

HOUSE OF COMMONS
ORAL EVIDENCE
TAKEN BEFORE THE
HOME AFFAIRS COMMITTEE

LEADERSHIP AND STANDARDS IN THE POLICE SERVICE

TUESDAY 8 JANUARY 2013

SIR HUGH ORDE and SIMON EDENS

SIR BERNARD HOGAN-HOWE QPM

Evidence heard in Public

Questions 65 - 185

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Oral Evidence

Taken before the Home Affairs Committee

on Tuesday 8 January 2013

Members present:

Keith Vaz (Chair)
Nicola Blackwood
Mr James Clappison
Michael Ellis
Lorraine Fullbrook
Dr Julian Huppert
Steve McCabe
Mark Reckless
Mr David Winnick

Examination of Witnesses

Witnesses: **Sir Hugh Orde**, President, Association of Chief Police Officers, and **Simon Edens**, Deputy Chief Constable, ACPO lead on anti-social behaviour, gave evidence.

Q65 Chair: Can I direct all those present to the register of members' interests where the interests of members of this Committee are noted. Are there any other interests that need to be declared for the purpose of our inquiry? Thank you.

This is the first session of the Select Committee's new inquiry into leadership and the police. This will go on for several months and it will be formally launched with the public next Monday during a seminar which you, Sir Hugh, will be speaking at. Could I welcome today Sir Hugh Orde, the President of ACPO, and the Deputy Chief Constable of Leicestershire who has the ACPO lead on anti-social behaviour.

Thank you for coming. I know, Sir Hugh, that you need to go halfway through the evidence session, so what I am suggesting is that we take your evidence first allowing you to leave in about 20 minutes and then go on to anti-social behaviour.

Sir Hugh Orde: Thank you, Chair. I have a meeting with the Police Federation that I am keen to keep.

Chair: Of course.

Sir Hugh Orde: I am grateful.

Q66 Chair: We are launching today, Sir Hugh, our inquiry into leadership and standards in the police and, obviously, in recent weeks there have been many comments made about various aspects of policing. I want you to assess for us first of all the morale of the police force in general and the police service in general. How would you assess it at this moment?

Sir Hugh Orde: Thank you, Chairman. I have said before that morale in policing has been at an all-time low since I joined in 1977. I think it is a cultural thing to some extent. Clearly, frontline officers are concerned. The feedback I get from chief officers is they are leading them through some challenging times where their pay and conditions are being revised. You know the ACPO position on the report by Tom Winsor was that we support a transition to a more reward for delivery-based system of police pay, so they do feel under

pressure financially, personally for example. That having been said, I do not believe that is impacting substantially on the work they do when they are out there protecting the public. Crime continues to fall, confidence remains pretty stable. The latest statistics show fairly stable confidence in policing measures by independent surveys. I do not think that would be the case if they were not committed to doing a professional job, despite the fact they have personal concerns.

Q67 Chair: You were a convert to the concept of police and crime commissioners. Originally I think you expressed concerns about them. Were you surprised at the low level of turnout in respect of those who were elected? Is that one of the factors as far as the landscape of policing is concerned?

Sir Hugh Orde: No, I do not think so. I was actively indifferent, Chairman. We have been absolutely consistent in saying that a democratically elected Government decides how the police service is held to account. I think that is one of the basic bedrocks of the British policing system, with operationally independent chiefs held to account by systems in whichever way the current Government thinks fit. Equally, I do not think it is our business to talk about turnout. That too is a matter for others. What I can tell you is we have continually sought clarity, as we did during the passage of the Bill and before with officials and Governments, and as a result of that we have the policing protocol. We have the strategic policing requirement which reassures the leaders of the service that operational independence is now enshrined in primary legislation, and that there will be due regard paid to the national pitch of a national policing requirement, which we would say is essential in a devolved policing model. The report I have to date, I have met most of the police and crime commissioners at a Home Office event and we are working hard to bring those that are less up to speed with the policing environment up to speed and chief officers are engaging locally with them.

Q68 Chair: Later, Sir Hugh, we will be hearing from the Commissioner specifically about the issues concerning Andrew Mitchell, but when this incident took place you made a statement, and these are your words: "There's always been and there should always be a healthy tension between politicians and the police service." However, since then we have discovered, largely through the work of a television programme on Channel 4, that it is possible that some of the evidence in that case was fabricated by police officers. We do not know because there is an ongoing inquiry and the Commissioner is going to talk to us about this later, but, standing back as President of ACPO and looking at the whole circumstances, do you think there was too much of a rush to judgment on the circumstances of this case? Ought people to have stood back and waited until the facts emerged first?

