In Wales we currently have four Local Criminal Justice Boards. When they were established they were aligned to the criminal justice structure in Wales but in recent years many of our partners have moved to an All Wales structure. In consequence, we are currently considering establishing a strategic All Wales Criminal Justice Board.

THE NEED FOR CHANGE

We do not consider that the generalised criticisms in the White Paper levied against Police Authorities apply to Wales. Whilst the current model is not perfect, Police Authorities in Wales do provide communities with visible and accountable representation. They are committed to change and to improving quality of service. We question whether the proposed changes will provide an improved service. In our view they will not.

IMPLICATIONS OF WHITE PAPER PROPOSALS TO POLICING IN WALES

The current corporate body approach to setting the policing precept requiring the support of a majority of locally elected Police Authority members, who also have devolved government accountability through their local authorities, has a number of safeguards. The fact that local authority partners through their elected member, are accountable for our funding means that they cannot expect a level of service that has not been budgeted for. Placing tax raising powers in the hands of a Police and Crime Commissioner (PCC) is creating concern amongst our partners in Wales and has the potential for creating unnecessary tensions with both the Welsh Assembly Government and local authorities.

The locally elected members of Police and Crime Panels (PCP) may be the same individuals who currently sit on Police Authorities. The proposal to give them an advisory role in the budget setting and precept decision will, in the case of dispute, likely result in a referendum. At a time when Welsh police forces are already losing police and civilian staff we would not want to see our finances worsened by any unnecessary additional costs. Proper scrutiny powers for the PCP are needed so as to provide the checks and balances so important to genuine democratic accountability.

The generic model for the PCC does not take account of the complexities of the partnership landscape in Wales. The PCC role is focused on a police force area and there is a real need for an overarching collaboration structure that would incentivise the four Welsh PCC’s to think and operate strategically on an All Wales basis.

We see an opportunity to capture the spirit of the White Paper and to be constructive and progressive in taking forward collaboration. Our proposal is to create a new body to champion and drive forward collaboration on an all Wales basis—a Policing Board for Wales. We feel that it would build on the existing collaborative framework and take it to a new and improved level. The four PCC’s, the four PCP’s and the four chief constables would be core members of the proposed Board which would be a co-ordinating body and partnership enabler operating at a strategic level and would not impact on the specific roles or responsibilities of directly elected PCC’s within their respective force areas. Neither would the Board interfere with the operational independence of a chief constable. Inviting a representative of the Welsh Assembly Government to the Police Board would produce additional benefits. A further option would be to broaden the Policing Board even further to include representation from across the Criminal Justice System in Wales.

Whilst we accept that the Government is averse to retaining Police Authorities, if we are to improve service delivery we must not lose sight of the many positive aspects our Police Authorities currently provide. This is particularly important in Wales because of our 22 relatively small local authorities which makes for a
complex partnership landscape with many tiers. The current mix of elected and independent members on Police Authorities ensures representation in every local authority area. It makes for a democratic level of accountability and an additional means of engagement with communities through local authority mechanisms. We do not consider that a single PCC will be able to represent our many diverse communities as effectively.

We are very concerned that existing relationships with partners and the benefits that those partnerships bring to our communities could be damaged through an approach that is focused on achieving consistency across England and Wales rather than facilitating the needs of communities in Wales.

1. Policing in Wales

1.1 The context for policing in Wales is unique and has been independently recognised as such. The relatively small size of Wales brings many advantages and allows the police service to develop initiatives with partners in a way that could not be replicated elsewhere.

The partnership landscape in Wales

1.2 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. The Welsh Assembly Government has policies and a performance and monitoring regime, which are quite distinct to those in England. The fact that we have 22 local authorities and multiple health and education bodies has meant that the partnership landscape in Wales is complex and somewhat demanding. The number of meetings even at a strategic level that a Police and Crime Commissioner would be expected to attend should not be underestimated.

A positive relationship

1.3 The relationship the four police forces and Police Authorities in Wales have developed with the Welsh Assembly Government is positive and productive and we are regarded as a key stakeholder in the development of policy and strategy. For example, we have a seat on the Efficiency and Innovation Board, the prime strategic partnership Board in Wales, chaired by the Business Minister. The Welsh Assembly Government has also provided significant funding to support community safety that has enabled collaboration in Wales in key areas, notably protective services eg Tarian and the All Wales School Liaison Core Programme.

1.3.1 Whilst the development of the partnership landscape in Wales has been different from that in England, our good relations with local authorities at both a strategic and tactical level has meant that we have been able to work collectively and quickly to develop practical responses to areas of concern. A good example is the Memorandum of Understanding (MOU) ACPO Cymru developed and signed with the Society of Local Authority Chief Executives in Wales (SOLACE Wales) earlier this year with the objective of improving our approach to building communities. All 22 local authority chief executives signed up to the MOU, an outcome which was the first of its kind in the UK.

1.3.2 In developing our relations with partners a significant benefit has arisen from the fact that a high proportion of elected Police Authority members are senior local authority politicians. That seniority of representation also reflects the importance of the police element of the precept to local authorities. The level of scrutiny of the policing precept in Wales by both local authority members and the Welsh Assembly Government should not be underestimated and has resulted in significant variations in police precepts in the four force areas.

Collaboration on an All Wales basis

1.4 We began in 2006 and through the innovative Police Authorities of Wales, a Section 106 Committee, we have developed an All Wales approach to improve operational capacity and capability and to make us more efficient and effective eg we were the first to establish a regional deputy chief constable post supported by a dedicated team to take forward collaboration, we have already implemented a single non emergency number (101) for the four police forces in Wales and we have also developed a single National Policing Plan for Wales. Our collaborative governance structure also enables us to quickly respond to the Welsh Assembly

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29 The Report of the All Wales Convention included the following, “many aspects of police work touch on devolved areas which fall within the Welsh Assembly Government’s responsibilities, particularly: crime reduction; youth crime and anti-social behaviour; domestic violence; arrangements for mentally disordered offenders and their social supervisors; the development and implementation of strategies against substance misuse; and transport and roads policy. Further, the key partners of the police in the wider policing world, such as local government and health, are devolved; and crucially, operating in the Welsh Language is often a vital every day requirement. So the particular challenge for the police in Wales is how a non-devolved service operates in a largely devolved environment, but yet enjoys coherence of strategy, accountability and funding” http://allwalesconvention.org/getinformed/thereport/thereport/?lang=en

30 In Wales there are currently 22 local authorities, 7 Health Boards, 3 NHS Trusts and 3 fire and rescue services all of which have a vital part to play in community safety.

31 Including the ability to set a cap on the police precept that historically has had variations to those applied in England

32 See paragraph 1.5.
Government on issues where a single policing response is appropriate. At a time of austerity and financial constraints our collaborative model is enabling economies of scale and efficiencies to be found across the four forces in addition to those found from within forces. It is vital that this approach continues.

1.4 While the White Paper emphasises the importance of collaboration between forces, wider public sector collaboration also provides opportunities for improving efficiency and reducing costs. In Wales our very good relationships with local authorities is enabling this type of cross sector activity eg. Gwent Police IT management services are delivered through a collaborative agreement with Torfaen County Borough Council.

Regional Collaboration

1.5 As part of our collaborative approach to protective services, the four Police Authorities and Chief Constables established TARIAN and the Wales Extremist and Counter Terrorism Unit (WECTU). These units reflect the fact that organised crime and terrorism require specific responses and they provide Welsh forces with a flexible level two capability and include key partners. Within Wales we have created a truly cohesive structure of Welsh policing assets and those of the centrally funded Counter Terrorism Intelligence Unit. The Office for Security and Counter-Terrorism recently stated “You are exemplars in Wales around counter terrorism structures”.

1.5.1 Nationally, the Counter Terrorism Intelligence Unit element is vulnerable to the expected cuts and there does appear to be a lack of recognition of the innovation shown within Wales. Losing significant staff to the borders element of the National Crime Agency (NCA) alongside cuts from the ACPO TAM budget would seriously impact on the viability of WECTU in the future. Returning to the previous position of four force Special Branches working independently would be a retrograde step.

1.5.2 In our view, the proposed NCA structures and governance of counter terrorism more generally, needs to acknowledge that the Welsh Assembly Government is active and has a vital role, which secures the co-operation of many Welsh partners in a way which local/force-level and national/UK structures could never do.

1.5.3 Whilst the White Paper focuses on organised crime and terrorism, our collaborative structures in Wales also enable us to address wider cross border protective service demands in a flexible and effective way.

The Criminal Justice landscape in Wales

1.6 The White Paper rightly identifies the importance of localism but it is also vital that developments being pursued by partner agencies which impact on forces are taken into account. For example, in Wales we currently have four Local Criminal Justice Boards and when they were established they were aligned to the criminal justice structure in Wales. However, over time many of our partners have moved to an All Wales structure which has meant that representation on individual LCJB’s no longer includes the head of the agency and as a result some members lack the seniority to commit funding or resourcing at the table. In consequence, with our partners, we are currently considering establishing a strategic All Wales Criminal Justice Board.

Democratic accountability

1.7 A priority within the White Paper is to improve local accountability and engagement through an elected Police and Crime Commissioner (operationally we are actively pursuing the same aims through our neighbourhood policing teams). Wales has an extraordinary richness in diversity, as exemplified in language and culture. Legacies from past migrations, particularly to the coalfield areas have left Wales with communities which are often quite distinct to those of the more rural areas and the Welsh language remains a passionate subject which unites some communities in parts of Wales. Many of our communities have fierce local loyalties and some still do not recognise the more recent local authority boundary changes. Even elected officials for the relatively small political constituencies (when compared to the size of a force area) find it challenging to represent all the different interest groups within their areas. The proposal for a single elected PCC to be the representative of all the communities within a force is a very challenging one indeed in Wales.

2. Implications of White Paper Proposals

A Need for change?

2.1 The generalised criticisms in the White Paper levied against Police Authorities do not apply in Wales. Whilst the current model is not perfect, Police Authorities in Wales do provide communities with visible and accountable representation and, as our collaborative initiatives show, they are committed to change and to improving quality of service. A survey carried out jointly by the four Police Authorities in Wales in September 2010 found that 97% of respondents had heard of Police Authorities and 82% knew what a Police Authority does. We do question whether the proposed changes will provide an improved service. In our view they will not.

33 The National Intelligence Model has three levels—Tackling local issues (Level 1); Force or cross boundary issues (Level 2); and National issues—serious and organised crime (Level 3).
Police and Crime Commissioners

2.2 If the proposals are to achieve their stated aims then it will be important for the PCC model to be embraced by partners. The step of placing tax raising powers in the hands of a single individual is an issue which is creating great concern amongst our partners in Wales. The current economic climate is resulting in significant budget cuts across the public sector and because of the relative importance of the public sector to the economy of Wales, the cuts here will have greater social and economic consequences than in many parts of England. We are entering a period when taxation powers will come under even greater scrutiny and, as they stand, the current proposals carry the potential for creating unnecessary tensions with both the Welsh Assembly Government and our local authority partners.

2.2.1 The current corporate body approach to setting the policing precept, requiring the support of a majority of locally elected Police Authority members, who also have devolved government accountability through their local authorities, has the merit of a number of safeguards. Whilst Chief Constables sometimes receive a lower level of budget than they seek, the counter side is that the decision brings with it political ownership which means that our local authority partners through their elected member, are accountable for our funding and cannot expect a level of service that has not been budgeted for.

Police and Crime Panels

2.3 The locally elected members of Police and Crime Panels (PCP) may well be the same individuals who currently sit on Police Authorities. Concerns over the precept will ensure it is the leader or a very senior elected member. They will therefore be experienced in both the policing and local authority worlds. The White Paper proposal to give them an advisory role in the budget setting and precept decision will, in the case of dispute, leave only one option open to them—a referendum. At a time of economic constraints that course of action, with the additional costs it will bring, is highly undesirable. A referendum would not only involve the additional costs of the process per se, but also additional billing costs. The delay could also impact on cash flow and service delivery. In our view, the current proposals would make referendums more rather than less likely. At a time when Welsh police forces are already losing police and civilian staff we would not want to see our finances worsened by any unnecessary further additional costs.

2.3.1 The stated aim of the PCC is to provide an individual who could better represent the public than existing Police Authorities. In Wales, the diversity of our communities and the culture of localism will make this objective extremely challenging and in our view it is unlikely that a single individual could do this. (We would argue that it weakens localism as currently Police Authorities have at least one councillor representative, whilst the PCP will likely be a much smaller body.)

2.3.2 The role of the Police and Crime Panel will therefore have added significance. The absence of power to go with their advisory function, compared to what currently occurs, is unlikely to be as attractive to independent members. It would be a retrograde step if the PCP was not able to attract a high quality and diverse membership.

Collaboration

2.4 The current generic model for the Police and Crime Commissioner does not take account of the complexities of the partnership landscape in Wales. The PCC role as outlined in the White Paper is focused on a police force area and there is a real need for an overarching collaboration structure that would incentivise the four Welsh PCC’s to think and operate strategically on an All Wales basis.

3. Our Proposals

A Policing Board for Wales

3.1 We see an opportunity to capture the spirit of the White Paper and to be constructive and progressive in taking forward collaboration. Our proposal is to create a new body to champion and drive forward collaboration on an all Wales basis—a Policing Board for Wales. We feel that it would build on the existing collaborative framework that is working so well for communities in Wales and take it to a new and improved level. The four PCC’s, the four PCP’s and the four chief constables would be core members of the proposed Board which would be a co-ordinating body and partnership enabler operating at a strategic level and would not impact on the specific roles or responsibilities of directly elected PCC’s within their respective force areas. Neither would the Board interfere with the operational independence of a chief constable.

3.1.1 We envisage great benefits in inviting a representative of the Welsh Assembly Government to the Police Board. In making this proposal we are conscious of constitutional dynamics and there would clearly be a need to work through the detail carefully. However, Welsh Assembly Government representation would enable much closer collaborative and partnership engagement across the devolved spectrum and provide even closer links between policing and our community safety partners. Further option would be to broaden the Policing Board even further to include representation from across the Criminal Justice System in Wales—the courts and Crown Prosecution Service.
Police and Crime Panels

3.2 Whilst we accept that the Government is averse to retaining Police Authorities, if we are to improve service delivery then in creating PCP’s we must not lose sight of the many positive aspects our Authorities currently provide. This is particularly important in Wales because of the 22 relatively small local authority structure we have which makes for a complex partnership landscape with many tiers. The current mix of elected and independent members ensures representation in every local authority area, means that there is a democratic level of accountability and a means of engaging through local authority mechanism with our communities. We do not consider that a single PCC will be able to represent our many diverse communities as effectively.

3.3 We also believe the White Paper proposals would put too much power in the hands of a single individual. Proper scrutiny powers for the PCP are needed so as to provide the checks and balances so important to genuine democratic accountability.

4. Conclusion

We are very concerned that existing relationships with partners and the benefits that those partnerships bring to our communities could be damaged through an approach that is focused on achieving consistency across England and Wales rather than facilitating the needs of communities in Wales.

October 2010

Joint memorandum submitted by Police Authorities of the North West

Introduction

The police authorities in the North West work closely together on a number of collaborative arrangements and formal governance structures are now in place, through the North West Joint Committee, to oversee the collaboration between the five forces. The Chief Executives of the five authorities meet on a regular basis to discuss issues of common concern and share good practice. At a meeting held on 11 October, given the shared interest and concerns in the police reform proposals as currently worded, it was agreed that a joint response should be made to the Select Committee. The following response sets out the common areas of agreement between the five authorities.

In general, all the authorities have significant concerns about the police reform proposals in terms of policing governance as they currently stand. There appears to be no strong evidence or business case to suggest that there is an overwhelming need, or indeed desire, for this new structure for policing governance. All five authorities are concerned that the proposals have been developed too quickly (the consultation period was for eight weeks during the summer holiday period, against the recommended 12 weeks), leaving little time to consult with the public and key stakeholders. There is no visibility concerning costs of the proposal, and it is understood that the cost of the elections alone will be in the region of £60 million. There are also concerns around the transitional arrangements and the lack of any real direction on how this will be undertaken.

Above all, the real concern of all five authorities focuses around the lack of a robust model of policing governance, which appears to shift the tripartite arrangement very much in the favour of chief constables, and leaves the Police and Crime Commissioner exposed, supported only by a weak and powerless Police and Crime Panel.

Executive Summary

The key elements of this submission are:

— Lack of support to the Commissioner due to a powerless Police and Crime Panel, leaving the Commissioner in a potentially exposed position in their relationship with the Chief Constable.
— A strong belief that the corporate assets of the organisation should rest with the Commissioner.
— Support the maintenance of the principle of operational independence but feel that actually defining what that means could present challenges.
— Concern that policing will become politicised with the Commissioner trying to introduce undue pressure on the Chief Constable to support an electoral mandate.
— Support the need for national standards to ensure forces operate on a “level playing field”.
— Support more local discretion for the setting of targets.
— Support moves to reduce the bureaucratic burden of inspection regimes.
— Significant concerns over the lack of any real power that is being proposed for the Police and Crime Panel.
— Concern that the lack of any real support for the Commissioner by the Panel will leave the Commissioner with a workload which in practice will be not be viable.
The proposals as they stand result in more people scrutinising the Commissioner than the work of the force—which cannot be right.

Weakens the current tri-partite and introduces an over-bureaucratic and cumbersome “quad partite” structure of policing governance.

RESPONSE TO QUESTIONS RAISED BY THE COMMITTEE

1. The relationship between Chief Constables and elected Police and Crime Commissioners

1.1 There is concern that as the proposals are currently drafted, conflict between the Commissioner and Chief Constable is likely. The model is susceptible to a clash of ideals or personalities, and with the lack of an effective supporting Panel, the Commissioner is liable to being exposed on decisions they take. There could also be added complications where cities decide to elect mayors—how would these work alongside Commissioners?

1.2 Commissioners will have an electoral mandate, but it will not necessarily equip them with the powers to meet the promises made to the electorate. Without the necessary supporting mechanism which police authorities currently have, it is not clear how they will operate on an equal footing with Chief Constables who have significant staffing resources at their disposal.

1.3 We believe that Commissioners must therefore be a body corporate, responsible for the budget, holding property and employing staff. Without these levers of power, it is not clear how the Commissioner will have the ability to influence how the Chief Constable operates. The Commissioner should also be responsible for recruiting the entire ACPO Chief Officer team, and not just the Chief Constable, as this is one of the main ways in which they will be able to influence local policing. (One of the authorities in the region believes this should be through involvement in the process rather than having responsibility for it). Above all, it is vital if the relationship is to avoid conflict that the two individuals are seen as equals in the policing environment.

2. How will “operational independence” be defined

2.1 To a great extent, operational independence is already in place in police authorities who have a structured scheme of delegation which clearly sets out where the responsibilities of forces and authorities lie. Generally, the current model of governance has worked well, and police authorities and Chief Constables have continued to find pragmatic ways of dealing with the issue of “operational independence”. It is difficult to envisage how this could be further defined, although in the area of business management there could be a potential for discussions regarding what constitutes operational policing.

2.2 Many of the decisions that police authorities take are, by their very nature, operational in that the consequence of those decisions have a significant impact on the way policing is delivered, or policing resources allocated. The right of Chief Constables to have direction and control of policing operations, however, is not disputed and the authorities are fully supportive that this principle should remain in place.

2.3 With the very real prospect of introducing politics into governance arrangements for policing, a Commissioner may be able to take advantage of this and place undue pressure on a Chief Constable to ensure that their own political mandate is carried out. Commissioners can use the threat of dismissal if they are not satisfied with the professional judgement of the Chief Constable, which further supports the need for the corporate assets of the policing organisation to rest with the Commissioner to ensure a wider range of tools at their disposal.

2.4 Chief Constables must be prepared to enter into collaboration to ensure that value for money is achieved, and to this end, be prepared to cede control over budgets and staffing to ensure better ways of joined up working. If this is included within the definition of operational control then it will help resist external pressures being brought to bear on what are clearly business efficiencies.

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

3.1 All the authorities are in agreement that there must still be an ability to benchmark ones own performance against other forces, including in areas such as staffing profiles, finance and resources. This will be helpful to enable Commissioners to challenge exiting services and practices.

3.2 Although the use of a wide range of national targets is not supported, there may still be a need to set national targets for areas of policing which become a key area for concern, and it is therefore difficult to say that no targets should ever be set out the national level as the future demand on policing is unknown. There is clearly a need, however, for national standards to ensure that all forces continue to operate in a similar manner. The example of the National Crime Recording standard is useful here, without such common standards there will be increased scepticism amongst the public and stakeholders about the way crime is reported and subsequently recorded.

3.3 It is inevitable that the public, or more likely, the press will judge the success or otherwise of the Commissioner on the performance of the force, even if they are not directly accountable for performance matters. The Government may find it difficult to scrap national targets which will be required to judge the relative performance of the force, and de facto, the Commissioner. Whilst the creation of league tables is
unhealthy and can lead to inaccurate assumptions due to the different make up of force areas, implicit targets will still be in place if the iQuanta data continues to be used. Forces will still continue to collect a vast wealth of data which, even with the best intentions, will inevitably still be used by some bodies to create a performance hierarchy.

3.4 The five authorities believe that the industry that has grown up around serving the myriad of inspection regimes must not be allowed to be re-created, and that forces should only be required to collect and collate data which they need for the successful management of their own policing.