Sir Hugh Orde: It was a rapidly developing scenario. This of course broke during the party conferences, and I was at all three doing fringe events with both the Superintendents' Association and the interim body for the Police and Crime Commissioner. It was a consistent theme, and our response was equally consistent, which was that we were clear an event had taken place; we were clear an apology had been given; we were clear that the officer had accepted the apology; and the ACPO position was, "Can we all please move on from this?" I do not think that event, while it has moved on substantially from then, has caused a substantial change to what I do believe should be a healthy tension between elected representatives of the community and the police service. It should not be a cosy relationship. It should be a constructive relationship. It should not be an unpleasant relationship. That is why I describe it as a healthy tension.

Q69 Chair: But Mr Mitchell has made it very clear in the article he wrote in *The Sunday Times* that it is not just about him; it is about the standards of integrity of police officers. When a police officer gets up in court and makes a statement people have to believe what they say. It is the credibility of the evidence. Whatever is in the public domain you are aware of, as this Committee is because we are not part of the investigation, are you surprised at some of the allegations that have been made about members of the police force sending emails pretending to be members of the public?

Sir Hugh Orde: Yes, I am surprised. I know Bernard is here later; Bernard described his response to that as firstly the deployment of substantial resources to it—quite properly—and secondly, a ruthless search for the truth. I think it would be inappropriate for me to try to second-guess that. But what I can say, and where the service has always responded, is if things are found to have gone wrong, we will respond to that and we will deal with it.

Q70 Chair: Is it a worry to you that there are so many operations currently being undertaken that in part relate to police failures in the past? Operation Alice, of course, is one of them. You then have Yewtree, and we have seen the prosecution that is currently going on in respect of the News of the World and a former Chief Inspector who worked for the counter-terrorism police. You have Weeting, Tuleta and Elveden. I counted up that there are probably over 200 detectives involved in these various different investigations at this very moment. Does it worry you that so many relate to the issue of ethics and integrity, and is this something that we need to look at very carefully in the future?

Sir Hugh Orde: I think you should always look at ethics and integrity very carefully, Chairman. These span some substantial period of time. If one goes back to Hillsborough, for example, that was 23 years ago, but the experience I bring with me from Northern Ireland was you have to police the past to police the present. If there are issues that are unresolved they have to be dealt with, they have to be faced up to and they have to be properly investigated so some resolution for the family members can be achieved. I think that should be a driving force behind them and some clarity as to what went on. Just because there is an investigation does not by definition mean something went wrong. It means it may have gone wrong and we need to wait and see what the inquiries tell us. The challenge will be that some of these inquiries are clearly complicated. Hillsborough, as is mentioned in your article, involves a substantial number of people to be interviewed be they as suspects or indeed, as witnesses, including police officers. This will take time and will soak up resources. I think it has to be done. I wonder if we need to think more carefully about looking forward. If this is going to be a continuing theme, this looking at unresolved issues or other issues emerging, do we need to seriously think about having a ring-fenced resource to deal with it? In Northern Ireland I faced 3,000 murders during the Troubles, 2,000 were never solved and I learnt very quickly, having met many families and relatives, that this was not going to go away and this service had an obligation to do so something, and we set up the historic inquiry team with Government support. That at least gave them some certainty that their case would be got to and would be looked at again properly and carefully with the benefit of hindsight and the benefit of new technology.

Q71 Chair: With a fresh pair of eyes with a different police force, or perhaps not by the police themselves?

Sir Hugh Orde: It was an independently funded group, but the funding was protected. I drew detectives from across the country, many retired detectives. There were many retired RUC detectives employed likewise because many families were comfortable with their cases being investigated by officers drawn from the Royal Ulster Constabulary George Cross; others were not. The family was the driving force, so we were different. We have presented

our findings to the officials at Strasbourg who have been impressed by it and indeed as a result of which some of the requirements of the last Government were removed in terms of looking at Article 2 cases.

Chair: Thank you.

Sir Hugh Orde: It is a model we could consider.

Chair: It is a very interesting model; we have not heard of it before.