4. **The role of the Police and Crime Panels**

4.1 All the authorities are unanimous in their concern for the way the Police and Crime Panel is currently constituted. It is clear that as it stands, the Panel will have no real power and will not be able to influence how the Commissioner operates. A better system may be to have the Commissioner reporting to the Panel, or a Board, where a full and frank dialogue can be undertaken on issues and that where the Panel has the power of veto if they do not agree with a proposed course of action. This is one of the real strengths of police authorities in that they arrive at decisions following a full discussion and scrutiny of the facts to hand.

4.2 The Panel as it is currently constituted does not provide the appropriate level of checks and balances and will result in the Commissioner having too large a workload in which to operate effectively. All police authorities have at least 17 Members (Greater Manchester has 19), and Members are fully engaged in the community and in the force to ensure that they are fully informed on policing issues. A single individual, supported by a weak and powerless Panel, will leave that individual exposed when faced with the prospect of challenging the Chief Constable backed up by a significant level of resources.

4.3 The Panel will in effect be scrutinising the actions of the Commissioner and not the Chief Constable, and will lead to the rather unusual situation where more people are scrutinising the Commissioner and their actions than the Chief Constable and the performance of the force—which surely should be the primary focus of this scrutiny and what the electorate would expect.

4.4 The Panel model introduces a fourth element into policing governance, creating a “quadpartite”, and with it also brings a further level of bureaucracy, and additional cost, resulting in a far more complex framework of governance, which is surely against the wishes of the Home Office and Government to reduce the democratic deficit?

5. **Recommendations**

(1) that the tri-partite arrangement for the governance of policing in England and Wales be retained and strengthened;

(2) that the politicisation of policing be avoided;

(3) that if the proposals are to proceed, a robust framework for governance be developed which has the appropriate level of checks and balances in place to continue to deliver effective scrutiny of policing; and

(4) that the corporate assets of the policing organization remain with the governance body and not be removed to the Chief Constable.

October 2010

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**Joint memorandum submitted by Avon and Somerset Police Authority and Avon and Somerset Constabulary**

Avon and Somerset Constabulary is one of the largest forces in England and Wales, policing a population of almost 1.6 million people. The force area covers around 1,855 square miles, taking in virtually every kind of landscape, from city centres, wild moors and busy holiday resorts, to vast commercial and industrial complexes.

Avon and Somerset Police Authority is an independent body of local people appointed to ensure an efficient and effective police service. Our 17 members include nine councillor members, appointed by the local councils and eight independent members who are selected following a dedicated recruitment process.

**Terms of Reference—Objectives of the Inquiry**

The impact of directly elected individuals on policing in the 21st Century: Government’s proposals and impact on the prevention and reduction of crime and anti-social behaviour and their practical implications.

The submission will focus on:

— Relationship between Chief Constables and elected Police and Crime Commissioners.

— Defining “operational independence”.
— Extent to which there will still be a need for national targets.
— Role of Police and Crime Panels.

SUBMISSION

Executive summary

1.1 This submission from Avon and Somerset Police has been developed on the basis of extensive professional experience, public and stakeholder consultation, recognised principles of good practice, our local assessment of risk and the application of reasoned logic.

1.2 We identify critical and inherent risks in applying this general governance model to all forces in England and Wales based on the scale of area diversity, the lack of a geographic identity within some force areas and the varied and politically complex government structures that exist within them.

1.3 We highlight potential for significant tensions between Chief Constables, Policing and Crime Commissioners, Policing and Crime Panels and other governance and scrutiny bodies on account of:
— Potential for confused and competing agendas and public and practitioner misconceptions regarding their roles and responsibilities as a result of a fractured governance model.
— An inability of a single commissioner to identify and represent the diversity of Avon and Somerset’s urban and rural communities and their diverse needs.
— Reduced capacity for effective scrutiny and engagement.
— Potential for politicisation of policing and risk of critical policing areas being overshadowed by populist or single-issue campaigns.
— The impact of potential governance tensions on strategic and operational delivery and public confidence.

1.4 We feel that the parameters of operational independence will be determined locally between Chief Constables and Police and Crime Commissioners. We feel that these parameters should be more clearly defined in order to minimise local tensions and risk of misplaced authority. The role of the National Crime Agency and the strong duty on Commissioners to collaborate also compound potential risk of tension relating to the issue of operational independence.

1.5 Whilst we welcome the Government’s emphasis on localism and removing bureaucratic accountability, we do not support a national framework of prescriptive targets. We do however support high level standards of compliance where necessary, appropriate and in the public interest, and the facilitation of tools to enable more effective benchmarking at a local level.

1.6 Policing and Crime Panels within the proposed framework present a fractured model of accountability with potential for competing agendas between governing bodies and our well established PACT processes. Under current proposals, we do not feel that Panels are afforded sufficient powers to be truly effective in their role and would welcome their enhanced role in community and stakeholder engagement.

1.7 Our submission also raises significant concerns with regard to cost of delivery and implementation of this revised governance framework, the timescales for implementation, transitional arrangements and the failure to make full use of existing knowledge and expertise in assessment, planning and consultation processes.

Detailed comments

2.1 This submission details our local concerns and inherent risks in adopting the directly elected commissioner governance model in Avon and Somerset. It is based on extensive professional experience, public and stakeholder consultation, recognised principles of good practice, a local assessment of risk and the application of reasoned logic.

2.2 As we support the agenda for increased localism and democratic accountability, we highlight the critical inherent risks in applying this untested governance model universally to both major Metropolitan environments and more geographically diverse and politically complex government structures in other areas of the country. Avon and Somerset encompasses large rural geographies (Exmoor), major urban areas (Bristol and Bath) and significant market towns (Taunton, Bridgwater, Yeovil), where population density in Bristol, for example, is 78 times that of West Somerset.34 By the nature of their geography, these areas do not share the defined sense of local identity that can be found in more Metropolitan Force areas.

2.3 To meet the needs of our socially and culturally diverse communities, our force area is also subject to complex local government structures comprising one County Council, four Unitary Authorities and 324 county councillors. By contrast, our neighbouring forces, Wiltshire and Gloucestershire are subject to more simplified unitary arrangements comprising only 98 and 62 councillors respectively.

34 Bristol has a population density of 38.44 persons per hectare. West Somerset has a density of 0.49. CIPFA Finance and General Estimates Statistics.
**Relationship between the Chief Constable and Policing and Crime Commissioners**

3.1 Through our extensive professional experience of local arrangements and those in other forces, we can attest that the relationship between Chief Constables and their governing bodies can be a delicate one, requiring sensitivity, rationality and clarity of communication. The proposal set out in the Police Reform and Social Responsibility Bill presents a number of critical vulnerabilities to the effectiveness of this relationship.

3.2 Firstly, the Bill presents a fractured governance model, creating potential for confused and competing agendas between the public, stakeholders, local councillors, Policing and Crime Panels, Police and Crime Commissioners and Chief Constables.

3.3 Although inherent within the current Police Authority framework, the risk of public or practitioner misconceptions of their respective roles and responsibilities within the proposed governance model are substantially multiplied. This could include, for example, a public misconception that Commissioners are responsible for directing Chief Constables, blurred lines of accountability between Policing and Crime Panels and Chief Constables and unintended compromises to operational accountability.

3.4 Through work with our communities, we also foresee 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. There is a strong likelihood that the directly elected individual would be elected from Bristol and consequently champion agendas driven from the urbanised perspective. Current Police Authority arrangements incorporate elected representation from all five authorities together and the expertise of independent members. Our public consultation indicates that only 30% of residents feel that a Police and Crime Commissioner will represent and identify their needs, compared to 54% who feel they will not.

3.5 These risks are compounded by the much documented potential for politicisation of policing, a concern shared by both the APA and ACPO. Policing led by politicised, extremist or populist single-issue campaigns present a significant risk of destabilising relations between Chief Constables and Policing and Crime Commissioners and diverting resources from areas of evidenced risk, threat and need. In all likelihood, candidacy for the position of PCC will be driven primarily by those with party political resource to support their campaigns. Our public consultation indicates overwhelming support for a commissioner being an independent person (72%) as opposed to a politician (12%).

3.6 We feel that this risk, in particular, could be mitigated by adhering to “principles of good governance” set out in the Governance Standard for Public Services and evidence of good practice in corporate governance models, which ensure “separation of powers and responsibilities between chairman and chief executive” and “collective responsibility for leading, setting values and standards”, and thus avoiding the centralisation of power with any one individual.

3.7 In addition to these points, it is clear that a single elected individual model will reduce local capacity to maintain effective communication between our Force’s governing body and its officers and staff, communities, local authorities, Children’s Trusts and CSPs. We feel that the value of “soft accountability” that occurs through contact with beat officers, PCSOs and our communities as part of the current Police Authority model should be neither lost nor overlooked. The perceived expectation that members of the public will be able to contact their commissioner and have their issues directly and instantly resolved also raises local concerns given the issues of capacity and complexity detailed above.

3.8 We urge the inquiry to consider these potential “stress points” within the proposed governance model and any consequential impact on strategic and operational delivery or community and stakeholder perceptions would destabilise public confidence in policing in the longer term.

**Defining operational independence**

4.1 Operational independence is not a specific and absolute concept and as such, its parameters have been developed and negotiated over time between our Chief Constable and Police Authority. Our experience suggests that the limits of operational independence under the proposed model would be determined independently within forces based on the relationship between Chief Constables and the Policing and Crime Commissioners. Whilst we welcome local flexibility, we also appreciate the inherent risk of local tensions resulting from misplaced authority or ineffective oversight and scrutiny and would like to see the parameters of operational independence more clearly defined.

4.2 The proposal, for example, states that Policing and Crime Commissioners will have a “strong duty to collaborate”, which may conflict with delivery of an independent localised agenda and raise tensions at a senior level regarding the force’s strategic direction and operational independence.

4.3 The issue is further complicated by the role and remit of the National Crime Agency, which should be more clearly defined, particularly given the assumption that the NCA will be supported by resource and expertise at force level.

4.4 Other provisions of the Bill are directly open to challenge in terms of the level of operational independence afforded. We question the proposal that enables Chief Constables to appoint their own senior officers, for example, and foresee inherent risks in any appointments system that fails to ensure formal, transparent and accountable procedures.
The need for national targets

5.1 We welcome the coalition government’s emphasis on localism and removing bureaucratic accountability and feel that in this context, any national framework of prescriptive targets would divert our force from delivering its strategic objectives for the area. As indicated in Section 2, few single unifying agendas bridge Avon and Somerset’s socially, culturally and geographically diverse communities, and it is unlikely that national targets in this area would meet local need.

5.2 Although we do not support a framework of prescriptive targets, we recognise the value of high level standards of compliance in areas that are clearly in the public interest. We also feel that our public have a right to know how their force is delivering services efficiently and effectively in comparison to other areas and support the development of tools to improve local benchmarking.

The role of Policing and Crime Panels

6.1 As noted in Section 3, we feel that Policing and Crime Panels present a fractured model of accountability that create further potential for local tensions within the governance framework. In focusing scrutiny primarily on the Policing and Crime Commissioner, panels risk losing sight of the central objective (ensuring an effective and efficient police service) and expose potential for competing agendas between governing bodies.35 Locally, there is also a clear risk that the role of PCPs will conflict and duplicate outcomes already being achieved through our well established PACT processes.

6.2 Current proposals also indicate that Panels will not be afforded sufficient powers to ensure that outcomes of their scrutiny are actioned. Panels will not possess the recommendation powers that currently sit within existing local government structures, for example, whilst any investigatory powers would be designated to the IPCC and ACPO level officers.

6.3 We see an integral role for Policing and Crime Panels in maintaining levels of community and stakeholder engagement in matters of policing that have been developed via existing Police Authority arrangements. The Authority’s 17 members are engaged at LSP, CSP and PACT levels, providing a vital mechanism for identifying and responding to local needs. As representative bodies, Panels will by their very nature have a more balanced perception of community opinion than a single PCC, and we see a stronger role for them in representing the public’s views in decision making than that proposed via the Bill.

Logistical Considerations

7.1 We would like to reiterate concerns regarding the implementation cost of these proposals, which for dedicated elections alone is likely to exceed £1 million locally. We also raise concerns regarding the additional longer-term cost of governance model that simultaneously increases (through duplication) more complex bureaucratic processes.

7.2 The proposed timescales for implementation, lack of robust evidence-led decision making and lack of clarity with regard to planning and transitional arrangements raise significant local concerns. We foresee a major risk of important expertise and knowledge being lost and governance and accountability arrangements being damaged in the longer term as a result of rushed implementation processes and urge the government to take a pragmatic and carefully considered approach to any transitional arrangements.

7.3 More specifically, we strongly recommend that current governance arrangements remain in place for the next two budget rounds to minimise tensions with any Policing and Crime Commissioner’s election campaign as the Police Authority retain accountability for delivery and planning following the Comprehensive Spending Review. In the short term, we also foresee potential tensions between localist campaign agendas and the responsibility of forces to deliver national policing requirements as we prepare for the 2012 Olympics. We would like assurance that the governance of local policing will not be unduly disrupted during this critical risk period.

7.4 We also feel that all the planning and consultation processes have focused on how to implement the proposed model as opposed to any detailed assessment of what the most appropriate model should be. In doing so, a wealth of knowledge, expertise and experience has been substantially overlooked.

Recommendations

8.1 We urge the inquiry to take account of what we feel to be critical risks to policing governance based on the Directly Elected Commissioner model, and consider their potential impact on strategic and operational delivery of policing services and public confidence. More specifically, our recommendations call for:

8.1.1 Flexibility in governance arrangements at a local level to take account of geographic and demographic diversity, the complexity of existing local governance structures and build upon the enhanced localism agenda that underpins these proposals.

8.1.2 A pilot or phased approach to implementation across a variety forces ensuring that this untested model is workable, lessons are learnt, good practice is shared and any longer term damage to policing governance and public confidence is minimised.

35 Noting “governance focused on the organisation’s purpose” as the primary “principle of good governance” set out in the Governance Standard for Public Services (CPIFA, OPM, Joseph Rowntree Foundation 2004).
8.1.3 More holistic review of local governance arrangements to minimise duplication and conflicting agendas between governing bodies, including PCCs, PCPs, CSPs and local scrutiny and delivery arrangements such as PACT.

8.1.4 The parameters of “operational independence” and the roles and responsibilities of Police and Crime Commissioners, Police and Crime Panels and the National Crime Agency to be more clearly defined and communicated to the public.

8.1.5 Measures to enable equality of opportunity in campaigns and candidacy for PCC, and more specific safeguards that minimise the risk of local policing becoming highly politicised or driven purely by populist or single-issue agendas.

8.1.6 The abolition of prescriptive national targets that do not serve the public interest or reflect local priorities and objectives.

8.1.7 Enhanced powers for Policing and Crime Panels to ensure that they have the capability and capacity to hold Police and Crime Commissioners to account.

8.1.8 An enhanced role for Policing and Crime Panels in community and stakeholder engagement to ensure that the current networks and levels of “soft accountability” are maintained.

8.1.9 The proposal and its implementation to be fully costed and objectively assessed to ensure that reform is necessary, potential benefits outweigh the identified risks and cost and that the revised model of governance can demonstrate improved value for money.

October 2010

Memorandum submitted by Kent Police Authority

Executive Summary

Kent Police Authority has examined the Government’s proposals for directly elected police commissioners, and has identified a number of key concerns.

— Policing in the 21st Century has been too hastily compiled, does not give any detail on these radical proposals, and does not demonstrate that there is any public appetite for these changes.

— The inevitable low turnout would mean a lack of legitimacy.

— The tripartite system will become unbalanced and could favour Police Chiefs, and, at a national level, ACPO could gain too many responsibilities.

— The proposed structure shows a Policing and Crime Commissioner (PCC) holding the Force to account, who will in turn be held to account by a Policing and Crime Panel (PCP). This would be unnecessarily bureaucratic and lead to a Commissioner fighting on two fronts.

— The level of engagement with partners, proximity to the community and volume of work undertaken by KPA’s 17 members cannot be maintained by a single individual, especially at a very local level.

— The impact of politicising policing has been given no consideration whatsoever.

— The problems that Ministers have identified around bureaucracy and targets have been purely government-driven, and could be solved by giving Authorities more powers and flexibilities.

— Whilst operational independence is sacrosanct, there is a need to guard against Police Chiefs becoming unresponsive to critical challenge.

— These proposals are uncosted, which is surprising at a time of such dire economic straits, but as the elections alone will cost in the region of £54 million, this suggests that the country can ill-afford PCCs.

— The new proposed model will increase bureaucracy, and the Commissioner and Policing and Crime Panel will require far greater secretariat support.

— Introducing this more adversarial system will inevitably lessen the amount of time the Commissioner can dedicate to holding the force to account.

— PCPs would be at best marginal and ineffective, and deciding upon the membership of this committee would also be highly contentious.

— The inclusion of independent members enhances the non-political nature of the authority, and brings an additional breadth and depth of knowledge and experience of the criminal justice system and that could not be matched by a single elected representative.

36 Noting “clearly defined roles and functions” as one of the core “principles of good governance” set out in the Governance Standard for Public Services (CPIFA, OPM, Joseph Rowntree Foundation 2004).
INTRODUCTION

1. There are small number of key points that ought to be highlighted right at the outset.

2. There are themes that run through our response—risks around transition and politicisation, the contribution of independent members and the impressive track record of police authorities across the UK.

3. We think that Kent Police Authority (KPA) is in a unique position in that one of its members also sits as an MP on the Government benches in the House of Commons and is also a Member of this Committee. It is a matter of public record that this member is a strong supporter of the Government’s proposals for directly elected commissioners, and so this submission reflects the views of the other sixteen KPA members.

4. We believe that the content of paper itself betrays the haste in which it has been produced. Any coherent argument for change would have examined the strengths and weaknesses of the current system, proposing a range of models for consultation. However, such a rational decision-making process has not been followed. The paper instead provides only one solution to an ill-defined concern. There are no costings of the proposal put forward by the Government, and critically no identification of how it will add value or improve people’s experience of, and involvement with, the police.

5. We believe it is highly dangerous for the government to steam-roller through such ill-considered proposals at a time when police forces are being asked to make substantial budget cuts and will face significant upheaval. Whilst ministers have stated they have the political mandate to deliver these proposals and the will of the public behind them, in truth they have neither.

6. We have found, through our consultation roadshows, that knowledge of the Government’s plans concerning police governance is extremely limited. Given that even in this restricted pool, more than two thirds rejected the proposal for a directly elected Commissioner, the Government cannot claim popular support or a democratic mandate for their plans, at least in Kent. An increase in publicity over the next 18 months may well increase awareness, but this would be building demand as opposed to responding to it. Evidence is such that the public do not want further elections—voter turnout in two-tier areas like Kent is already low. Equally, the proposal to introduce PCCs was only a manifesto commitment of one of the two parties in the Coalition Government.

ELECTED COMMISSIONER

7. We have four central concerns about the role of the Commissioner him/herself.

8. Firstly, the language in the paper concerning the rebalancing of the tripartite system, and the “absolute” protection of operational independence, could suggest that too much power will reside with Chief Officers. This unbalanced relationship could emasculate any PCC before they have begun their work. At national level the Association of Chief Police Officers (ACPO) will have significant strategic and policy responsibilities and will not only deliver but also accredit leadership development. We are concerned that this is an unfettered power that may unbalance national relationships in favour of a currently unaccountable private company.

9. Secondly, the proposed structure shows a PCC holding the Force to account, who will in turn be held to account by a PCP. This would therefore suggest that a PCC will be fighting on two fronts, and will need to divide their time between these two tasks. Introducing this more adversarial system- as opposed to the current situation where the KPA as individuals and as a corporate body holds the force to account- will inevitably lessen the amount of time the Commissioner can dedicate to holding the force to account. There will therefore be a diminution in both the amount and quality of time for examining the Force and acting as its critical, challenging friend.

10. This leads to the third point, that of capacity. At the current time, KPA has 17 members. They not only sit on the four main committees, but each have a “Lead Member” role covering topics as diverse as disability equalities, risk management and civil contingencies. As well as these roles, they are, in groups of three or four, charged with the oversight of one of the six BCUs. It has not yet been explained how one person would be able to carry out the work of 17, in such a large and diverse county (Kent is 1,537 square miles, and in size it ranks as the ninth largest county in England, and in population as the sixth.) 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.

11. Fourthly, the Government may indeed be right in identifying the power of the electoral mechanism for effecting change. However, it may have underestimated the unintended consequences of the electoral cycle and the impact of injecting party politics into policing.

POLICE AUTHORITIES, POLICE COMMISSIONERS AND TARGETS

12. The Government’s attempt to tackle the overwhelming bureaucracy that has stifled the police service in recent years is laudable. However, it is wrong to lay the blame for this bureaucracy at the door of police authorities. If anything it is national government that has created the raft of top-down performance measures that have consistently constrained the service. Removing police authorities as a solution to the problem of “bureaucratic accountability” is based on a flawed argument. The issue is that too much government intervention has prevented police authorities from exercising sufficient power. And yet, despite these real issues with the current system, a directly elected PCC will not have a single additional duty than...
those which police authorities have currently. If the government were serious about the ability of a single individual to hold police forces to account, they should give them enhanced powers to deliver on these duties rebalance the tripartite at the local level.

OPERATIONAL INDEPENDENCE

13. With regard to the question of operational independence, we recognise the Government’s explicit intention to provide an absolute guarantee on this issue and KPA is clear—no credible argument can be marshalled to justify politicians (or independent members) seeking to direct operations, investigations and arrests. In this respect we see the direction and control of the Chief Constable, together with an ultimate answerability to the law as sacrosanct. However, there is a huge range of issues where there is entirely legitimate public interest in police-related decisions and where critical challenge and accountability are vital. Examples would include, but are not limited to, the distribution of resources between level one and level two activity, the allocation of resources across a force’s basic command unit (BCU) structure and the definition and response policy for crime and elements of ASB.

COSTINGS

14. Surprisingly, there are no costings of the proposal put forward by the Government. In contrast, not only has KPA ensured that policing in Kent is efficient and effective, it has done so with a clear regard to the tax-payers’ purse. Our precept is the second lowest of all “shire” police authorities and the cost of KPA is 0.5% of the total budget.

15. With regard to the elections themselves, we are aware that the LGA has costed them at £54 million, an enormous amount at a time of extensive cutbacks. Also, unless the Government commits to both a general fund for candidates and a cap on spending, only representatives of the main parties or particularly wealthy individuals could stand. We also fear extremist groups would exploit this opportunity.

BUREAUCRACY AND ENGAGEMENT

16. Given the Government’s focus on reducing bureaucracy it is also surprising that these proposals, far from reducing bureaucracy, actually increase it. The proposed model could be accurately described as elements of the current model, with the addition of an elected PCC (at considerable cost and bureaucracy) and the change in function of the “authority” to a PCP that scrutinises the acts of a Commissioner rather than the force. It seems that the Government has failed to follow even their own rationale for change when developing these proposals. Indeed, if a PCC is meant to be directly accountable to the people, why do we need a crime and scrutiny panel at all? If non directly-elected bodies do not have the legitimacy to hold someone to account, perhaps we should have elections to this panel too?

17. We have already expressed our concerns at the cost of the elections, and that any individual would not have the capacity to carry out the duties that an authority currently performs. In addition to this, any Commissioner would, in practice, require an enlarged secretariat to cope with the amount of work that is currently distributed between 17 members. KPA currently has a very small and lean secretariat. We believe that this would need to at least double in size, if not more, to cope with the demands of a PCC (as well as the work with the PCP). The PCP itself would necessitate some form of support, and together, replicated across the country, this could add hundreds of people to the payroll and cost significant sums.

18. Whilst accepting that police authorities do suffer from a lack of visibility, they are certainly not remote from the public and the claim that authorities are “without the capability or mandate to insist on the priorities of local people” is patently false. Kent Police Authority KPA regularly consults with the public of Kent, and through its 17 strong membership is able to listen to the needs of the local community. This level of engagement simply cannot be maintained by a single individual. Whilst an elected commissioner might represent the priorities of the electorate at the time of election, over a four-year term they will struggle to emulate the ongoing and continuous level of engagement and sensitivity to local demands demonstrated by police authorities. They will not have the time or capacity to effectively engage at a local level and represent the nuances and subtleties of different communities in a dynamic policing and political context.

POLICING AND CRIME PANELS

19. At the moment, the accountability structures are defined through the tripartite system. The addition of a body which would be holding a PCC to account, who was in turn holding the police to account, is an additional and unwelcome bureaucratic encumbrance, and entirely at odds with the current system’s simplicity and effectiveness.

20. The Authority is concerned at the lack of detail, even at this early stage, for the Policing and Crime Panels. There have been suggestions that this could act as an Overview and Scrutiny committee. This may work, given that the Authority currently draws the majority of its members from local authorities who are therefore experienced in sitting on these committees. There have also been suggestions that any such panel could be comprised of the community safety portfolio holders of the various councils in the area.
21. However, members of the Authority feel that, however comprised, a PCP would be at best marginal and ineffective, and at worst simply another layer of bureaucracy of the kind the government states it wishes to avoid.

22. The membership of this committee would also be highly contentious. How (or by whom?) it would be selected would need careful consideration. If it were only portfolio holders, then this would mean in some areas—Kent being one—there would only be representatives of one party sitting on the panel. In addition, they would be ostensibly exercising overview and scrutiny functions over a PCC, potentially from the same party. One of the major strengths of the current arrangements of the Authority is that it is fully representative of the various communities, thereby avoiding any "tyranny of the majority" which in part helps to ensure that governance and oversight of the police is apolitical. The other issue is that the authority strongly believes the inclusion of independent members brings an additional breadth and depth of knowledge and experience of the criminal justice system, corporate governance, public administration and financial strategy that simply could not be matched by combining solely elected representatives on any supporting panel. The authority believes that the inclusion of independent members, in the current and future models, is vital. In fact it would be churlish not to acknowledge the role of independent members and they role they have played in improving policing since 1995.

October 2010

Memorandum submitted by Greater Manchester Police Authority

1. EXECUTIVE SUMMARY

1.1 In collating Greater Manchester Police Authority’s response to the questions posed by the Home Affairs select committee, consideration has been given to the current governance system in place throughout Greater Manchester. The response has taken account of the benefits and drawbacks of proposals within the Government’s Green Paper “Policing in the 21st Century”, and how they could be practically applied.

1.2 Where the Authority considers government proposals are unfeasible or present difficulties, the Authority has sought to suggest constructive solutions or proposals to address them and would welcome the opportunity for further discussion.

2. INTRODUCTION

2.1 The Greater Manchester city region has a population of over 2,500,000 and is made up of 10 local authority areas—Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan which between them comprise 215 council wards and 277 separate neighbourhood communities with an estimated 95,000 businesses, over 10,000 voluntary organisations and an estimated 100,000 students*. There are 12 police divisions which are co-terminus with local authority areas with the exception of Manchester which is split into three police divisions, South Manchester, North Manchester and Metropolitan. * figures provided by AGMA

2.2 Greater Manchester Police Authority has 19 Members. There are 10 Councillor Members appointed, one each from the ten local authorities which make up the city region. GMPA’s nine Independent Members are local people appointed following a recruitment process, based on Nolan principles. One of these Members is also a serving magistrate.

2.3 A key element of Greater Manchester Police Authority’s vision is to work together with partners to build safer and stronger communities in Greater Manchester. Partnership working and collaboration are key to ensuring that modern policing is effective. The reduction and detection of crime and anti-social behaviour are clearly concerns for many public sector partners and are not just the responsibility of the police service in isolation. Following the revision of the Association of Greater Manchester Authorities’ (AGMA) constitution, a number of commissions were established to ensure the effective delivery of the Greater Manchester multi-area agreement. One of these commissions is focused on public protection and its membership includes both local councillors and criminal justice representatives. Greater Manchester Police Authority is a key player within the Public Protection Commission and the Chairman of the Authority chairs the leadership group, which oversees the work of a chief officer group. For an example of the unique structure and accountability arrangements in place, please see Appendix, the AGMA Public Protection Commission case study. The Authority would be keen to take advantage of any opportunity to provide Committee Members with further information about the work of the Public Protection Commission.

3. RELATIONSHIP BETWEEN CHIEF CONSTABLES AND ELECTED POLICE AND CRIME COMMISSIONERS

3.1 The proposals raise several governance issues which focus on the juxtaposition between the direction and control of policing sitting with Chief Constables, and the public responsibility for delivery sitting with Police and Crime Commissioners. Whilst the electoral mandate of the Commissioners gives them legitimacy, it does not automatically furnish them with the power to meet their statutory duties effectively. This has a particular resonance when the reality of operational independence is taken into consideration. If clear duties
set in legislation are placed within the remit of both the Police and Crime Commissioner and the Chief Constable, it may remove any potential risk of infringement of powers or responsibilities on the part of either role, creating an environment of greater equity and clarity between the two parties.

3.2 The legitimacy of the Police and Crime Commissioners may be further impeded by the lack of an appropriately skilled support team to provide the necessary information and advice to enable him/her to carry out the role effectively. No information has been published about the funding arrangements of the Commissioners and it is difficult to comment on how a Commissioner may be supported in their role, whereas clearly a Chief Constable has a substantial organisation at their disposal.

3.3 The coalition government proposals for elected mayors in key cities, Manchester being one, has the potential to confuse the accountability landscape further especially if, as in London, 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. A potential clash of mandates looms, particularly in Greater Manchester where having in a Mayor in Manchester could disrupt the balance for the remaining nine local authorities which make up the Greater Manchester city region.

3.4 For an area the size of Greater Manchester, there could be criticism that the Police and Crime Commissioner will be seen as remote from local communities’ needs and priorities. This has the potential to create tension within the already strong governance arrangements that are in place through AGMA, and which has a proven track record for effective collaborative decision making. The relationship between a Police and Crime Commissioner and local councillors (who are already democratically elected) will need to be considered as there is potential for this clash of mandates to strain relationships and be counter productive to the efficient and effective delivery of policing services.

3.5 In elaborating the above point about the potential clash of mandates further, it is vital that the implications of Police and Crime Commissioners for those police forces with national and/or regional remits are considered. For example Greater Manchester Police leads on counter terrorism for the North West Region and a Police and Crime Commissioner would potentially have access to regional resources yet people in those areas in the North West outside Greater Manchester have not voted for that individual and this breaks the principle of “direct democracy”.

4. OPERATIONAL INDEPENDENCE

4.1 Operational independence is already in place in policing and each police authority has a scheme of delegation which makes clear where responsibilities lie between the Authority and the Force. Over many years the operational independence of Chief Constables has been a source of many disputes between police authorities and forces as there is a potential for it to be used to block public accountability and governance. The establishment of Police and Crime Commissioners will in no way improve this and as currently described, operational independence is more likely to be a source of increased tension. The effectiveness of any police governance model will be hampered if Chief Constables receive the power to own and make decisions on all resources, as to potentially put all power and assets in the hands of the Chief Constable would effectively render the Police and Crime Commissioner impotent. The strength of current police authorities is that they have strategic decision making powers over the budget and property, with Chief Constables being the expert on the delivery of policing services. GMPA supports the right of Chief Constables to have direction and control of operations but would advise against extending their powers further.

4.2 Conversely, if clarity with regard to operational independence is not provided for in the new arrangements, a Police and Crime Commissioner may be able to take advantage of this and place undue pressure on a Chief Constable to make decisions on operational matters that are influenced by political concerns rather than for the most efficient or effective service delivery reason. This is pertinent because the Police and Crime Commissioners could use the threat of dismissal to influence the Chief Constable’s professional judgement, particularly as any other powers the Police and Crime Commissioner may have at their disposal are limited and any power there is, is concentrated in just one individual rather than distributed across a corporate body.

5. NATIONAL TARGETS

5.1 It would not be helpful to keep national targets. Experience tells us that central controls can create bureaucracy. It would be more productive to have a streamlined inspection process focussed on improvement and that considers critical issues, allowing assessment using “real time” information rather than historic data.

5.2 Performance data collated via iQuanta automatically links most similar forces with implicit targets. This could allow for performance monitoring over time.

5.3 National targets would automatically result in the comparisons and league tables which are commonly not representative of actual performance and lack the necessary contextual information to enable appropriate interpretation. Creating league tables of forces and Police and Crime Commissioners when areas are completely different in terms of environment, population, levels and types of crime and anti-social behaviour, can result in the public making judgements on information that is effectively incomparable.
5.4 The development of further additional benchmarking information would be helpful to challenge existing services and practices, but that being said it should always have a health warning to prevent such information from being used as targets.

6. POLICE AND CRIME PANELS

6.1 The thinking around this proposal is currently underdeveloped. As presented currently, it is unlikely that the Police and Crime Panels will impact on the prevention and reduction of crime and anti-social behaviour as they are effectively powerless. They have no legitimate jurisdiction over the actions of the Chief Constable and therefore will be unable to have an impact on performance. Rather, their somewhat limited power lies over the Police and Crime Commissioner who does not have responsibility for reducing crime. The Panel can only call in the Commissioner and not the Chief Constable if performance of the police is poor. Four years is a long time for communities to wait to change a poorly performing Police and Crime Commissioner.

6.2 If the panels were to be reconstructed as an informative body for the Police and Crime Commissioner providing community information, and a reality check as such, this would allow for a more informed dialogue between the Police and Crime Commissioner and the Chief Constable to take place and go some way to providing a check and balance against the Police and Crime Commissioner having a personal or extremist agenda.

6.3 The Police and Crime Panels could be further strengthened if they are developed as a corporate policing board and given powers of veto and the authority to make decisions (particularly around policing priorities and precept levels), rather than giving power to an individual. This would allow for a collaborative and dispersed model of governance.

Appendix

AGMA PUBLIC PROTECTION COMMISSION

CONTEXT: THE ASSOCIATION OF GREATER MANCHESTER AUTHORITIES

The Association of Greater Manchester (AGMA) has a new, devolved status as a combined authority which marks the culmination of more than 20 years successful and productive collaborative working across the city region’s ten districts: Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan—the Greater Manchester City region.

The AGMA Executive Board is made up of the leaders and chief executives from each of the 10 Greater Manchester districts and it meets on a monthly basis. This Board is the monitoring mechanism for all the seven AGMA Commissions which consist of representatives from the public, private and third sectors. Each of these commissions is charged with developing and overseeing work in a key strategic area of business. These areas of business are: the new economy, health, planning and housing, environment, transport, public protection, capacity building and collaboration.

The AGMA scrutiny pool receives updates from each of the AGMA commissions either bi-annually, or by exception where any issues of concern have been referred from the AGMA Executive Board. Membership of the scrutiny pool is made up of elected representatives from each of the local councils across Greater Manchester. This not only guarantees a structure with integrity, but also ensures that checks and balances are in place in order that the right local issues and risks are identified and addressed.

BACKGROUND

The role of the AGMA Public Protection Commission is to provide direction and a cohesive partnership approach to issues which affect the community safety of the city region. Traditionally, the police service has been perceived as the organisation solely responsible for dealing with crime related issues, however, there is now an increased emphasis on partnership working to provide a safer community for all. A safer city region is likely to be more sustainable with the economic vibrancy aspired to by AGMA. The Public Protection Commission has been developed with this in mind.

COMMISSION MEMBERSHIP

The Public Protection Commission is made up of both elected and non-elected members. The non-elected members were selected using Nolan principles on the basis of a competency and knowledge gap analysis. This ensures that the membership covers a wide range of knowledge and expertise, from a range of partnership organisations including the probation trust, the prison service, local universities, the voluntary sector and witness and victim support. Although not a prerequisite, the chairman of Greater Manchester Police Authority is the current chair of the Commission.
Priority Development and Governance

The Public Protection Commission focuses its work on achieving aims and priorities which have been identified as having specific relevance to the city region and which have been established both via consultation with key partners and through analysis and research. Both community consultation and dialogue with elected members is fed into the prioritisation process. The resulting strategic aims (see attached diagram) of the commission are:

- **Strategic Aim 1**: To protect our communities from terrorism, disasters and organised crime.
- **Strategic Aim 2**: To ensure excellence in crime and disorder reduction and community safety.
- **Strategic Aim 3**: To transform our service delivery to ensure services that best meet our communities’ needs and maximise our partnership delivery.

One of the key roles for the Commission is also to act as a governance mechanism and the commission holds Greater Manchester Against Crime (GMAC) to account. GMAC is a central analytical resource for community safety agencies across the city region. This resource identifies community safety partnership priorities through a detailed strategic assessment, encourages consistency in excellent practice in community safety and seeks opportunities for shared services and collaboration. GMAC will be expected to deliver the evidence base requirements of the commission under Strategic Aims 2 and 3 and this work has been structured into four priority themes which are:

- Serious Violent Crime with a focus on domestic violence.
- Serious Acquisitive Crime with a focus on burglary dwelling.
- Tackle the crime, disorder and anti-social behaviour issues of greatest importance in each locality, increasing public confidence in the local agencies involved in dealing with these issues.
- Reduce Re-offending through the improved management of offenders.

The Public Protection Commission has also identified the economic downturn, alcohol and mental health as the cross cutting drivers for greater focus. The Commission is also aiming to tackle the critical challenges under Strategic Aim 1 through the Greater Manchester Resilience Forum and the Preventing Violent Extremism Board.

Conclusion

The AGMA Public Protection Commission ensures that community safety is a partnership responsibility which is truly shared; rather than being seen as the remit of a single agency—the police service. This is due to the active and committed involvement and support from other key partners for the work of the Commission eg fire and rescue, the probation service, other local authority chief executives etc. In addition, both the Chief Constable and the police authority Chief Executive support the Members of the Commission and through the involvement of elected members in every element of the Commission’s work, local accountability to the public can be demonstrated effectively and transparently.
Home Affairs Committee: Evidence

Memorandum submitted by Surrey Police Authority

EXECUTIVE SUMMARY

The Government's plans for elected Police and Crime Commissioners represent a radical and far-reaching departure from current accountability arrangements. Surrey Authority welcomes the Home Affairs Committee's decision to examine a policy which has been characterised by its rapid development and lack of substantial detail.
Our submission to the Committee’s inquiry highlights some of the areas of uncertainty that, in our view, must be addressed if the new model is to succeed. These include:

— How previously unwritten rules around operational independence will be redefined by the new relationship between Commissioner and Chief Constable.
— The potential for conflict. Who gets the last word? How do we resolve an impasse without damaging policing?
— The role and influence of political parties in the new model.
— The public view of national targets and national data.
— The role of central government and HMIC in the new accountability landscape.
— Are non-mandatory national priorities a better solution than national targets?
— Police and Crime Panels—a missed opportunity?
— Public expectations for police accountability. How the Panel could add value.

We look forward to the Committee’s deliberations on the subject with great interest and would be pleased to assist further if required.

Surrey Police Authority is an independent body made up of local people. Its job is to make sure that Surrey is policed in an effective and efficient way that meets the needs of the community. It does so by consulting with the public, setting the budget and strategic direction for Surrey Police and holding the Chief Constable to account for the force’s performance. It has been praised by HMIC and the Audit Commission, who commented: “The Chair and members of the Police Authority, and the staff it employs, are highly capable and the Authority gives clear direction to the Force. The Authority is well organised and has been influential in improving policing on Surrey. Its good financial planning and strong record in making savings is helping the Force fact the current tough financial climate.”

1. Surrey Police Authority welcomes the decision of the Home Affairs Select Committee to launch an inquiry into proposals for Police and Crime Commissioners.

2. We have no argument with the desire to improve local control over policing. Surrey Police Authority has never been afraid to challenge central control when it has jeopardised the level and the manner of policing that local residents tell us they want. This “Surrey Public First” approach—and the support we have received for it locally—is well documented.

3. We are not alone in being concerned about the lack of detail surrounding these new proposals for enhanced local accountability and the haste in which they are being put into effect.

4. We have not seen evidence to support the decision to make the specific changes being proposed. Nor has there been a convincing case to illustrate how they will significantly improve policing.

5. The most obvious pitfalls are already being highlighted by Police Authorities, Chief Constables and other interested parties. Many have questioned the wisdom of introducing an elaborate and expensive new accountability model at a time where a significant reduction in the policing budget seems likely. Some worry about the overt politicisation of policing. Others have pointed to voter apathy as a concern.

6. Police Authorities’ concerns about these changes have been simplistically and unfairly portrayed as an attempt to maintain a cosy old order. Surrey Police Authority rejects that criticism. Hurried and poorly conceived policy could inflict significant damage on local policing. We are keen to play a constructive role in developing policing for the 21st century and have made our willingness to offer assistance and comment clear to the Policing Minister.

THE RELATIONSHIP BETWEEN CHIEF CONSTABLES AND ERECTED POLICE AND CRIME COMMISSIONERS

HOW “OPERATIONAL INDEPENDENCE” WILL BE DEFINED

7. The relationship between Chief Constables and Commissioners will vary from case to case. In some areas it will work well, in some it will not. In general terms, it is likely that this relationship will be much more personality-driven than with current Police Authorities. Where Chief Constables’ and Commissioners’ agendas and objectives are the same, and the political will matches professional opinion, this kind of relationship may be very constructive. However, where agendas and objectives differ the relationship may become fractious and threaten to undermine policing.

What is operational independence?

8. The Committee is right to highlight operational independence as an issue that will come into question under the new plans.

9. The operational independence of the police has never been fully defined. There is however an unwritten consensus that has evolved between police authorities and forces that accepts the Chief Constable’s right to direct day-to-day activities and prevents anyone from pressuring the Chief Constable to arrest a certain person or police a certain issue in a particular way. To date, operational independence has not included
setting the general direction, targets or budget of a police force, which has been the remit of the Police Authority. In our view, this is a sensible and tested balance. It protects policing from politicisation; gives latitude for responsive, proportionate policing; and presents appropriate challenges to the Chief Constable.

**Potential flashpoints**

10. There is greater potential for conflict and impasse within the new model. Will it be the Commissioner’s right to be able to insist on a course of action, even if this is contrary to the advice of the Chief Constable? Will it be the right of Chief Constables to resist such pressure if, in their view, it jeopardises public safety?

11. To illustrate a possible situation where conflict could arise, a Police Commissioner may run an election campaign that promises a substantial increase in the numbers of police officers “on the beat”. A Chief Constable may argue that, in order to provide a comprehensive and resilient policing service (including protective services, anti-terrorism, roads policing, serious crime investigation, protecting vulnerable people etc), the force will be unable to meet the Commissioner’s campaign promise.

12. With the elected Commissioner under pressure to honour their manifesto pledges, the relationship between the political and the professional may, in this kind of circumstance, become adversarial—a battle of wills, and a test of whether a popular mandate trumps operational independence.

13. How this kind of conflict would be resolved is uncertain. Stress testing based on potential conflict scenarios may help to identify potential flash-points and establish how the impact of serious and irreconcilable disagreement might be managed within the new accountability structures.

**Decision making frameworks**

14. We believe that the public must have a say on strategic policing priorities beyond the elections themselves and recommend that the mechanisms used by Police Authorities to set strategic plans be continued by Commissioners. The Chief Constable should propose a three year strategy, policing priorities and targets based on his or her professional, operational outlook. It should then be for the Commissioner to ensure that this plan takes into account public opinion and budget considerations. Commissioners and Chief Constables should be required to make their decisions (and provide evidence to support them) in the public domain.

**The role of political parties**

15. There is another new relationship that will arise from the creation of Police and Crime Commissioners which also merits consideration. Recent comments by the Policing Minister suggest that there will be no support provided to independent members of the public who would like to stand as a candidate for Commissioner. This leaves the way clear for political parties to dominate these elections by virtue of their experience in campaigning and their substantial resources. Members of the public without a mainstream political alignment will struggle to compete against organisations built and funded expressly to win elections.

16. Should mainstream political party candidates come to dominate as the evidence suggests they might, it follows that we should assess the future role and influence of political party headquarters in policing. What influence might party officials have over Commissioners—and thus Chief Constables—across the country?

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

**The public and the national picture**

17. A survey of 1,854 randomly selected residents conducted by Surrey Police Authority in late 2008/early 2009 indicated limited public enthusiasm for national targets. Commissioners will be in the business of popularity and this evidence suggests that adherence to national targets will by no means win votes. Of far greater importance is tackling local issues.

18. However, we must also consider whether communities would continue to need national data for comparative purposes. On one hand, such national comparisons necessitate the collection of a substantial amount of data which must then be audited to ensure validity. On the other hand, local people may accept this bureaucratic burden if it helps them to understand whether the performance of their Commissioner, Chief Constable & police force is good, average or below average relative to other areas.

**Where next for central government?**

19. This is not the first time that a Home Secretary has pledged to loosen their grip over policing. It is perhaps the most ambitious attempt however. It seems logical that a Police & Crime Commissioner, directly elected to run local policing, will have a far stronger mandate to control local policing and set targets than the Home Secretary. This would fundamentally re-cast—and arguably diminish—the role of the Home Secretary.

20. We would therefore be interested to learn how the office of Home Secretary is to adapt to the new model of police accountability.

21. We also seek more clarity on the role of HMIC and its powers in the new model.
National priorities?

22. If central direction is to continue, 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. This would need underpinning by an accurate and audited national set of performance data in order to assess the extent of problems and compare areas.

23. To give a practical example of how this might work: the Home Secretary might identify knife crime as a national priority which all Commissioners and Chief Constables must give consideration to in their planning processes. 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.

The role of the Police and Crime Panels

Missed opportunity?

24. We believe that the limited role for Police and Crime Panels set out in the Policing in the 21st Century document represents a missed opportunity. Research with around 2,500 Surrey residents carried out over the summer indicates that 85% of respondents felt that the responsibility of overseeing the police and holding the Chief Constable to account should be held by a group of people. Just 8% felt that this responsibility should belong in the hands of an individual.

25. However, under the terms set out in the Government’s proposals, rather than supporting the Commissioner in making the right decisions for local people and providing the checks and balances that come with making decisions as a group, this Panel would simply add a layer of toothless bureaucracy.

Where the Panel could add real value

26. It would be a far better reflection of public demand if this Panel was to have real power and to work with the Commissioner—to be able to scrutinise before decisions are made, not afterwards. This would encourage better decision-making and provide more robust accountability.

27. 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.

28. We are aware that by strengthening the Police and Crime panels to support the PCC this will effectively lead to a Police Authority with an elected Chair. However, we feel that this would be a less disruptive way of providing a police accountability mechanism that reflects what the public actually want. There would be a democratically elected figurehead for people to identify with. There would also be the balance of views and additional scrutiny that Police Authorities provide.

29. In all of these proposals there has been an assumption that Police Authorities do a bad job or are not accountable. In fact a number of Police Authorities have been inspected in the last couple of years and none were found to be doing a “poor” job. Most were found to be performing to acceptable levels and a handful—including Surrey—performing well. By capturing and building on the best practice of those performing well whilst improving visibility with an elected element of the Authority, police governance could genuinely be improved.

October 2010

Joint memorandum submitted by Councils in Lancashire

Executive Summary

— As Local Authorities for Lancashire, we have a number of concerns regarding the introduction of directly-elected Police and Crime Commissioners and supporting governance arrangements. We believe this is being done too quickly and request that before their role is determined that due care, attention and consideration be given to these issues.

— The 14 Councils in Lancashire took the opportunity to respond to the consultation from the Government regarding policing this submission is also from the same group, 12 District Councils, two Unitary Councils, the County Council and the Police Authority.

— The Councils believe that elected commissioners and Police and Crime Panels will only be effective in driving performance improvement if they are integrated with existing mechanisms and responsibilities, which have already led to significant reductions in crime and anti-social behaviour. Lowering crime and anti-social behaviour is not just the responsibility of the police but also that
of local authorities and other public agencies; the mechanisms already in place enable joint decision making and joint accountability for success and failure to communities; this would be diminished under the current proposals.

— In Lancashire, the Local Authorities believe that in an area the size of Lancashire, it is unrealistic to expect one individual to deliver on all the various commitments that will be demanded of this role. However, we would not support the appointment of deputies by the Commissioner that do not carry the same democratic accountability; we suggest that these be selected from Local Authority members who hold the portfolio for community safety in the area.

— We welcome the removal of unnecessary bureaucracy in the police service through reducing central control, promoting professional judgement, and reducing the data recording burden. Although we support the removal of national targets, we strongly believe that this must be balanced with sufficient national strategic direction to enable forces to know what is required of them in addressing national priorities.

— We also believe that further consideration is needed to the proposals regarding referenda and that the consequences of the cost of re-billing. The current proposal could see regular referenda held in respect of the precept, with a potential to re-bill if the commissioners 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. These costs would need to be added to the financial forecast and budgeted for.

— We are particularly concerned that the proposals for referenda on council tax could see referendum both on Council Tax and on the Precept. The current proposal could see regular referenda held in respect of the precept, with a potential to re-bill if the commissioners proposals are challenged. The cost of a referendum in Lancashire is likely to be in the same order as elections which is approximately £1.4 million across all 12 district and two unitary areas. The cost of re-billing has previously been estimated at £1 million. These costs would need to be added to the financial forecast and budgeted for.

— We have structured our response around the Committee’s four key lines of enquiry contained within its terms of reference, we have however made a number of comments with regard to cost within the line of enquiry surrounding the role of the PCP:

1. **The Relationship between Chief Constables and Elected Police and Crime Commissioners**

*Governance and Accountability—Consequences of the Police Accountability Model*

1.1 The local landscape of partnership working is complex particularly in areas such as Lancashire which is a combination of two-tier and single-tier local government in the force area. In Lancashire, we are making headway into rationalising and reducing the complexity of this landscape by supporting closer working between the Criminal Justice Board, the County Strategy Group and Community Safety Partnerships (CSPs). This includes the sharing of infrastructure services and setting joint priorities in the future.

1.2 We believe that introducing directly-elected-individuals with Police and Crime Panels at the force-level independent of these existing arrangements would reintroduce complexity and have the potential to fragment existing partnerships. It could also create a duplicate system for holding public services to account for their contributions to partnership working. Specifically, the duplication or tensions would arise with the Police and Crime Panel and Local Authority Scrutiny (particularly of County areas) both having the ability to challenge the role of partners and value for money in delivering community safety.

1.3 The obligation to scrutinise the contribution of all Responsible Authorities to improving community safety and tackling crime in partnership already exists within the democratic accountability of local authorities. Therefore, it is our suggestion that these committees be modified to enable them to take on the role of the Police and Crime Panel. The scrutiny committees are able to co-opt members from other agencies and independent representatives as necessary and form a joint committee covering all upper tier authorities for the area. In a two-tier area like Lancashire elected member representation could be provided from both district, unitary and county councils. Such a joint committee would not only be able to hold the Commissioner to account, individually but would also scrutinise partnership activity tackling crime and disorder ensuring value for money, identifying duplication and resolving conflicts of priorities.

1.4 Like many areas, we have already been reviewing our structures and processes to identify areas where we can work together more efficiently and effectively. Of particular relevance, is the closer working and shared services between the Lancashire Criminal Justice Board and Safer Lancashire Board (our county strategy group), thereby integrating community safety and criminal justice. Moreover, the Safer Lancashire Board, as the County Strategy Group, already brings together CSPs and enables commissioning of activity (including unitary authorities) on larger footprints. Having worked to remove duplication of effort and resources, the introduction of a separate role for commissioning community safety activity for the Police and Crime Commissioner would re-establish duplication and inefficiencies. It would also be contradictory
to the drive to having place-based budgets and joint commissioning of services. We see the Commissioner as one of the key members of this partnership and would advise that sole responsibility is not appropriate, but rather shared responsibility with the other relevant authorities.

2. HOW OPERATIONAL INDEPENDENCE WILL BE DEFINED

2.1 Although there may well be issues about the relationship between the Chief Constable and the Commissioner, in Local Authorities we also have reservations that the Commissioner will not fully have regard to the landscape within the local area and may seek to act without reference to the priorities of local partners, accordingly our replies are focussed on the relationship with Local partners within the Community Safety framework.

2.2 Currently, In Lancashire, we already have systems in place to provide information to the public around crime and police performance. Importantly, these are aligned to the provisions required to gather information to produce strategic assessments, partnership plans and county community safety agreements as dictated in legislation. These are used not only to set the priorities but to provide information on what all partners have committed to and feedback what has been done to tackle the issues identified. The Commissioner (and their support) should be integrated with this existing provision, as it is not only an area where services can be shared but also would prevent conflicting priorities or delivery mechanisms being commissioned.

2.3 The statutory framework created in the Police and Crime Act 2009, establishes bureaucratic requirements associated with the creation of police force collaboration agreements and police authority collaboration agreements. None of these regulatory requirements are placed on forces or authorities in respect of any collaborative agreements that they might have with other partners in the public sector. In Lancashire, there are a number of shared service arrangements involving the Police Authority and Local Authorities to achieve effective back office or “below the line” arrangements. It has been agreed in principle that a County wide “Public Services Board” be established to look at effective use of all public sector resources in the County area. Public Service Boards have been effective in progressing work and making efficiencies including in areas like community safety. For example, in Blackburn the Public Service Board has made considerable advances in areas such as substance misuse and prolific offending by drawing together the different agendas of health, economic development and community safety. The Police are part of this process and we would like to ensure that the Commissioner operates as other democratically elected bodies within the area to be part of this process.

3. THE EXTENT TO WHICH THERE WILL BE A NEED FOR NATIONAL TARGETS

3.1 Providing information to the public is crucial, as is the need for consistent, accurate and readily understandable information. The provision of information on crime to the public appears to be based on an underlying principle that increased information on crime will result in an increase in public reassurance.

3.2 We believe that Lancashire has implemented effective working across the Partnership areas and has seen the use of targets under the performance reward regime contribute to falls in crime and anti-social behaviour.

4. ROLE OF POLICE AND CRIME PANELS

4.1 We believe that the role of the PCP needs to be looked at alongside the role of the commissioner. Whilst the Government recognises that Commissioners should come from a wide variety of backgrounds, it is not clear how this can be achieved and whether one individual will be able to represent truly the views of the whole population of Lancashire.

4.2 We take the view that under the current proposals a single Commissioner will not have the capacity to scrutinise police performance. We believe that the model should be revised to give the Commissioner a better support and access to relevant information and expertise. Independent deputies would further define partnership working and create multiple lines of accountability. Deputies should instead be chosen from existing local government community safety portfolio holders. These portfolio holders not only have the democratic accountability through election but also have a remit of governance as set out in statute of representing constituents on community safety partnerships and the county strategy group. These members would also have the support of and access to existing mechanisms of community engagement undertaken by local authorities and other partners which could further support the Commissioner.

4.3 From experience, we have recognised that joint working between public services and the voluntary and private sector is essential to tackling crime and disorder. The police cannot tackle crime on their own and as such the established multi-agency partnerships have been a vital part of our success. Success in Lancashire has been largely due to the district and unitary partnerships delivering locally with the ability to establish clustering arrangements on other footprints under the guidance of the County Strategy Group, eg Basic Command Unit, Primary Care Trust and County to tackle priorities appropriately. The powers of the Police Commissioner at a force level should not displace the established and effective Community Safety Partnerships and County Strategy Group arrangements already in place, which have led to much of the recent reduction in crime and anti-social behaviour. This model of working would ensure we get more localism, in line with the Government’s general vision, rather than less.
4.4 It is not clear how the elections would be resourced or by whom they would be conducted (ie police authority or district/unitary authorities). In respect of financing election costs, it is estimated that the cost of these elections would be in the region of £1.2 million to £1.4 million across the 12 district and two unitary areas. Even if the Home Office funded the initial set up costs of the accountability structure, this would still represent a recurring expenditure commitment every four years and would place a significant additional burden on resources. (In Lancashire, this amount of money would equate, for example, to a 2% increase on the Police Authority’s Council Tax or approximately 20 Police Officers.) However, it is recognised that there is a price to democracy and that significant expenditure is already incurred on local government, parliamentary and European election processes.

Cost of Elections and Referenda

4.5 Of much greater concern is the proposal for multiple referenda on council tax. As local authorities, we are concerned that there could potentially be referenda both on Council Tax and on the Precept. The current proposal could see regular referenda held in respect of the precept, with a potential to re-bill if the Commissioner’s proposal is successfully challenged. The cost of a referendum in Lancashire is likely to be in the same order as elections (approximately £1.2 million to £1.4 million). The cost of re-billing has previously been estimated at £1 million. If these costs are to be met locally this will mean a reduction in the funds available for delivering police services in Lancashire. At a time of diminishing public sector expenditure, these additional costs for referenda are difficult to justify and do not represent value for money.

Given costs of referenda and re-issuing of bills should a precept be changed, we would advocate that the committee/panel have a power to amend the budget on an appropriate majority. For example, a two-thirds majority of the Greater London Assembly as used in the London mayoral model and recommended by the Local Government Association in their response.

Transition from existing arrangements

4.6 The consultation paper contains no details regarding transitional arrangements from the existing police authority structure to the new Commissioner model. A number of Local Authorities in Lancashire have experienced periods of transition, such as during local government reorganisation, and the amount of work involved should not be under estimated. A safe and seamless transition to the new accountability model will be required to ensure police performance does not deteriorate during this period, which could have an impact on the wider community safety landscape.

5. Recommendations

Our key recommendations can be summarised as follows:

5.1 We recommend that the Commissioner take the place of the police authority as a responsible authority for community safety, participating in community safety partnerships and county strategy groups as an equal participant.

5.2 We propose that the Commissioners should be implemented in line with existing legislation (and proposed amendments) and structures that already exist in local areas.

5.3 We recommend that deputies for the Commissioner be selected from elected members who hold community safety portfolios within the local authorities in the force area.

5.4 We recommend that the Commissioner participate as a responsible authority in providing transparent information with other partners, thereby limiting the need for additional and duplicate effort.

5.5 We would recommend that urgent clarification should be provided on the full costs of the Commissioner’s policy and how it is proposed to finance this expenditure.

5.6 We recommend that urgent consideration is given to the process of transition from the existing structure to the new Commissioner model.

5.7 We recommend that the Commissioner participate as a responsible authority in working collaboratively with partners within the Constabulary area as well as with other forces and the wider policing family.

Lancashire County Council  Blackburn with Darwen Borough Council
Blackpool Borough Council  Burnley Borough Council
Chorley Borough Council  Fylde Borough Council
Hyndburn Borough Council  Lancaster City Council
Pendle Borough Council  Preston City Council
Ribble Valley Borough Council  Rossendale Borough Council
South Ribble Borough Council  West Lancashire Borough Council
Wyre Borough Council  Lancashire Police Authority

October 2010
Memorandum submitted by the Lancashire Police Authority

EXECUTIVE SUMMARY

— Lancashire Police Authority took the opportunity to comment upon the Home Office consultation document “Policing in the 21st Century”.37 It approached the document from the premise that whilst the Authority had reservations about the proposals contained within the Paper it would make suggestions designed to support the delivery of an effective mechanism for good governance. As an authority that has worked hard to ensure effective accountability, and link this to service delivery, Lancashire felt well able to comment on the governments proposals.

— Lancashire is a high performing Constabulary, which has been accountable to the public it serves through an Authority assessed as “performing well” by the Audit Commission and HMIC.38 The current accountability arrangements have had a positive impact on police performance and the Authority is well placed to comment on the Governments proposals. We believe that in order to provide more effective governance, Commissioners will need an increased level of powers.

— We have reservations that the Government proposal for a sole elected commissioner is not the most effective mechanism to continue to drive performance improvement. We also believe that the current diversity in Police Authorities would be lost.

— We are concerned that the proposals for referenda on council tax could see referenda both on Council Tax and on the Precept. The current proposal could see regular referenda held in respect of the precept, with a potential to re-bill if the commissioners proposals are challenged. The cost of a referendum in Lancashire is likely to be in the same order as elections which is approximately £1.4 million across all 12 district and two unitary areas. The cost of re-billing has previously been estimated at £1 million. These costs would need to be added to the financial forecast and budgeted for.

— We welcome the removal of unnecessary bureaucracy in the police service through reducing central control, promoting professional judgement, and reducing the data recording burden. Although we support the removal of national targets, we strongly believe that this must be balanced with sufficient national strategic direction to enable forces to know what is required of them in addressing national priorities.

We have structured our response around the Committee’s four key lines of enquiry contained within its terms of reference:

1. The relationship between Chief Constables and elected Police and Crime Commissioners

   1.1 The Authority is concerned that as defined, the model proposed by Government will inevitably lead to conflict.

   1.2 We are concerned that without changes to the proposed model, the approach laid out will lack balance between the Commissioner and the Panel, will add a layer of bureaucracy and will reduce the scrutiny given to policing.

   1.3 Commissioners must be equipped with appropriate powers in order to properly influence policing governance, effectively hold the Chief Constable to account and determine policing style, whilst recognising operational independence. We believe the Commissioner should be a body corporate, responsible for the

37 Home Office (July 2010) Policing in the 21st Century: Reconnecting the police and public.
38 Audit Commission report Lancashire Police Authority November 2009.
budget, employing staff, holding land, property and equipment, and able to enter into contracts etc. This will ensure that the Commissioner is not subordinate to the Chief Constable. We would also suggest that the role of Commissioner needs to be much more focused than currently drafted if it is to work effectively.

1.4 We also believe that the Commissioner should be responsible for recruiting all Chief Police Officers and not just the Chief Constable. This is an important way in which the face of local policing is determined. We absolutely accept that there is a role for the Chief Constable in this process and from our own experience believe that ensuring that the Chief is involved through the whole process means that consistently good appointments are made.

2. How operational independence will be defined

2.1 One of the issues with defining “Operational Policing” is the complexity of the responsibilities of Chief Constables and the mechanisms by which they discharge their duties. The 1996 Police Act re-states the principle that Chief Constables are responsible for the direction and control of their forces but also sets out that they must have regard to the Policing Plan set by the Police Authority.

2.2 In addition to enforcing the law, preventing and detecting crime and being answerable within the Constitution to the law alone, Chief Constables are also running large multi-million pound organisations. It is in this area of business management that the Police Authority believes that there is potential for additional discussions regarding what constitutes Operational Policing.

2.3 This office has never been fully defined, neither in statute nor in previous royal commissions. The only case-law on defining operational independence is that set out by Lord Denning in R v Commissioner of Police for the Metropolis ex p Blackburn (1968). Lord Denning said that the Chief Constable (In this case the Commissioner of Police for the Metropolis.) was independent of the Executive. Lord Denning gives examples of what a Chief Constable cannot be told to do, clearly this extends to whom should or should not be arrested or placed under surveillance. What is not clear is how this sits with duties placed on Police Authorities or Commissioners.

2.4 § 6ZA of the Police Act 1996 places a duty on Police Authorities to secure effective collaboration and it could be argued that this can be given effect even where the Chief Constable is actively opposed to such collaboration. It is also the case that as part of the Authority’s duty to secure an effective and efficient police force for their area, and linked to the Police Authorities’ ownership of the budget for policing, decisions as to the purchase of goods and services are outwith the operational control of the Chief Constable. It is hard to argue that decisions regarding which of two evaluated ICT systems to purchase are operational within the definition set out by Lord Denning.

2.5 It is universally agreed that greater collaboration is needed to ensure that value for money is achieved. There are many services that could be delivered collaboratively without forces losing their operational independence on policing. If forces are seen as 43 branches of the same business then shared services that are common to all of those forces could be delivered in a standard way by one operator. This view requires Chief Constables to cede control over budgets and staff and to work in ways that they have not hitherto adopted. If this is within definitions of operational control it is much less likely that external pressures can be brought to bear to make what are clearly business efficiencies. The role of the Chief Constable within the constitution also makes it less desirable to have this same individual sitting as the body corporate for all matters pertaining to land, contracts and staff and we believe that this should remain with the Commissioner. These areas lend themselves to the type of creative tension that marks the relationships between effective Authorities and their Constabularies.

2.6 The Authority is concerned that the move to a single elected commissioner with a potentially large mandate from constitutionally unprecedented constituencies means that the danger of political involvement in these decisions will feature in a way that it has not under police authorities.

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

3.1 Providing information to the public is crucial, as is the need for consistent, accurate and readily understandable information. The provision of information on crime to the public appears to be based on an underlying principle that increased information on crime will result in an increase in public reassurance.

3.2 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.

3.3 We agree that frequent publication of crime data can be costly and bureaucratic. We need to have consistent standards of crime recording across the country to make sure people are happy to believe the statistics—we have seen that changing the way data is collected and reported makes people disbelieve the data. The proposal is focussed on Level 1 crime and does not address the issues of Level 2 crimes. We are also concerned that there is no proposal to look at people’s fear of crime. We can see that even where crime figures fall, fear of crime can remain artificially high.
3.4 We do think that effective comparison means a need for common measures. Although local priorities will drive the type of information needed, comparison of forces across the country, in the way that HMIC operate, could increase both the demand for information and the bureaucracy to record the data that supports it.

3.5 Centrally driven guidance has led to the development of defensive administration systems and processes by the police and made them risk averse. Forces also have extensive internal and external meeting requirements and the volume, time, cost and duplication involved are difficult to justify. Forces and the new Commissioner must review and rationalise meeting structures to remove duplication and optimise time.

4. **Role of Police and Crime Panels**

4.1 Although the Government intends that the Police and Crime Panel (PCP) should be at the core of proposals for governance, we do not believe that the current proposals will achieve this, neither do we believe that the checks and balances will provide an effective safeguard for the work of Commissioners. The PCP has very few powers and will not be able to effectively hold Commissioners to account.

4.2 We believe that the role of the PCP needs to be looked at alongside the role of the commissioner. Whilst the Government recognises that Commissioners should come from a wide variety of backgrounds, it is not clear how this can be achieved and whether one individual will be able to represent truly the views of the whole population of Lancashire.

4.3 We take the view that the workload has been wholly underestimated. Under the current proposals a single Commissioner will not have the capacity to scrutinise police performance. The model should be revised to give the Commissioner better support and access to relevant information and expertise. We suggest that the Commissioner could chair a wider group of Councillors/Independent Members, analogous to the Board of a company. This would fulfil the Government’s aim of having a directly elected individual to hold the police to account, but the Board would also be able to provide checks and balances against politicising local policing, and would also be useful as a mechanism of internal accountability for the Commissioner.

4.4 We are concerned that the Panels do not become a mechanism driven by local politics which is so focussed on scrutinising the Commissioner that the policing outcomes are overlooked.

4.5 Paragraph 2.31 also raises the issue of who will have primacy on the community safety mandate. There is a potential for a cluttered landscape of elected individuals including local councillors, elected mayors, MPs and Commissioners all with a claim.

4.6 We believe that especially where single issue candidates are elected, mechanisms will be required to safeguard against a Commissioner diverting resources from protective services to focus on populist issues. A vitally important improvement in policing in recent years has been in tackling serious crimes against our most vulnerable citizens through Protective Services. These, often hidden, victims are highly unlikely to be vocal in calling for Protective Services to remain a policing priority. The general public tend to worry about crimes they can imagine themselves as victims of and Protective Services crimes will not be a priority for them.

There will be pressure on the Police and Crime Commissioner to respond to the loudest calls in order to maintain popularity with their electorate and pressure on Chief Constables to agree. We must ensure that we police the needs of all of our citizens. The current proposals militate against this, vesting the power to drive priorities into the hands of one individual elected by the most vocal.

The board structure recommended at 4.3 would provide much greater representation of the whole of our communities.

4.7 It is not clear what role Panels will have in dealing with formal complaints against Commissioners. If the Panel has no powers in relation to complaints other than to refer them on, this creates bureaucracy and complaints should go directly to the Independent Police Complaints Commission.

4.8 Whatever the intentions of Government, we believe that these proposals will increase bureaucracy by effectively creating a quadripartite rather than tripartite agreement. (Home Office, ACPO, Police & Crime Panel and Commissioner). This has implications for cost and could create a much more complex framework. There is a danger that the combination of the powers of the Chief Constable together with the political motivation of the PCP, will effectively prevent the Commissioner from delivering effectively.

4.9 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. If the model proposed in paragraph 4.3 was to be adopted, the requirement for a Panel would effectively be removed as the Board would provide the necessary checks and balances without introducing additional bureaucracy.

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*Cf Policing in the 21st Century.*
5. **Recommendations**

Our key recommendations are summarised as follows:

5.1 Maintain a tripartite structure.
5.2 Ensure effective links between the democratically elected local government and Commissioners.
5.3 Avoid the introduction of politicisation within policing.
5.4 Maintain the good governance framework.
5.5 Establish clear direction on where powers and responsibilities lie.

October 2010

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**Memorandum submitted by the Cheshire Police Authority**

**Introduction**

— Cheshire Police Authority is “performing well and improving” according to the Audit Commission report published in March 2010. The 17 Members of the Authority hold the Chief Constable to account for the policing of Cheshire and have an active dialogue with the public, key stakeholders and partners on policing matters. The Authority continues to work hard to improve the way it oversees the governance of policing and is continuing to work with the Constabulary to drive out efficiencies in the way policing is delivered.

— Cheshire Police Authority formally responded to the Home Office consultation “Policing in the 21st Century: Reconnecting police and the people” on 14 September 2010. Whilst recognising that proposals for directly elected individuals or authorities was included in both of the collation Government’s manifestos, the Authority strongly believes that the proposals as they now stand only serve to increase, rather than decrease the democratic deficit.

**Executive Summary**

A brief summary of the Authority’s position on the areas under scrutiny by the Committee is as follows:

— The Authority believes that now is not the right time to introduce such radical changes to policing, on the back of a sustained fall in crime coupled with the financial scenario facing the country. The likely cost of holding elections for such individuals is money that at this time could be better used to support frontline policing, rather than introducing an untried model of policing governance and the Authority therefore questions whether any national reform programme should take place at the expense of local service delivery. The case for the changes proposed is not made and there are no proposed measurable benefits from the changes outlined.

— The Authority is concerned that the model of governance as proposed will not provide robust and effective scrutiny of policing and leave the relationship between the Chief Constable and Commissioner susceptible to personal differences and conflict.

— 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.

— The Authority believes that the public will not fully understand the complexities and differences between the roles of Commissioner and Chief Constable and that this will cause further tension when trying to define operational independence.

— The dropping of national targets is welcomed but the Authority firmly believes in the retention of national standards to ensure that future comparison of force performance is undertaken on a “level playing field”. Forces should be allowed to collect data for the effective management of the business and not be hamstrung by collecting information and data which merely serves an inspection regime.

— The Authority has serious concerns around the proposals for the Police and Crime Panel, which appears weak and with very few powers. The Authority would request that the Panel and Commissioner be seen as one body where decisions are arrived at following a constructive dialogue and consideration of differing views.

Set out below is the Authority’s response to the issues raised by the Inquiry:

1. **The relationship between Chief Constables and elected Police and Crime Commissioners**

   1.1 Members of police authorities hold their Chief Constable to account through a variety of means, including engaging with the public to hear their views on the policing of their area, and meeting with local neighbourhood inspectors to understand local policing concerns. It is not clear, however, how one individual can continue to do this. As a consequence, the Commissioner’s knowledge of policing will be limited, as they will not have the time or ability to involve themselves across the force area. Therefore, the way in which the
Chief Constable is held to account will rely more on a one-to-one relationship, which can be susceptible to a clash of ideals or personalities, which will only serve to weaken the tripartite arrangement and introduce conflict into the governance of policing.

1.2 The reform paper is unclear on who will be the “body corporate” (ie hold all the organisation’s assets, control the budget and employ staff) and if this is given to the Chief Constable, then it is very unclear what levers of power the Commissioner will actually have. Without the ability to directly influence how resources are allocated, the Commissioner will have little power over the Chief Constable and the relationship will not be an equal one.

1.3 The appointment of individuals in charge of the governance of policing brings with it the real possibility of single interest bodies that stand on a single issue ticket to find favour with the public. There is a possibility that as the Commissioner has little power on operational matters, in order to court popularity with the electorate, in the case where the Chief Constable does not agree with the general direction of the Commissioner, they may use the option of firing the Chief Constable with a promise to bring in their own person who will fulfil that promise. This can only lead to tension and conflict in the relationship.

1.4 There is no detail on the support mechanism that would be envisaged for the Commissioner and the Panel, and the Authority would highlight the value of continuity in support arrangements. There are significant levels of knowledge and expertise on a wide range of policing issues, from effective governance, diversity and human rights, through to complaints, performance and engagement activity which would be lost if a new support team was appointed every time a Commissioner is elected, resulting in a significant loss of corporate knowledge and expertise. There is a considerable risk associated with “personal appointments”—the precedent of “civil public servants” transcending administrations should be protected.

2. How will “operational independence” be defined

2.1 Under the Police and Crime Commissioner model, there will always be a danger that the operational independence of a Chief Constable is threatened as it will be inevitable that Commissioners will stand on the promise to reduce crime, or aspects of crime, which by their very nature, require the Commissioner to exert some influence on the way policing is delivered. The current model of governance has worked well, and police authorities and Chief Constables constantly find pragmatic ways of dealing with the issue of “operational independence”, and it is therefore difficult to envisage how this could be further defined. Many of the decisions that police authorities take are, by their very nature, operational in that the consequence of those decisions have a significant impact on the way policing is delivered. Unfortunately, the Authority believes that the introduction of a political mandate into how those decisions are taken takes the governance of policing into an area that it has previously not encountered.

2.2 There is also a danger that the public will not understand the subtle difference between the role of the Commissioner and that of the Chief Constable, and therefore will judge the Commissioner’s performance primarily on the performance of the force, despite the fact that the Commissioner will have no remit on day to day operational policing.

2.3 Commissioners will have a strong duty to collaborate and forces must always be encouraged to do so where there is a benefit. However, the operational independence and rights of a force to deliver a service in isolation, using local discretion where appropriate, should be protected. Tension may, however, be present, if the Commissioner uses their power to collaborate when a Chief Constable feels that it may be inappropriate. How then can operational independence be defined?

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

3.1 The Authority supports the strengthening of the local agenda and freeing the police service from many of the centrally imposed restrictions. The benefit, however, of nationally agreed standards and targets has enabled an accurate comparison of how both Basic Command Units (BCUs) and forces compare with each other. Recent benchmarking data (VFM profiles) is proving to be a valuable tool in looking at areas where the force appears to be out of line with other forces in performance and resource terms, and enables appropriate questions to be asked.

3.2 If national targets are dropped, it may no longer be possible to compare areas and therefore any comparison outside of force areas will be meaningless. This will also make it more difficult for the public to judge how well their local force, and indeed, their local Commissioner, is performing. It may also be more difficult for the Commissioner to judge the relative performance of the force, having instead to rely on the professional judgement of the Chief Constable, rather than an independent analysis of performance.

3.3 Given that forces will be free to set targets and objectives in consultation with the Commissioner, there must be a resistance against inspection bodies such as HMIC creating a bureaucracy around future inspection regimes which require forces to collect and collate data purely to satisfy that regime. The onus should therefore be very much on HMIC to identify how forces are performing against those targets.
4. **The role of the Police and Crime Panels**

4.1 The Authority welcomes the recognition of the need to have a mix of local councillors and independent persons on the Police and Crime Panel, but has serious concerns about the lack of any real power that the Panel has. The Authority believes that this will only serve to weaken the role of the Panel, and leave the Commissioner potentially exposed and open to criticism. Police authorities currently arrive at decisions following a comprehensive appraisal of the issue under debate, backed by a detailed knowledge of policing, however, given the lack of any real power over the work of the Commissioner, this level of debate is unlikely to occur. This will serve to create a “quad-partite” arrangement in the governance of policing and leave the Commissioner and Chief constable in a potentially difficult one-to-one relationship, when the Commissioner does not have the backing and support of the Panel.

4.2 The Panel will have the ability to voice public concerns over the Commissioner’s proposals, which will surely only serve to undermine public confidence. The proposals also talk about the ability to “confirm” appointments and hold public referenda should they disagree with the level of precept—these are all powers which appear either “toothless”, or indeed unworkable.

4.3 The Commissioner would appear to hold a unique position in British politics in that they are only truly accountable to the electorate and no other elected body as the Panel has no actual powers to veto the decision of the Commissioner. MPs and Councillors are all accountable to an elected body as well as the electorate so the Authority would question why this should be different for policing.

4.4 The way the Panel is currently constituted seems to be contrary to the desire to reduce bureaucracy, as there is a potential for the Panel to be merely a “talking shop” due to the absence of any real power. As the model stands, the Authority believes that both the Panel and the Commissioner would require support to enable them to effectively fulfil their role, and the Authority therefore believes that the model would be better developed by having a Commissioner reporting to a Panel, perhaps constituted on the same lines as the proposals, which could then be serviced by one body of people. A key issue here would also be the likelihood of reducing the prospect of conflict between the Commissioner and Panel as decisions would more likely be met through consensus.

5. **Cheshire Police Authority’s key recommendations to the Committee would be:**

(1) the maintenance of a strong tri-partite arrangement for the governance of policing and avoid politicising British policing;

(2) reconsider whether now is the most appropriate time to introduce an untried level of governance into policing, at a time of falling crime and economic hardship; and

(3) ensure that if the proposals are to proceed, that a robust form of governance is provided which has the appropriate checks and balances in place to ensure the continued effective scrutiny of policing.

October 2010

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**Memorandum submitted by the West Yorkshire Police Authority**

**Executive Summary**

— West Yorkshire Police Authority is the fourth largest police authority, representing 2.2 million people living in five large metropolitan local authority areas. We welcome the opportunity of contributing this paper to the Home Affairs Select Committee. (1.1)

— We believe the proposals on police governance as set out in the Home Consultation paper Policing in the 21st Century: Reconnecting police and public are not in the best interests of our communities; that they have not been tested sufficiently, or at all, with our communities who will be expected to vote on something about which even the architects and experts are unclear and uncertain. We believe that, in their current form, the governance proposals will all but wipe out truly local influence and control over local policing while at the same time leaving no room or role for local influencing of the national agenda.

— A Commissioner’s greatest strength will be their electoral mandate and it is therefore crucial that governance arrangements are fully understood by all at the point of election. (2.1)

— Members of the Authority are concerned that election of Commissioners carries the risk of introducing overt party politics into policing at two levels: that of the Commissioner, and that of the Panel. (2.2)

— The model of governance must reinforce and facilitate the Commissioner’s functions. One key area that is unknown is who will be the “body corporate” and what type of legal entity the new model will have, as there are constitutional implications of creating a Non-Departmental Public Body to discharge this function. (2.3)

— Clarity is need on transitional arrangements. To ease this we suggest that Police and Crime Panels should contain current police authority members. (2.5)
1. INTRODUCTION

1.1 West Yorkshire Police Authority welcomes the opportunity to submit this paper to the Home Affairs Select Committee inquiry into policing.

1.2 As the fourth largest police authority in England and Wales, representing 2.2 million people living within five large Metropolitan local authority areas we have the knowledge and experience of policing governance and of our communities to contribute to the work of the Committee.

1.3 From the outset, and for the avoidance of doubt, West Yorkshire Police Authority should make clear that we believe the proposals on police governance as set out in the Home Consultation paper Policing in the 21st Century: Reconnecting police and public are not in the best interests of our communities. We believe that they have not been tested sufficiently, or at all, with our communities who will be expected to vote on something about which even the architects and experts are unclear and uncertain. We believe that, in their current form, the governance proposals will all but wipe out truly local influence and control over local policing while at the same time leaving no room or role for local influencing of the national agenda.

1.4 If the ambition is to “reconnect” with the people of our communities on changes to their policing governance arrangements we believe those same people ought to be offered a local referendum in the same way that plans for mayoral governance have been and are to be tested.

1.5 We believe that any proposed model of police governance which has at its centre a single elected individual represents significant and substantial risks to our communities. The comments and recommendations that follow are an attempt to mitigate the central proposal of a Directly Elected Police and Crime Commissioner (DEPCC).

1.6 In West Yorkshire there is the intention for three of the five local authorities to have an elected mayor imposed through legislation. We are unsure of the relationship that will emerge between elected Mayors and Commissioners and who have supremacy in any decision making. Competing mandates are likely to emerge which paradoxically could make partnership working difficult.

1.7 The following commentary is organised around the Committee’s four key lines of enquiry contained within its terms of reference.

2. THE RELATIONSHIP BETWEEN CHIEF CONSTABLES AND ELECTED POLICE AND CRIME COMMISSIONERS

2.1 A Commissioner’s greatest strength—in fact their raison d’être—will be their electoral mandate derived from a substantial electorate that will greatly exceed that of any parliamentary constituency. It will therefore be crucial that the governance arrangements are fully understood by all at the point of election and that the many and varied promises on which a Commissioner campaigns will in fact be within his or her jurisdiction on appointment.

2.2 Members are concerned that the election of Police and Crime Commissioners carries the risk of introducing overt party politics into policing at two levels: that of the Commissioner and that of the Panel. A strong Police and Crime Panel with some independent members and having greater responsibilities to work with the Commissioners will at least assist in mitigating this risk. To mitigate this further, steps should be taken to ensure that candidates for commissioner come from a wide range of backgrounds, although we have no suggestion on how this can be achieved. We feel that only those with the resources and backing of a strong political party . (5.2)
the central control mechanism for all expenditure and resource decisions and effectively allows the sponsor department to call in or override matters that might be regarded as novel, contentious or repercussive. This, together with the attendant bureaucracy and administrative infrastructure appears to be in direct contradiction of the paper’s expressed intentions. There is also a key consideration as to who would be the Accounting Officer for the purposes of any NDPB—the Commissioner or a chief constable. If a different legal entity is to be created (such as a corporation sole or a trust) this will have a significant impact on the support arrangements that will be needed.

2.4 Defining who will be the “body corporate” needs to be predetermined. For example, who will be the employer, own the estate and other assets, hold the police fund, and have proper financial administration with internal audit arrangements in place? The extent to which these functions are transferred to the Commissioner will impact significantly on the influence the Commissioner is able to bring to bear. It is also unclear how the Police Council Tax Precept will be managed. At the moment this is through co-operation with local authorities and police authorities. Local authorities may continue to undertake this on behalf of elected commissioners which would incur further costs for direct billing to households.

2.5 We believe the Principles of Good Governance provide a well-established framework for any governance arrangements in public bodies and should be maintained.

2.6 The complexity and inter-related nature of existing governance arrangements will make an instant transfer from the current to the new framework very unlikely. Among the many considerations attending the transitional arrangements (including the setting of budgets, the straddling of financial years, the creation of statutory transfer schemes and the handover of outstanding matters such as maternity leave, complaints and investigations) will be the need for continuity and due diligence, some of which could be achieved by retaining many of the current members from existing police authorities on the Panel for a given period. Clarity is needed on transitional arrangements and beyond for authorities’ statutory officers of Treasurer and Monitoring Officer, and if they are to remain then who appoints and dismisses them. To ease the transition period we suggest that the Police and Crime Panels should contain current police authority members.

2.7 Much has been made of the Commissioner’s putative powers to “hire and fire” chief constables. While it is an important feature of any “employment” relationship, the power to dismiss a senior individual is usually one of last resort and invariably involves substantial cost to the employing body and compensation to the individual. These considerations are amplified where that senior individual is a public office holder occupying a critical post. At this level the key governance issues will generally be around performance, capability and capacity rather than conduct.

2.8 The Commissioner will also need to have responsibility for the handling of complaints in relation to chief officers, a role currently undertaken by police authorities. We believe that there is a real opportunity for Commissioners’ Offices to play a significant part in commissioning or overseeing the resolution of community grievances and would encourage a review of the relevant legislation.

3. **HOW “OPERATIONAL INDEPENDENCE” WILL BE DEFINED**

3.1 There will be many areas in which the proper aspirations of the Commissioner not only overlap but directly conflict with the operational independence of the relevant chief officer. Examples have been submitted elsewhere but some immediate local ones include the promise to increase visibility and availability of police officers in neighbourhoods, the use of sensitive counter-terrorism powers and the practice of “kettling” crowds in connection with the policing of large-scale public order operations. Each of these areas illustrates the potential for conflict and confusion in a setting where each party may legitimately claim to be acting within the scope of their proper statutory functions and the best interests of their communities. We would suggest that these fundamental matters must be addressed as clearly and as early as possible.

3.2 There is a belief that the public will think they are electing a chief constable with day to day control of operational policing…this will clearly not be the case.

4. **THE EXTENT TO WHICH THERE WILL STILL BE A NEED FOR NATIONAL TARGETS**

4.1 We agree, not only that the public must be able to see the performance of their police in dealing with crime and anti-social behaviour but that they are able to have access to meaningful data about incidents in their neighbourhood. West Yorkshire Police Authority uses its award-winning Beatcrime website, and has been providing detailed crime maps to its communities for over five years now. We are able to provide this information without recourse to national targets or benchmarking against others including the grouping contained within the nationally defined Most Similar Forces. At the local level, therefore, we feel there is no need for national targets.

4.2 For Forces, Authorities and Community Safety Partnerships though national targets provide a focus, contribute and are of value in local planning/target setting. However, “being useful” is not the same thing as “being necessary”. Forces, authorities and partnerships invest resources in knowing what crime and anti-social behaviours are priorities through regular strategic assessments and local intelligence gathering. Police
Authority engagement activity, consultation and feedback from our 245 monthly PACT meetings means we also know what concerns our communities. Local, visible targets and how we achieve them is likely to be of greater importance than those determined centrally.

4.3 Sharing of best practice and information which enables forces and authorities to benchmark and undertake comparative analysis will continue to be useful in reviewing and informing delivery, but this should not be at the expense of responding to local needs.

4.4 There is a related, and important point to make here, that in order both to “understand their communities” and their “crime and anti-social behaviour priorities” Commissioners will continue to need ready access to a wide range of reliable data. Similarly, in holding their chief officer to account a Commissioner will need access to information that is relevant, consistent and dependable. In many cases the size and diversity of the communities covered by their jurisdiction will alone make this a significant challenge.

5. ROLE OF POLICE AND CRIME PANELS

5.1 We note that Government intends that the Police and Crime Panel sits “at the core” of the proposals for checks and balances. We welcome recognition of the need for adequate and proportionate checks and balances within any new framework. We particularly welcome the recognition that those checks and balances are best achieved by a combination of locally elected councillors and independent/lay members from the local communities. Police authorities already have these proposed arrangements in place and their continued involvement in this core function is one that will be well received, not only in West Yorkshire, but also in the wider police authority sector.

5.2 Irrespective of the intention, the effect of the proposed arrangements will be to replace the tripartite arrangement with a quadripartite (Home Office, ACPO, Police & Crime Panel and Commissioner). Aside from the additional bureaucracy, cost and complexity, there is a real risk of Commissioners being seen as the most conspicuous but least effective party within that new framework. Incorporation of the Commissioner’s functions within the Panel would at least preserve the tripartite governance arrangements and avoid the addition of another limb of bureaucracy.

5.3 We would support the creation of a board or commission having the proposed composition of the panel but as part of the Commissioner’s administration rather than as some detached entity that watches the Commissioner watching the Chief Constable. Not only would such an independent board provide some checks and balances against political dominance or influence over local policing, but it would also establish some form of internal accountability for the Commissioner.

5.4 Police and Crime Panels consisting of local councillors or members directly elected will tackle the perceived “democratic deficit”, ensuring they truly represent the communities they serve. As commissioners will not be able to represent all 2.2 million people in West Yorkshire, the Panel will have the electoral mandate to assist and represent him or her. One of the strengths of current Police Authority membership is the involvement of members who more closely reflect the diverse populations we serve.

5.5 All members whether lay members or directly elected should serve a term of four years. This will end the annual revolving door of elected members and the continuing loss of knowledge, skills and experience.

6. RECOMMENDATIONS

Our key recommendations can be summarised as follows:

6.1 Maintain a tripartite structure (see paragraph 5.2).
6.2 Widen the directly elected base (see paragraph 5.4).
6.3 Avoid the introduction of politicisation within policing (see paragraph 2.2).
6.4 Maintain good governance (see paragraph 2.4).
6.5 Clear direction on who will have the “body corporate” status (see paragraph 2.5).
6.6 Encourage a review of the relevant legislation on complaints to allow commissioning or overseeing the resolution of community grievances (2.8).

October 2010

REFERENCES

i Home Office (July 2010) Policing in the 21st Century: Reconnecting the police and public.
ii see for example the responses submitted by the Association of Police Authority Chief Executives May and July 2010.
1. EXECUTIVE SUMMARY

1.1 Northumbria Police Authority (NPA) understand that the main focus of this paper is to strengthen accountability for policing to local communities. Our main priority is the safety of communities, and in responding to this consultation paper, that is our overarching consideration.

1.2 An overview from NPA is that we:

Support and welcome:
— a shift in emphasis from bureaucratic accountability to democratic accountability;
— the rebalancing of the tripartite relationship;
— the commitment to local people being safe and feeling safe, having a real say in how their streets are policed and holding police to account locally; and
— agree that there is too much central control, and welcome local freedoms and flexibilities.

But:
— we are extremely disappointed and have serious concerns that directly elected Police and Crime Commissioners (PCCs) are seen as the answer to giving local people a greater influence in the shaping and delivery of police services.

1.3 In summary we consider that there already is democratic accountability through Police Authorities. The Police Authority has the responsibility to ensure the provision of an efficient and effective police service across the whole of Northumbria, and this diverse group of people allows the Police Authority to operate in an independent, fair and balanced way. Proposals to introduce PCCs have raised many concerns amongst our own members, other police authorities, the APA and local authorities. Our concerns are listed fully in paragraph 3.3.

1.4 NPA would particularly wish to highlight these three significant points:

1. Key constitutional changes are proposed in this consultation paper that have not been subject to assessment or consideration in the same manner as the constitutional changes made by the 1964 Police Act, which was informed by a Royal Commission.

2. Proposals are being made for a system that has not been tried and tested in the United Kingdom through the operation of a time limited scheme.

3. The paper makes no reference to a corporate legal entity or statutory body that the PCC will work within and which will hold the budget, act as employer, and own the real property necessary for the Chief Constable to deliver an effective policing service. It also fails to identify the fundamental requirement of the Chief Executive and/or Monitoring Officer role, a key role introduced as part of the 1994 act to ensure propriety in the use of powers.

2. STRUCTURE OF RESPONSE

2.1 This response:

(i) Provides information on our concerns about the introduction of directly elected Police and Crime Commissioners.

(ii) Identifies key challenges of visibility and accountability by:
— outlining how Northumbria currently works to improve visibility; and
— identifying proposals to improve accountability including two models that the government could pilot.

3. DIRECTLY Elected POLICE AND CRIME COMMISSIONERS

3.1 Members of Northumbria Police Authority have also raised the following issues and concerns about the proposals:

Accountability and Democratic issues
— Conflict over local priorities—the proposal will create two electoral mandates on community safety issues, one for local councillors and the other for the PCC.
— Confusion for local people—the distinction between the roles of PCCs and democratically elected councillors, could become unclear.
— Loss of representation—members with different backgrounds and a wide range of experience and expertise currently contribute to decision making; this would be lost.
Difficulty in delivering localism—in Northumbria one person would represent the views and concerns of 1.6 million people.

Partnership working could be damaged—introducing a PPC could undermine local councillors in their role as advocates for local people and communities and break the link between crime and disorder and related services. It also risks destabilising successful working relationships between councils and the police.

Precept issues—removing councillor involvement would reduce ability to resolve conflicts with local authorities over precept setting.

The Police and Crime Panel’s role—there appears to be no real influence for the panel, this would dilute the checks and balances and reduce accountability, not increase it.

Transition arrangements are unclear—there will be a void and lack of accountability and impact on the appointment of PCC for the first year, as a budget and plan will already have been agreed for 2012?

Local Engagement—councillors represent local areas and talk to local people on a daily basis, how will one PCC ensure ongoing local engagement?

Reputational risk—confidence and accountability of policing could be damaged through a perceived conflict or complicity between Chief Constable and Police and Crime Commissioner.

Long term planning compromised—there would be little scope for long term planning, particularly from a financial perspective; with elections every four years, this could result in changes to policing direction.

Increase in bureaucracy—with the additional cost and administration of another electoral process (cost estimates are at around £50 million) could this money instead not be better spent improving service?

4. Key Challenges—Visibility and Accountability

4.1 Making Police Authorities more visible

There is an argument that the role identified for PCCs in the consultation document mirrors what police authorities are actually doing now, albeit with the issue of a lack of profile. As mentioned earlier, NPA welcomes the introduction of local freedoms and flexibilities and would consider that this ability to set genuine local priorities and deliver more localised policing plans strengthens local understanding of their role. The ministerial foreword to the paper states “over time the role of central government grew. As the number of police forces fell, police authorities took on bigger areas. They have since become remote and invisible, without the capability and the mandate to insist on the priorities of local people”. Increased freedoms and flexibilities will ensure that authorities have this capability.

Northumbria Police Authority commissioned a survey in 2005 and asked local residents how much, if anything, they knew about the police authority and its role. In 2005, 55% knew about the NPA.

As a consequence NPA have worked hard, through a range of activity, to increase our profile and ensure that more local people understand our role.

This includes:

- Stakeholder events involving partners from local authorities, voluntary and community sector, businesses, religious groups and other key stakeholders.
- Participatory budgeting events enabling local community and voluntary sector groups to bid for, vote for and run local community safety initiatives focusing on increasing trust and confidence. (NPA were recognised in the APA Innovation Awards for this work).
- “On the road” meetings (full authority meetings) are held across the authority area involving local communities and schools, bringing decision making into local communities.
— A “Trust Us” campaign to ensure that local people understand the role and responsibility of the authority and “How to get involved leaflets” are distributed to libraries and public buildings across the authority area.

— Development of a Young People’s Police Authority, which mirrors the work of the full authority and links with the existing youth assemblies in the authority area.

— Use of a grant pool to provide innovative local community safety solutions through Community Safety Partnerships.

In a local policing survey in 2010, 88% of residents knew about NPA.

4.2 Making police authorities more accountable

We should build on the success of our current independent, fair and transparent model rather than radically change the structure. A change to structure would potentially lead to further confusion and actually detract from the overall ambitions of the coalition government.

Currently elected councillors:

— bring democratic legitimacy and are answerable to the community at large, as well as their own local area;

— are well known to their communities;

— represent and advocate for local people over a range of services;

— have an awareness of local communities; and

— provide a strong link between local authorities and the police authority.

The independent members bring a wealth of different experience and skills.

When discussing the potential appointment, by the Home Secretary of Police Authority Chairmen in the Police and Magistrates Court Bill 1994—Lord Callaghan argued that “democracy does not just consist of electing a national parliament once every five years. We all know that the strength of democracy comprises a web of local institutions and local bodies made up of people serving in different ways, not necessarily elected”.

The current mix of democratically elected councillors and independent members allows the police authority to have a strategic overview and secure an effective and efficient police service with a mandate from local communities. We suggest that the key to improved local accountability, trust and confidence is to further enhance the relationship between the local authority and the police authority, which would otherwise be lost by the appointment of a PCC.

To achieve this within the current structure we suggest that:

— councillors retain the majority of seats on the police authority; and

— the accountability and transparency of police authorities to the electorate could be strengthened by linking the democratic legitimacy of the councillors on the authority to the “chair”—in other words, by requiring that police authorities are chaired by an elected local authority member.

Alternatively Northumbria Police Authority would like to propose that there are two possible models that could be considered as part of the consultation process. Both would increase visibility, strengthen local accountability and the tri-partite arrangement and ensure that local people are safe and feel safe.

The models are outlined below and attached at Appendix A.

**Model 1—Independent Police Board** (Northumbria Police Authority would be happy to pilot this model.)

Local councillors and independent members setting the strategic direction for policing, with local priorities and budgets, and holding police to account for performance.

**Model 2—Directly Elected Police and Crime Commissioner with Board of Commissioners**

Directly elected Police and Crime Commissioner supported by a “cabinet” style Board of Commissioners with local councillors appointed by the Joint Committee, and independent members to add diversity and a range of experience.

*October 2010*
MODEL 1
INDEPENDENT POLICE BOARD

PURPOSE OF MODEL
— Reconnects police and the people.
— Emphasis on democratic not bureaucratic accountability.
— Strengthens the tri-partite arrangement.
— Commits to local people being safe and feeling safe, having a say in policing and holding police to account locally.

DEFINITION
“Independent Police Board”—sets strategic direction for policing, with local priorities, budgets and holds police to account for performance.

STRUCTURE OF INDEPENDENT POLICE BOARD
— Chair of Police Board (a local councillor) takes the title “Police and Crime Commissioner”.
— A statutory requirement would ensure that the selection of Police and Crime Commissioner would be made by members of the Independent Police Board.
— Councillor and independent members are “Assistant Police and Crime Commissioners”.

FUNCTION
— Strategic—sets local priorities and budgets and holds police force to account and actively promotes the role and impact of the board within communities.

DELCIVERS IMPROVEMENTS
— Local people reassured of independence from police forces.
— Increased visibility as communities can easily identify and understand “job titles”.
— Capacity for everyday/ongoing local engagement with communities.
— Local communities confident that key decisions are objective and subject to scrutiny.
— Democratic accountability/mandate through local councillor representation.
— Collective not individual responsibility for strategic decisions.
— Wide range of perspectives in decision making with independent/councillor membership.
— Robust long term planning with continuity of experience.
— Strong relationships with local councils.
— Supported by a corporate legal entity ensuring propriety of use of power.
— Strengthens the tri-partite arrangement.
MODEL 2
DIRECTLY ELECTED COMMISSIONER WITH BOARD OF COMMISSIONERS

PURPOSE OF MODEL
— Reconnects police and the people.
— Emphasis on democratic not bureaucratic accountability.
— Strengthens the tri-partite arrangement.
— Commits to local people being safe and feeling safe, having a say in policing and holding police to account locally.

DEFINITION
A directly elected Police and Crime Commissioner supported by a “cabinet” style Board of Assistant Commissioners with co-decision powers on strategy, budgets and precept, performance issues. Local councillors appointed by the Joint Committee and independent members adding diversity and range of experience.

STRUCTURE DIRECTLY ELECTED POLICE AND CRIME COMMISSIONER
— Directly elected commissioner, supported by a Board of Commissioners.
— Board structure to be a majority of local councillors (appointed on a proportional basis by the joint committee) and appointed/co-opted independent members/magistrates.

FUNCTION
— Strategic-sets local priorities and budgets and holds police force to account.

DELIVERS IMPROVEMENTS
— Direct democratic accountability/mandate through directly elected commissioner.
— Local people aware of independence from police forces.
— Increased visibility as communities vote for commissioner.
— Capacity for everyday/ongoing local engagement with communities by board.
— Collective not individual responsibility for strategic decisions.
— Local communities confident that key decisions are objective and subject to scrutiny.
— Wide range of perspectives in decision making with independent/councillor membership.
— Robust long term planning with continuity of experience.
— Retains relationships with local councils.
— Supported by a corporate legal entity ensuring propriety of use of power.
— Strong tri-partite arrangement.
Memorandum submitted by the Police Authorities of Wales

1. INTRODUCTION

1.1 The Police Authorities of Wales (PAW) welcomes the opportunity to respond to the Home Affairs Select Committee regarding the proposed Police Reform and Social Responsibility Bill.

1.2 Police Authorities of Wales (PAW) is a representative body of the four Police Authorities in Wales: Gwent Police Authority, Dyfed-Powys Police Authority, North Wales Police Authority and South Wales Police Authority. The main aims of PAW are to:

- Consider and act upon issues affecting policing in Wales, particularly those that are under the control of the National Assembly for Wales.
- Maintain a broad Welsh prospectus on police matters.
- Promote and protect the interests of member Authorities.
- Seek to influence the policing agenda at a national level on behalf of Police Authorities and local communities in Wales.
- Support Police Authorities in securing efficient and effective policing services across Wales.
- Enable Police Authorities to improve.
- Promote awareness of policing needs and the role and achievements of Police Authorities.
- Uphold and champion the principles of local accountability and policing by consent.

1.3 As an overview, Police Authorities have a statutory responsibility for:

- 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.
- 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.

2. CONCLUSION

2.1 Police Authorities of Wales is grateful for the opportunity to comment, to the Home Affairs Select Committee, on the proposals of Police Reform and Social Responsibility Bill, and hopes that the submission below is helpful. PAW would be happy, however, to elaborate or provide further information which may be of benefit. Should this be required, first contact should be made with the Police Authorities of Wales Executive Officer via the contact details below.

1. SUMMARY

1.1 Police Authorities of Wales (PAW) has serious concerns regarding the Government’s proposed model of police accountability.

1.2 The proposals introduce additional cost without the appropriate level of checks and balances required. It is difficult to see how the proposed model meets the principles of good governance produced by the Independent Commission on Good Governance in Public Services.40

(1) Focus on the organisation’s purpose and on outcomes for citizens and service users.
(2) Perform effectively in clearly defined functions and roles.
(3) Promote values for the whole organisation and demonstrate the values of good governance through behaviour.
(4) Take informed, transparent decisions and manage risk.
(5) Develop the capacity and capability of the governing body to be effective.
(6) Engage stakeholders and make accountability real.

1.3 PAW recognises that public consultation has identified there is a public appetite for an identifiable individual to be publicly accountable for policing. However, there were clear public concerns around politicising policing and one person having too much power.

1.4 PAW recognises that there is room for improvement and we are open to change, but we believe that changes should be focused on ensuring high quality, accountable policing, with the involvement of a wide range of stakeholders in agreeing policing priorities and agree that this is best achieved through governance arrangements which promote a consensual, involving approach with appropriate safeguards.

1.5 PAW believes that the appropriate structure to achieve the Government’s objectives is that of a body corporate with the Commissioner part of a Police and Crime Board Model, jointly responsible for holding assets, entering into contracts and employing staff. A dispute resolution procedure would ensure that the primacy of the Commissioner is appropriately recognised. A comparison would be the executive decision making models in Local Government, or the private sector.

2. RELATIONSHIP BETWEEN CHIEF CONSTABLE AND ELECTED POLICE AND CRIME COMMISSIONERS

2.1 The details around the PCC powers has been somewhat wanting and has raised more queries than clarity. PAW would suggest that some principles will be needed to ensure the appropriate professional support is included, in particular legal, financial and treasury advice including a monitoring officer. It is also suggested that individuals employed to support such commissioners would need statutory protection, as other civil and public servants are protected.

2.2 The Police and Crime Commissioner (PCC) must be equipped with the powers and duties to enable them to fulfil not only their statutory roles but also to deliver on their electoral mandate. PAW does not believe that it could simply be achieved by the simple transfer of the current duties of a police authority to the PCC.

2.3 We acknowledge that the ability to hire and fire a chief constable, set a budget and the strategic direction do provide the PCC with some powerful aids to fulfill their role. PAW would argue that a small number of powers to complement the duties placed on a PCC would move to a situation where there was greater equity of power between the PCC and Chief Constable. PAW suggests that the power implicit in an electoral mandate needs to be made explicit in the legislative framework. The inclusion of statutory powers may be sufficient to ensure that reference to them is not needed or resorted to in the debate over operational independence.

2.4 To this end we would suggest that it would be helpful if a duty was placed on the Chief Constable to co-operate with the PCC to enable the PCC to meet his or her statutory duties. Tying this duty to that of the PCC’s duties removes any argument that this risks the PCC moving into areas of operational independence. In the event a PCC considers that the chief constable is not co-operating it would be beneficial for the PCC to be given a power of direction over the chief constable. This should not be capable of overriding a Chief Constable’s operational independence and can be restricted by legislation. A requirement for notice to use the power should be included and once issued, could be put into the public domain.

2.5 The addition of these two simple, but nevertheless significant powers and 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 creates a legislative framework which respects the operational role of the Chief Constable and the governance and accountability role of the PCC.

2.6 In respect of the dismissal of a chief constable, we believe that the process needs to be fair and transparent. Therefore PAW would suggest that the Police and Crime Panel (PCP) has a role to play in both appointing and dismissing the Chief Constable.

2.7 With reference to the ownership of assets PAW believe the exercise of duties and powers is not done within a vacuum but in the context of an organisation with significant resources; financial, people and physical assets. These must be allocated and employed in a way that delivers the plan set by the PCC. Currently, the “body corporate” powers and duties of an employer, owner of estate/assets, holder of the police fund and responsibility for financial administration and internal audit are all within the remit of Police Authorities and should likewise rest with the PCCs. Without these responsibilities and assets, the PCC will have no practical means by which to ensure that the duties described in the paper can be fulfilled. The transfer could happen in primary or secondary legislation.

2.8 A further example would be the potential for frustration on limits to options for collaboration with other PCCs and forces or public sector partners. Control of assets alone is inadequate, as it can be overridden by ownership.

2.9 It is understood that ACPO has argued for all assets and resources to be passed to Chief Constables. PAW does not believe this will achieve the Government’s stated aim of rebalancing the tripartite. The transfer of assets and/or resources to the Chief Constable would require the establishment of a separate legal entity. A time consuming and costly exercise would need to be undertaken to determine the ownership of both assets and outstanding liabilities between the PCC and Chief Constable. Not all assets could transfer to the Chief Constable because of the need for provision for the PCC and their team. The extent of this will be determined by nature of duties eventually placed on the PCC. The Government’s model creates the potential for three separate entities (Commissioner, Panel and Chief Constable). Far better to continue with a single body corporate, with joint responsibility for governance and clearly specified dispute resolution procedures between Commissioner, Panel and Chief Constable.
2.10 PAW has concerns regarding the national tripartite relationship and believes that equity of power needs to be considered. On reading the proposals, it could be viewed as establishing a “quad partite” through the creation of the PCC and its oversight Police and Crime Panel (PCP). PAW would like to highlight that the involvement of the Welsh Assembly Government makes the arrangements a “quintet partite”. Additionally, it will be important to ensure that PCCs has a national body to support and communicate their collective viewpoint.

3. **How Operational Independence Should Be Defined**

3.1 This is an ongoing debate that has previously caused some friction between police authorities and Chief Constables. With the implementation of the police reform proposals it would seem an appropriate time to set operational independence in legislation—especially as the model of a single Commissioner elected on a manifesto facing a Chief Constable who believes the Commissioner does not have the authority to make the decisions in his manifesto is much more likely.

3.2 PAW does not believe that back office functions such as Human Resources, corporate services, estates, IT and strategic procurement are operational issues. They would be better dealt with by a single body corporate as set out above—with the Commissioner and Panel able to express concerns and priorities on behalf of the communities they represent and the Chief Constable able to put forward operational considerations.

4. **The Extent to Which There Will Still Be a Need for National Targets**

4.1 While PAW views the partial removal of government targets and centralised performance management as desirable the Home Office/HMIC must continue to monitor local performance so we believe there will be a need for some collection of data centrally. There will remain a requirement for central data to enable comparability on a regional/national scale and to ensure some conformity in the levels of policing and its effectiveness and interoperability. It will also be required to ensure forces can collaborate together for national responses.

4.2 PAW has raised serious concerns in its consultation response regarding the implication of the police reforms on collaboration and its fears that it may undermine the very good progress made in Wales and the strength of its partnership landscape. Therefore we believe the setting of some national targets will need to continue, particularly around the more strategic policing issues, enabling collaboration, and setting required standards of performance. Comparability is important in both operational terms and for the public to be able to compare force performance.

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

5.1 PAW has grave concerns at the Panel’s lack of apparent power to be an effective body to advise & hold the Commissioner to account. There will inevitably be additional costs to provide support to the Panel, and PAW fails to see the how the police governance reform proposals will provide value for money. The vesting of substantial functions of a public nature in a single individual must be approached with a great deal of care.

5.2 The involvement of a wider group of representatives in the following processes would ensure appropriate checks and balances and result in better decision taking:

(A) **Budget/Precept Setting**—PAW does not support referenda as a means to challenge decision making due to cost and timeliness.

(B) **Local Strategic Plan**.

(C) **Appointment/Dismissal of Chief Constables**.

(D) **Illegality/Financial Impropriety**—Considering reports from the Monitoring Officer and the Chief Financial Officer requiring action.

(E) **Employment Issues**—the appointment/dismissal of other senior officers, terms and conditions etc. The Commissioner and Panel would delegate responsibility as Police Authorities (and local authorities) do at present, but would retain overall responsibility for the framework. A single individual as sole arbiter would not be good practice as it does not allow for appeals or conflicts to be addressed by someone neutral.

(F) **Land, Goods and Equipment and Financial Resources**—again the day to day management of assets could be delegated as appropriate while retaining overall responsibility and a single corporate body.

5.3 We believe that the following issues are also important in establishing the Police and Crime Panel and in how it operates:

— The panel should include representatives of each of the local authorities in the area. This representation should be on merit, politically balanced, and diverse. The panel should also include independent members. All appointments should be Nolan compliant.
— PAW does not believe the Commissioner should appoint the Panel although he/she could be involved in the process and able to raise objections.

— The system must enable detailed public scrutiny of force performance. It would be logical to effectively engage and utilise/share the skill base/knowledge of the Panel. A joint approach could be supported by a single team of officers.

— Monitoring policing plans once a year will be ineffective. Trends move quickly and therefore more regular monitoring of the Commissioner’s Policing plan would be appropriate.

— It would be advisable for the panel to have a qualified right of veto on key decisions (similar to the local government directly elected mayor model) and to be of a similar status as non-executive directors in a private company.

— The Panel will require as a minimum legal advice, financial and performance management support to effectively undertake any monitoring and scrutiny role. A monitoring officer will also be required to ensure that all decision making is lawful.

— It is suggested that the Commissioner’s role and responsibilities be set in legislation with clear principles.

— Commissioners need to abide by a Code of Conduct and the Panel should act as a filter to call in the Ombudsman.

5.6 Existing staff should be used in the new support structure as they have the necessary knowledge and skills that would be particularly useful for any new Commissioner and provide some resilience to the transitional period. This would also allow for continuity in the event the Commissioner is not re-elected. Staff appointed personally (possibly on the basis of political affiliation) would mean limited scope to build up knowledge and corporate memory. This would not be VFM and would not inspire the public with confidence.

October 2010

Memorandum submitted by the Derbyshire Police Authority

1. Executive Summary

— Further clarity required on the roles and responsibilities of the Police and Crime Commissioners alongside those of the Chief Constable.

— A definition of operational independence is required.

— Direction or principles of the supporting architecture are required in order to enable a seamless transition.

— Police and Crime Commissioners should be given additional powers of direction.

— Police and Crime Panels should be dual-roled to both support and scrutinise Police and Crime Commissioners.

— Elections and appointments of Police and Crime Commissioners should mirror the normal electoral process in order to minimise transitional costs.

2. Thank you for the opportunity to provide a submission to the Select Committee Enquiry into Police and Crime Commissioners. We responded formally to the Home Office consultation document “Policing in the 21st Century” on 27 August as part of the Home Office consultation process and our response is enclosed for completeness. This is a subject that the Derbyshire Police Authority feels very strongly about, and following a meeting of the Authority at which the Home Office paper was discussed in detail we respectfully submit this, our submission.

3. This submission will be limited to two key issues highlighted in the scope of your work, namely: the relationship between Chief Constables and the elected Police and Crime Commissioners and also the role of Police and Crime Panels. We also raise our concerns on the considerable costs of implementing this scheme.

Relationships of the Police and Crime Commissioners with Chief Constables

4. From the limited detail provided in the scoping document we are concerned that the relationship issue has not been fully thought through. We believe that if the Home Secretary is saying that police authorities have not been effective (and as an aside she has produced no evidence to support this assertion) that there is a direct need to build on the role and responsibilities and powers of Police and Crime Commissioners to make them more effective and not reduce them as is being proposed; the current situation we believe is in danger of building up Police and Crime Commissioners to fail. Reducing their roles from that of police authorities provides them with no meaningful responsibility and risks their ability to add any real value. We believe that Chief Constables should be expected to concentrate on the delivery of the operational needs of policing, and that as a generalisation; everything else should fall to the Police and Crime Commissioner.
5. What is not entirely clear are the responsibilities of the Police and Crime Commissioners. If Police and Crime Commissioners are to be held accountable for "the whole of Force activity," then we need to have a clear definition of where the dividing line is and in particular what is meant by operational independence. Without this there is a danger of confusion and for potential conflict. For example is the selection of an IT system, or the restructuring of a BCU and the subsequent closure of police stations, an operational decision for the Chief Constable to make or will the Police and Crime Commissioner be held accountable, and therefore should the decision making fall to the latter? Where is the line? We note that this is being addressed by the Home Affairs Select Committee and we look forward to seeing what the outcome will be.

6. If the PCCs are to be held accountable for policing then we would expect them to lead on the following as a minimum, and that the associated resources should be so aligned:

(a) Appointments of senior police officers and senior police staff. No change from current duties of police authorities.

(b) The handling of all complaints and appeals. This is an extension from what is currently undertaken by police authorities; we feel that it is an anomaly that the police are responsible for investigating themselves under the direction and control of the chief constable and the Police and Crime Commissioner should be allocated this role, supported by the IPCC. We also feel that the complaints process is complicated with too many involved. This should be made more simplistic with the Police and Crime Commissioner being tasked with being responsible for all complaints and ensuring that lessons are both identified and learnt.

(c) The setting, and oversight, of the budget. No change from current duties of police authorities.

(f) The setting of local priorities and the agreement of a strategic policing plan. No change from current duties of police authorities.

(g) The use of resources including collaboration. No change from current duties of police authorities.

(h) The commissioning of community safety work, in co-ordination with partners.

(i) The management of the police estate. No change from current duties of police authorities.

7. As a consequence the Police and Crime Commissioners should be given the resources to achieve this and some further direction or principles on responsibilities should be provided in order that supporting structures and re-organisation can be put in place to allow for a smooth a transition as possible. Police Authorities will be required to put in place some form of supporting architecture ahead of May 2012.

8. Finally we believe that the Police and Crime Commissioner needs to be given some power of direction. There may be times that a firm hand is required to steer a Chief Constable, particularly where there is intent for the Home Office to become less involved. In parallel we believe that it would be helpful also if there was a requirement placed on a chief constable to co-operate with a Police and Crime Commissioner in order for the latter to achieve his/her statutory duties. Without this power of direction it could be very difficult for a Police and Crime Commissioner to direct what the policing priorities and their implementation might be, and the only recourse that (s)he might have would be the threat of removal should this not happen; by adding this to the legislation will provide the clarity that is required. In sum, we believe that there is a need to rebalance the relationships and provide the Police and Crime Commissioner with the means to fulfil his/her role.

**The Role of Police and Crime Panels**

9. We have some concerns with the detail that has been provided to date on Police and Crime Panels. Under the current arrangements there is a danger that the Chief Constable could be pulled in two directions answering to both the Police and Crime Commissioner and the Police and Crime Panel. Police and Crime Panels will require the knowledge of the policing environment and landscape in order to hold the Police and Crime Commissioner and will therefore need to be kept informed of policing activity; this can only be provided by the Force. The strategic landscape will as a consequence be in danger of being confused and the tripartite relationship could be in danger of becoming a quadpartite relationship. That said, it is recognised that there is a need to provide the checks and balances of the Police and Crime Commissioner, and the Police and Crime Panels we suggest will need to do this in the same manner that a chair of a police authority is held to account by the members. We feel that the responsibilities of the Members of the Police and Crime Panel should be widened to make the appointment more fulfilling; by not doing so may make it difficult to appoint independent members to support these panels. Police and Crime Commissioners will require support and the expertise and skill sets of Police and Crime Panels members could be exploited to fill this vacuum in a cost effective way. In sum we suggest that they should have a dual function of both supporting and holding to account the Police and Crime Commissioner.
MISCELLANEOUS COMMENTS

10. We have made other comments in our response to the consultation document. Whilst not part of the terms of reference for the Select Committee we do feel that they have some relevance. Our key concern is the implementation of this proposal outside the timelines of the normal electoral process. There are no county wide elections in Derbyshire in 2012; the costs, not including other transitional costs, (expected to be in the region of £.75 million and approximately £60 million in the country) we believe are not tenable in this current financial climate. Whilst accepting that the appointment of Police and Crime Commissioners may happen we believe that the process should be staggered across the country to tie in with the normal electoral process keeping the electoral costs to the minimum.

October 2010

Memorandum submitted by Professor Rob Mawby

Rob Mawby (BA, MSc, PhD) is Visiting Professor of Criminology and Criminal Justice at the University of Gloucestershire. He previously worked at the universities of Sheffield, Leeds, Bradford and Plymouth, where he was Professor of Criminology and Criminal Justice for some 15 years. His interests include crime reduction, policing and victimology, especially in a cross-national context, burglary, tourism and crime, and rural crime and policing. Internationally, he was the UK representative on CEPOL’s Special Expert Committee on Police Science in the EU (2005–07), and locally was commissioned to carry out Crime and Disorder Reduction Partnership (CDRP) audits in Cornwall in 2000 and 2004. He is editor of Crime Prevention and Community Safety: an international journal, and has published numerous articles and books. The most recent of the latter are: Policing across the world: issues for the twenty-first century (London: UCL Press 1999); Burglary (Cullompton: Willan Publishing 2001); and Burglary (Aldershot: Ashgate, International Library of Criminology, Criminal Justice and Penology—second series 2007). He is also co-author of: Police Science Perspectives: towards a European approach (Frankfurt: Verlag fuer Polizeiwissenschaft 2009); Rural Policing and Policing the Rural (Aldershot: Ashgate 2011); and Leisure, Tourism and Crime (London: Routledge, 2011).

EXECUTIVE SUMMARY

1.1 The consultation document suggests that both local publics and the police have become disempowered and central government influence too strong, and proposes the introduction of Police and Crime Commissioners as a means of increasing police accountability and transparency. This submission addresses the extent to which international evidence supports this assumption.

1.2 The structure of policing and the relationship between police, public and government vary markedly between different countries. Policing in the United States has often provided a model for initiatives in the UK. However, there is no single police system in the US. Two common alternatives are where local police chiefs are directly elected and where local government officials or elected representatives, particularly the mayors, represent local people in holding the police to account. The latter example has some similarities with the discussion document proposals, but these do not have a dedicated police and/or crime mandate; rather, their responsibility is a more general one. That said, mayors may play an important role in opening up the police to external scrutiny, but it is arguable as to whether this is in the interests of the wider community. In fact, US practitioners and academics have often cited the English system as the ideal model.

1.3 The evidence from abroad is not unambiguous, but it does suggest that the greatest potential for conflict between the police chief and their locally elected “manager” lies on at least three levels: in the appointment and dismissal of the chief officer; on an operational level; and in whether the elected “manager” truly reflects local interests. The safeguards suggested in the discussion document address the first two concerns but there is an uncritical assumption that Police and Crime Commissioners can identify local policing needs and are motivated to address them.

2. INTRODUCTION

2.1 In England and Wales (and Scotland) the tripartite relationship, between individual police forces, central government and local governance was established in 1964 to, among other things, enable local accountability, ensure common standards across the country, and avoid political interference in operational policing. This structure largely remains, despite changes that have modified the composition of Police Authorities (in 1994), increased the influence of central government (fairly continuously) and, occasionally, in cases like the creation of Crime and Disorder Reduction Partnerships, increased local involvement. The consultation document, Policing in the 21st Century: reconnecting police and the people posits that both local publics and the police have become disempowered and central government influence too strong. The proposal to replace Police Authorities with elected Police and Crime Commissioners, themselves accountable to Police and Crime Panels, is justified as a means of increasing police accountability and transparency.
2.2 Not surprisingly, the structure of policing and the relationship between police, public and government vary markedly between different countries. In general, in countries with a centralised police system public influence on police has tended to be minimal and political influence considerable, although in centralising its police system the Swedish introduced an influential local accountability structure to guard against this.42 Some other European countries, such as Spain, Italy and France, while they have centralised police systems, have also introduced local police under the control of mayors, although these police have more restricted powers than their national counterparts.43 Elsewhere, in Germany, the regional (Lander) come under the jurisdiction of regional politicians and it is not uncommon for police chiefs to be replaced following local elections.

2.3 Closer to home, the British Channel Island of Jersey has a bipartite policing structure, where the public (States) police operate alongside parish elected volunteers, the Honorary Police.44 While this was widely praised for providing public involvement, it caused numerous difficulties, at least partly because the Honorary Police System was entwined with the local government system, resulting in claims of political interference and low morale among regular officers. The latest of a long line of inquiries resulted in the Connets, the heads of government in each parish, relinquishing their nominal control of the Honorary Police.45 Nevertheless, the high level of community involvement in policing remains a double-edged sword. On the one hand, despite efforts to encourage active citizenship parishes are finding it increasingly difficult to recruit to the Honorary Police. On the other, local pressures on the Honorary Police make it difficult for them to act impartially.

3. THE USA

3.1 Further afield, policing in the United States has often acted as a model for initiatives in the UK.46 However, there is no single police system in the US. While no more than 10% of public police work for national police agencies, the remainder operate through a variety of local agencies, numbering well over 15,000 largely autonomous police organisations.47 Local police organisations can be categorised under five headings: state, county, city, small town and “special district”:

— State. Forty-nine states have their own police force, in total employing over 58,000 full-time sworn officers. The largest force is the California Highway Patrol with about 7,000 full-time officers, the smallest North Dakota Highway Patrol with 135. State forces are commonly accountable to state governors.

— County. Most of the counties in the USA have their own police departments, headed by a sheriff elected to run the department for 2–4 years, who is in turn accountable to the county administrators. In 1999 there were some 3,088 separate sheriffs’ departments employing about 185,859 sworn officers, more than three times the number in state forces.

— City. There are about 3,220 police forces in cities of over 250,000 population, employing on average 2,465 sworn personnel. The largest force is New York City with over 36,000 officers, the smallest Anaheim with about 400.

— Small town. The fourth level of local law enforcement operates at the rural level in the small towns. There are at least 13,000 such forces, employing about 438,000 full-time sworn officers, with nearly half (47%) of these agencies located in areas with under 2,500 people.

— Special districts. These provide the police services to particular institutions and/or geographical areas like university campuses, military bases, and recreation areas.

3.2 Given this myriad of agencies, it is scarcely surprising that methods of accountability and public engagement vary considerably. Two common alternatives are where local police chiefs, primarily sheriffs working in counties and small towns, are directly elected, serving for generally 4 years, and where local government officials or elected representatives, particularly the mayors, represent local people in holding the

police to account. The latter has some similarities with the Police and Crime Commissioners proposed in the discussion document, but these do not have a dedicated police and/or crime mandate; rather, their responsibility vis-à-vis the police comes within a more general responsibility for holding public sector agencies accountable. Civilian Complaint Review Boards also exist in many areas, in some cases being restricted to overseeing or handling complaints against the police, in others including responsibility for monitoring police organisations.48

3.3 Despite the distinctiveness of the office of sheriff, there is little or no research on sheriffs, the election process, and the impact this has on police policy routine policing. This may be largely because of the emphasis on researching metropolitan forces.49 Small, rural forces seem to have higher than average clearance rates, low crime and better police/public relations, but this is likely to be because of the nature of rural communities rather than due to the fact that officials may be elected. Research that has considered political influence on sheriffs gives mixed messages: for example, one seems to suggest that this may be less powerful than the police subculture,50 while another recent study suggests that political influence is considerable.51

3.4 In contrast, there has been extensive research on public influence on big city police forces, stretching back through the 20th century.52 Perhaps surprisingly, US police systems were established in the 19th century with much more formally structured community roots than was the case in England and Wales. For example, police were recruited from within the precincts where they worked.53 However, rather than seeing this as a strength, US commentators identified the dangers of too much external influence on the police, either by local politicians or organised crime running neighbourhood police chiefs. In the former case, senior police officials were often fired following local elections, in the latter corruption appeared endemic to big city forces. Ironically, the more professional and independent London Metropolitan model was held up as the ideal.54 This led the police to adopt a militaristic structure initially, and later a professional identity, which may mean that police management is more professional and less open to political influence than in the past.55 This has been modified with the widespread adoption of community policing, albeit Compstat, the crime analysis and management approach associated with zero tolerance policing in New York,56 whilst it may incorporate transparency, is an internal, bureaucratic alternative.

3.5 That said, 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.57 Certainly it has led to a considerable turnover among senior police personnel, the highly publicised case of New York Police Commissioner William Bratton being dismissed by mayor Rudy Giuliani being a case in point.58

3.6 Thus, while mayors may play an important role in opening up the police to external scrutiny, it is arguable as to whether this is in the interests of the wider community, or more in the interests of individual mayors. Indeed, commentators have frequently cited the English system as the ideal model, or argue that bureaucratic is preferable to democratic accountability.59

4. Summary and Discussion

4.1 While models of policing vary considerably across the world, and the extent to which and ways in which the police are managed and held accountable similarly vary markedly, the proposal in the discussion document to enable the election of Police and Crime Commissioners differs in significant respects from the international examples discussed here.

4.2 National, centralised police systems tend to have least mechanisms to allow public accountability, especially at local level, with the US system of local police systems allowing more democratic involvement through directly elected sheriffs or elected mayors who have a broad mandate to oversee their local police. It is, in that context, notable that the involvement of elected officials in the US has fuelled a number of controversies, and that the English model has often been held up as an ideal by both practitioners and academics.

4.3 Although it is self-evidently the case that central influence over the police has increased in England and Wales, and affected the tripartite balance, at the same time the introduction of CDRPs and the requirement for local audits provided the potential for increased representation in policing at the local level. The discussion document, by proposing Police and Crime Commissioners, albeit supported and monitored by Police and Crime Panels, takes a different direction, including the centralisation of the process within the Police Authority.

4.4 The evidence from abroad is not unambiguous, but it does suggest that the greatest potential for conflict between the police chief and their locally elected “manager” lies on at least three levels: in the appointment and dismissal of the chief officer; in the involvement of the elected “manager” in operational matters; and in the extent to which the elected “manager” can be seen as truly reflecting local interests. The safeguards suggested in the discussion document address the first two concerns but there is an uncritical assumption that Police and Crime Commissioners can identify local policing needs.

4.5 Experience of CDRPs and the auditing process suggests that national standards, targets and priorities created problems at the local level, where, for example, specific problems in rural areas or tourist centres were not reflected at national level. However, audits that included public surveys allowed local issues to be identified, and the original formulation of CDRP areas meant that “the local” was more focused, rather than encompassing the whole Police Authority area. It seems that the introduction of Police and Crime Commissioners will lose these advantages by both shifting the democratic input to Police Authority level and by assuming that Commissioners are in some way better able to identify local needs than are Chief Constables or will be motivated to address them.

4.6 There is certainly a need to ensure that Chief Constables produce policing plans to identify and respond to local needs. However, there is little evidence from abroad that the election of officials to oversee policing aims and objectives and to hold Chief Constables accountable will achieve these aims.

October 2010

Memorandum submitted by the Welsh Local Government Association (WLGA)

Introduction and Executive Summary

1. The WLGA welcomes the opportunity to submit evidence to the Home Affairs Committee Policing Inquiry.

2. The WLGA supports moves to improve policing and to further increase accountability and responsiveness to local people and their needs. Policing is an important public service and the partnership approach across the criminal justice system, to ensure a holistic approach to tackling and reducing crime as set out in the Home Office’s consultation paper “Policing in the 21st Century” is welcomed.

3. However, the WLGA has serious concerns regarding some of the statements and suggestions made in the paper in relation to police accountability and strongly opposes plans to replace Police Authorities with Police and Crime Commissioners. We believe that the premise upon which the proposals are based is flawed and lacks appropriate understanding of how the current system operates, particularly within Wales. As a consequence of this, the ensuing detail of the proposals and the practical implementation raise serious concerns. With the impending large scale public spending cuts, we also do not believe that now is the right time to undertake such fundamental change nor is there public appetite for such changes as those being proposed.

Welsh Context

4. While the Home Office in its’ consultation paper makes reference to the Welsh Assembly Government and its areas of responsibility as they relate to this agenda, we do not believe that the paper adequately reflects the current context of how Police Authorities operate in Wales. The consultation paper is predicated on the assumption that Police Authorities are not effective in relation to their accountability role in that they are “invisible to the public” and that the public are often “unaware of police authorities themselves”. These statements do not reflect the situation in Wales. A recent survey undertaken by the Police Authorities of
Wales (PAW) identified that 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. Such evidence therefore reflects awareness of Police Authorities and their role in Wales. We accept that improvements could be made to ensure improved communication with the public. However, great efforts have been made in recent years to engage with the public, raise awareness of their existence and provide opportunities for the public to influence their policing priorities. The WLGA holds the view that the current system of public accountability through Police Authorities works and as such believes that the new proposals may weaken the existing system and as a consequence much of the progress and good practice that has developed could be lost.

5. The relationships and partnerships that have developed locally, regionally and nationally in tackling crime and community safety is one of the particular strengths of the current arrangements in Wales. Local authorities have taken their responsibilities under the Crime and Disorder Act 1998 seriously and have developed extremely effective relationships with the police and other partners in establishing and operating Community Safety Partnerships (CSPs). Police Authorities are represented on CSPs which shows how shared priorities can be addressed through individual agencies’ business plans. There are also statutory mechanisms through which Police Authorities engage collectively with local government and the Assembly Government such as the Partnership Council (which has been established by the National Assembly for Wales) and the Consultative Forum on Finance—these structures provide Police Authorities with an opportunity to voice issues of concern to Assembly Government Ministers and feed into broader on-going discussions affecting local government policy in Wales. Partners in Wales would not want to lose these positive working relationships through the establishment of a Commissioner.

6. The seriousness which local authorities afford policing is reflected by the seniority of those elected members that represent their local authority on a Police Authority. In Wales, many elected members who sit on Police Authorities are senior locally elected politicians, for example, either a Leader or a Cabinet Member with responsibility for community safety matters. This helps to ensure that local policing issues can be dealt with at the most senior and strategic level within local authorities. The abolition of Police Authorities puts this situation at risk as, as will be highlighted below, if a Police and Crime Panel has “no teeth” (as is currently reflected within the proposed role for such a Panel) it is unlikely that this seniority will be maintained.

7. While the consultation paper highlights areas which are devolved to the Welsh Assembly Government, it is important that the Home Office understands the relationship the Assembly Government has with both devolved bodies and non-devolved bodies who operate within a devolved context. There is, for example, a different legislative context that can affect policing and its partners and the Assembly Government has responsibility for the operation of Council Tax regulations. In developing proposals further, consideration needs to be given as to how a Commissioner will operate within such a context and ensure that such understanding is reflected in the development of any arrangements.

8. The WLGA opposes plans to replace Police Authorities with Police Commissioners. The WLGA does not believe the current system “is broke” and given the limited information in the consultation paper on how the new arrangements will work in practice, does not think what is being proposed will add value to what is currently in place. The WLGA has engaged in on-going discussions with key partners on the proposals from the Home Office since they were launched. It is clear that if policing was devolved, these proposals would not be developed for Wales. There is no appetite to change a system that works for us, and importantly the public, as the results from the PAW survey demonstrate. Specific concerns we hold on the proposals are highlighted below.

POLICE AND CRIME COMMISSIONERS

9. The WLGA is extremely concerned at the level of powers and responsibilities that will be placed in the hands of one individual and believes that this is unprecedented in British constitutional arrangements and therefore a risky proposal. The Police Commissioner model remains untested, uncosted, and without any clearly evidenced business case.

10. Under the proposals, a Commissioner will have the responsibility to set the precept and the force budget. Such a situation is unacceptable to our members, as it removes the current responsibility of the elected members who sit on Police Authorities in setting and agreeing a precept level. The only recourse being suggested is for a Police and Crime Panel to call a referendum should they believe the proposed precept to be unacceptable or excessive. Unlike England, capping powers have never been used in Wales as there is an inherent discipline to ensure that proposed levels are within reasonable limits. Elected members have sought to bring this discipline to bear when Police Authorities have been agreeing precept levels. Removing the input of elected members, replacing it with the option of calling a referendum should there be disagreement, will make the whole process more adversarial rather than consensual as has been the case previously, more costly and more time consuming resulting in no discernable benefits. It is our firm view that the responsibility for setting the precept, and agreeing the force budget, should lie with the Police and Crime Panel rather than the Commissioner. This will ensure that collective agreement can be reached with representatives of all local authorities within the force area. This is an extremely important issue for our members and without such an amendment it is unlikely that other proposals will be given much traction.
11. We believe that replacing 17 or 19 members of a Police Authority with a single individual will decrease rather than increase the connection with the public, especially in large geographical areas such as Dyfed Powys and even smaller geographical areas which are culturally and demographically diverse. On a similar note, the WLGA has concerns around the capacity of one individual to represent and engage with all communities, as well as perform the multiplicity of duties which is currently provided by all individuals on a Police Authority, for example, members of Police Authorities currently report back discussions to their communities and often bring wide, varied and specialist knowledge of their communities.

12. There is also a risk that replacing Police Authorities with Police Commissioners will seriously undermine diversity in the accountability system. While the Government states that it wants candidates for Police Commissioners to come from a wide range of backgrounds, in reality it will be incredibly difficult for independent candidates to be able to compete against political party candidates. This will be especially true for women and candidates from BME backgrounds.

13. The cost of direct elections for Police and Crime Commissioners would be significant. Independent research commissioned by the APA estimates that the cost of holding elections alone will be £64 million. The details on the cost of running a Commissioner’s office are lacking from the consultation paper although it is stated that the costs will not exceed the current cost of running a Police Authority. The APA research, however, estimates that changes will cost £453 million over five years, which is over £100 million more than the current system. It should also be noted that the cost of ensuring bilingual information is available in Wales would also need to be met.

14. As is noted in the consultation paper, Police Commissioners will require a team to support them in their role. In order to be able to undertake the key roles as described, it is likely that a Police and Crime Commissioner will require a larger support system in place than is currently the case with existing Welsh Police Authority staffing structures. In addition to financial advice, the Commissioner will require a legal officer as well as policy, analytical, communications and administrative support. In terms of checks and balances it is essential to have a Monitoring Officer charged with ensuring lawfulness of decision making. The WLGA would also argue that officer support—which will be critical to the ensuring effective governance—needs to come from rigorously appointed professional officers and not be political appointments or provided from Force staff.

15. One function which currently rests with Police Authorities, but will be removed from Commissioners is the appointment of Chief Officers. The WLGA would argue that while the operational independence of the Chief Constable is important, this must not come at the expense of full and proper accountability. Effective governance means having a legitimate role in ensuring skills and resilience in the Chief Officer team.

16. The WLGA has concerns regarding the impact of the Commissioner model on police collaboration, which has been progressing extremely well in Wales under the Police Authorities of Wales (PAW). Commissioners will inevitably focus on the issues that matter to the electorate and therefore collaboration is in danger of being downgraded because the issues are not visible in the way that local issues or single issues can be.

**Police and Crime Panels**

17. As the proposals currently stand, the Police and Crime Panels (PCPs) do not have the right balance of powers and responsibilities to provide robust “checks and balances” to a PCC and will not be strong enough to scrutinise and hold a PCC to account. Our understanding of their role raises concern that the PCP “lacks any teeth” and in reality will have very little say over the decisions made by a PCC. With such a limited role and limited powers, there is a risk that the “checks and balances” required to hold a PCC to account will be ineffectual.

18. As has been highlighted previously, the WLGA is vehemently opposed to the idea of a PCC setting the precept level, removing the input of local authorities through their previous role on Police Authorities. It is our belief, based on evidence of how acceptable precept levels have been set and agreed by Police Authorities in Wales previously, that the PCP should have the responsibility of setting the precept and final approval of the force budget. The power to call a referendum does not in anyway compensate for the removal of democratically elected local councillors’ right (as Local Authority appointees to Police Authorities) to discuss and agree the precept element of the Council Tax. Furthermore, as the Regulations currently stand, local authorities cannot set the council tax and bill without the police precept being agreed. Adding in the cost and timing of a referendum (should this be required) would be disproportionate and could impact negatively on local authority budget setting. There is also no clarity on who would fund the cost of such a referendum or how it would be undertaken.

19. The manner in which the proposals are currently drafted, rather than have a PCC and a PCP work together, could result in an adversarial relationship being developed between a PCC and a PCP. This is because the current checks and balances are not robust enough to challenge the Commissioner without recourse to reporting dissatisfaction to the public, probably through the press, calling a referendum or through an IPCC investigation. There is real concern that such public disagreements will result in dissatisfaction levels in the police rising and the public losing confidence in local policing. The relationship between the PCP and the PCC must be reconsidered and other options for challenge introduced to ensure
that while the checks and balances are robust and independent of each other, a consensual rather than adversarial approach is promoted, all with the same aim of increasing accountability and confidence amongst the voters.

20. In addition to placing more powers and strategic responsibilities on a PCP to “give it more teeth” and enable it to be effective in carrying out its scrutiny role, such as setting the precept, the WLGA would argue the following issues must be addressed for PCPs to be effective:

- Each constituent local authority within a police force area must be afforded the opportunity to be represented on a PCP.
- While not highlighted in the consultation paper, we understand that there are discussions on-going on how such a Panel will be convened and supported with a proposal that a duty be placed on the largest authority in each force area to convene the Panel. How the Panel will be convened and supported requires further discussion. At a minimum we would argue that there is a need for flexibility of how a PCP is convened, so that appropriate local arrangements can be agreed. A key principle to be maintained here however is that the PCP must be independent of a PCC.
- Its legal status should be clarified. While the consultation paper highlights the need for a supporting structure for a PCC, it is silent on how a PCP will be supported to ensure that it is able to carry out its scrutiny function. Such support may include a secretariat, a research function, policy support etc so that the “checks and balances” role can be undertaken in a robust manner. This then raises the question of how the running of a PCP will be funded. If the expectation is that a local authority takes on this role, the additional responsibilities will need to be fully funded by the Home Office. There is some concern however that the proposals are therefore adding another layer of bureaucracy and further cost than the existing system.
- The PCP should have an increased role in setting the strategic policing priorities and the agreement of a policing plan for the force area, as the members of a PCP will bring expert knowledge and understanding of localities.

October 2010

Memorandum submitted by Staffordshire Police Authority

1. EXECUTIVE SUMMARY

1.1 The Staffordshire Police Authority (SPA) believes that the current proposals for Police and Crime Commissioners (PCCs) require a great deal of further consideration before they can be regarded as viable. There are constitutional, legal, operational and financial issues which remain unaddressed.

1.2 These issues extend to the root of the proposals, not only about the legal status and role of the PCCs, their accountability and the apparent lack of any effective check or balance for the enormous power and responsibility a PCC will carry; but also about the deliverability of an entirely new structure which will both cost more and carry the risk of reduced operational effectiveness in some very vulnerable areas of policing.

1.3 We believe that the subject is so important that the current haste of its pursuit is contrary to the best interests of the provision of effective policing for our communities in the future. It should not be proceeded with without better public debate and the proper and measured consideration of firm and well-thought through proposals, and costings, elements which remain lacking in what has been put forward by the Home Secretary at the present time.

1.4 The case for reform of policing governance has not been made anywhere in the document and we would strongly challenge the assertion that there is a need to reconnect the Police with the people. The public are not crying out for reform to the way the service is governed. In such austere times, the emphasis should be on delivering the same (or more) with less, and not using those finite resources on unnecessary and unproven changes to governance structures.

2. BACKGROUND

2.1 SPA has responded to the Home Secretary’s Consultation Paper “Policing in the 21st Century: connecting Police and the People”. SPA commented on the consultation questions asked by the Home Office and, separately, on a wide range of other matters not within the formal consultation questions but which we felt were so fundamental or so significant that the Home Secretary should be aware of them.

2.2 Those documents are already with the Home Office and we ask the Committee to have regard to what we said in those documents and to take them into account. Further copies can be supplied if that would assist the Committee.

2.3 SPA is aware that the Association of Police Authorities (APA) will be making a separate submission to the Committee on behalf of all police authorities. We support the concerns which the APA has expressed.
2.4 This submission responds first to the four particular matters in which the Committee have expressed interest as set out in the four bullet points in the web statement of 15 September 2010, and then addresses some other issues of concern.

3. THE RELATIONSHIP BETWEEN CHIEF CONSTABLES AND ELECTED POLICE AND CRIME COMMISSIONERS

3.1 PCCs will be directly elected by local communities every four years. No matter how carefully the role of the PCC is defined, a natural human trait will be for a PCC to want to be seen to deliver on his/her promises made to the electorate at the time of election. The “drive” behind a PCC will surely to be do so ahead of any other dimension to the role.

3.2 The Government’s stated intention is that PCCs will replace police authorities and have all the same wide ranging roles and responsibilities (to which we return later). Our fear is that in delivering visibility to local communities and on his/her electoral promises, the PCC 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.

3.3 Chief Constables (CCs) will undoubtedly continue to give proper attention and consideration to the protective services dimensions of policing. Our concern is that—despite the proposal to require the PCC to work with the CC to deliver the protective services element, the protective services element will be forced into a somewhat lesser role. Even if the Home Secretary has reserve powers, they will presumably be a matter of last resort. It seems to the triumvirate relationship where the directly elected PCC naturally (and perhaps politically) wishes the CC to prioritise visible local policing at the expense of protective services (eg counter-terrorism, vulnerable people) and puts the CC under great pressure to do so, to the detriment of the CC’s wide-ranging other duties and responsibilities. The absence of any effective powers or teeth for the Policing and Crime Panels (PCPs) magnifies this risk.

4. HOW WILL OPERATIONAL INDEPENDENCE BE DEFINED?

4.1 A cornerstone of the delivery of policing in the UK has been the operational independence of Chief Constables. The historic foundation for the role of the Police will already be well-known to the Committee.

4.2 Our view is that that safeguard should not lightly be compromised for short-term political expediency and that CCs and Forces should retain unfettered operational independence so that they are not constrained by anyone in relation to the proper enforcement of the law.

4.3 As soon as any change is made to the triumvirate relationship created under the Police Act 1996 which affects or undermines operational independence, there is a risk that CCs or Forces will become increasingly subject to political and other influences.

4.4 We would urge the Committee to make the strongest representations about safeguarding the current position rather than bringing the office of constable (whether chief or any other rank) under some form of political or quasi political influence or control. There is a huge difference between accountability (which is right and proper) and control or influence, which in relation to operational independence, are not.

4.5 As an Authority, we would advocate that operational independence should also mean that the CC and Force remain unconstrained by, for example, the suggested addition of a new corporate legal status for the CC in a way which enables the CC/Force to own property, enter into contracts in their own name and so on. Operational independence means leaving the office holder to fulfil the functions for which that independence is conferred, uncompromised by administrative and other burdens creating the potential for conflict of interest.

5. THE EXTENT TO WHICH THERE REMAINS A NEED FOR NATIONAL TARGETS

5.1 The need to remove the overbearing and over-prescriptive targets imposed by the Home Office in the past is supported—provided it actually happens and is not replaced by, as the Paper puts it, “targets in disguise”. This promise has been made before but did not actually happen when the last Home Secretary promised a reduction in centrally-imposed data requirements or targets through APACS, as the Home Office then required forces to provide the same information anyway “for national recording purposes”. Unless there is a much clearer and definitive commitment by the Home Secretary and the Home Office and HMIC to reduce the panoply of targets currently imposed on PAs and CCs, it is unlikely to happen in the way proposed.

5.2 Phrases in the Consultation Paper such as “Ensuring data is still available to local people” and “Value for Money Profiles that provide rich comparative data” also suggest that until we know what data is still to be required by the Home Secretary for this purpose, the promise of “cutting bureaucracy imposed by Whitehall” will remain unfulfilled.

5.3 Government will continue to want consistent data at national level to support Government obligations to account to Parliament and the “people” for policing performance viewed nationally (for example the British Crime Survey). It is not possible yet to know whether the promised reduction in data assembly requirements and centrally-prescribed targets will actually be meaningful, but it is accepted that a small number of national indicators will be essential to Government’s needs.
5.4 Our fear is that the Home Secretary, the Home Office, HMIC and external auditors will (despite promises to the contrary) all want to use even a small number of national indicators (and more if the data was collected) as an overarching performance measurement tool for comparing Forces and PAs (or PCCs). This effectively restores a hierarchy of “back door” targets (eg “you must strive to be in the top quartile nationally…” which are both unnecessary and which fail to recognise the local variances, characteristics, nuances and problems of different areas.

5.5 Forces should have the freedom to maintain the data they believe to be necessary to inform their communities about their performance, how well (or otherwise) they are performing, delivering best value and to show that they have taken communities’ views into account in how they plan to deliver—and do deliver. Setting targets and monitoring performance at local level remains a priority element of the work of a PA (or PCC) and should clearly continue to be so. They should not be superimposed with additional targets by Government or its agencies.

5.6 Local accountability would be better served if the functions of the PA or PCC were not forcibly overlaid by nationally-driven targets or data-collection obligations, unless clearly and publicly justified by a Government which publicly accepts that the additional burden is of their creation.

6. THE ROLE OF THE POLICE AND CRIME PANELS

6.1 The principle of retaining the knowledge and skills of independent members is welcome as is the continuance of links to local councils through councillor involvement in actively scrutinising the PCCs.

6.2 The Consultation Paper is silent about what legal status the PCPs will have, what duties and powers they will have, how they will be constituted and how they will be supported. If PCPs are to be anything more than a token nod in the direction of making PCCs accountable somewhere, PCPs will also have to be appointed through some form of democratically accountable process.

6.3 The Consultation Paper includes no reference as to the formation or composition of the PCPs. There is a strong case—if PCCs are really to absorb the whole range of duties and responsibilities of PAs into a single individual—for the PCPs to comprise members drawn from the relevant local authorities alongside independent members to form an effective scrutiny body, and “check and balance” to the PCC, and to be given “teeth” to do so. This of course looks like a PA in its current form.

6.4 If PCPs have no meaningful legal powers, they are effectively toothless and will not be any kind of “check and balance” to the apparently unfettered powers of the individual PCC. The apparent power of a PCP to require a referendum on a proposed precept seems so unlikely (on cost, timing, political and practicality grounds as well as other constitutional aspects) as to be almost unworkable and thus probably of no real value.

6.5 If PCPs are to have no meaningful powers the Committee may want to question why they are being created at all. The skills, knowledge and influence of PA members could have been a valuable asset to an incoming PCP to scrutinise PCCs to better effect, but only if they have meaningful powers.

6.6 There remains, however, room for debate about the need for an a-political body to counteract the probability that the PCP will be a political nominee and thus have a political agenda, (again, see below).

7. THE CONSTITUTIONAL STATUS OF PCCS

7.1 The current PCP proposals seem an assault on the constitutional bastion of democratic accountability in one of the most vulnerable areas of public life. Whilst directly elected PCCs will legally have to be a corporation sole, we can think of no comparable office-holder exercising legal powers and responsibilities in a non-personal capacity who cannot be removed from office between elections through a democratically-based process. A Secretary of State can be removed by a decision of the relevant House—a Bishop can be removed by the General Synod—but a PCC can apparently only be removed for serious misconduct and then only with the involvement of the IPCC which is neither elected nor democratically accountable.

7.2 The constitutional checks and balances democratically constraining the PCCs between elections are fundamentally deficient. The powers available to the PCPs must be far more rigorous and include the power of removal even if constrained by robust criteria to prevent abuse.

8. WILL PCCS ADDRESS THE DEMOCRATIC DEFICIT?

8.1 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 or EDL reaching the PCC role through the ballot box, which could be a total embarrassment for Forces given the task of policing their activities.

8.2 The cost of elections if not timed in with local elections would be a major burden on the public purse and ill-considered in the context of national financial hardships. If the elections of PCCs are to be truly open to “candidates from a wide range of backgrounds” (and thus presumably out of the sole grasp of the major political parties), then funding from the national purse for all candidates, to support this objective would be a further burden.
8.3 If costs are to be reduced, it is likely to leave the election of PCCs within the political party arena which in turn leaves open the strong possibility that the election of a PCC halfway through the Parliamentary term could produce a PCC from a different political party than the Government. Is this what Government desire for an officer-holder with such unfettered and unaccountable powers?

8.4 The SPA area of Staffordshire and Stoke on Trent is covered by 17 PA members. With a population of 1.2 million, and an area of 1085 square miles, members cannot always fulfil the representational expectations of the communities of the PA’s area. One individual cannot effectively represent a million plus people and actively engage with them. How can one individual actively engage at partnership level across such a large and diversely populated geographical constituency and make a valued and valuable contribution?

9. Would there be a Better Way if the Option of Simply Improving what we have now is Unacceptable to Government?

9.1 In our view, the answer is “yes”. A directly-elected Chair of a PA—using the template of the precedent of directly-elected Mayors from local authorities in the Local Government Act 2000—would enable the legal status of the PA as a legal body to be retained, but would ensure that its Chair had direct accountability to the electorate without the extreme unfettered position of the PCC in the current proposals.

9.2 The record of directly-elected Mayors has been mixed. However, the tradition of PAs has been largely a-political (unlike local authorities) and a directly-elected Chair and PA with its current membership may well be more effective and resilient in facing the many challenges that face policing in the coming years.

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