Q72 Dr Huppert: It is a pleasure to see you both here. Can I ask about the police professional standards issues? I am sure you are aware that there are about 200 police officers a year who are facing disciplinary panels who then retire or resign. The suggestion is that they do so in order to avoid misconduct proceedings. We know the IPCC has requested more resources to investigate corruption cases, and there were lots of appeals into investigations conducted by police forces which were upheld. I do not think anybody is suggesting this is widespread among the entire police force—I would like to make that very clear—but there clearly a number of quite serious cases. Do you think that police professional standards departments currently are effectively and transparently guarding against corruption?

Sir Hugh Orde: I am grateful for you setting it in context, Dr Huppert; I think that is important. That is not to say we should be complacent. That is not to say we should sound defensive about looking at these issues. My sense is that post-Taylor there was a huge opportunity to resolve cases which were low-level in the sense of relationships between the citizen and the public and the police officer that could be resolved quickly and locally to the satisfaction of both. That was a big step forward because it allowed police complaints departments to look at the more serious allegations. Many of those in fact are as a direct result of information from other officers within the service, which I think is a positive statement. There is, without doubt, still some inconsistency if one looks at the figures for appeals, for example. In some forces it is 10 to 19%; in other forces it can be as high as 40 to 50%. There is clearly more work to do, and Mike Cunningham, who I know has given evidence to you, is leading to try to drive more consistency around those issues. I think some of that may have been during a transition where we did fail because the last process was so bureaucratic. We failed on process as well as failed on outcome. There is more work to do. Is it effective? I think it is part of the equation, and Mike Cunningham is very clear on this: integrity should not be just offset to a PSD; it should be cultural and imbued in the whole organisation. My personal view is you underpin that with a code of ethics. Frankly, my organisation has a mixed view on that. Some see the current statement, the common purpose and the code as good enough.

Q73 Dr Huppert: I am interested you mention ACPO's role in this. I have a list here—I do not how exhaustive it is—of ACPO rank officers who in the last couple of years have had interactions in this space. I see a chief constable who retired after admitting gross misconduct charged with conspiracy to pervert the course of justice. There is quite a long list. How well are ACPO officers and ACPO itself doing in providing the leadership in terms of clear, transparent standards?

Sir Hugh Orde: I think one of the great strengths of our system is that for anyone, regardless of rank, if a member of public wants to complain they have an absolute right to complain and that should be investigated. If an officer has failed to reach a standard, regardless of rank, they should be dealt with. We have lost one chief constable in 35 years by way of discipline. You are right: another chief officer—

Dr Huppert: That was last year, I think, was it not?

Sir Hugh Orde: Yes, in Cleveland, Sean Price was dismissed. That is the first for 35 years. One could take that either way. In a way it is quite a strong case, and that is quite a good record in terms of chief officers' integrity. It is one too many, frankly.

You are right; another officer retired having been found guilty of a disciplinary offence for which he received a final written warning. That would not have been terminated apart from the fact that his contract had expired, and so he retired on a standard police pension—not a big pay-off as described by the paper; it was a police pension. There are issues, and currently I believe 10 officers are under investigation. That is 10 officers out of 304 sworn ACPO officers, about 3% of the leadership. That is broadly consistent if one looks at other professions. If one looks at, for example, doctors, I think 62 doctors were taken off the list in 2011 out of a population of about 160,000, and I think there were about 52 solicitors out of the population of about 240,000 for misconduct matters. I do not think it is something we should take lightly. I think the service, because it is the police service, should have a really high standard because of that interaction with the citizen. I do not think there is an endemic problem with police integrity and that is underpinned—regardless of what I say, Lord Leveson has found that against his standard of proof, which was of course balance of probabilities, as did the IPCC and to a greater extent HMCIC's two inquiries.

Q74 Dr Huppert: We have been talking so far about the downside of standards. We are hoping we are looking at the positive side of leadership as well. What more do you think should be done to promote good quality leadership within the police service?

Sir Hugh Orde: I think the quality of policing is a huge opportunity. It is led by one of our most experienced leaders, Alex Marshall, who may be giving evidence; I don't know.

Chair: He is chief executive. There is no chairman at the moment.

Sir Hugh Orde: I apologise, he is chief executive. Yes, we are awaiting appointment of a chair. I think that is a critical appointment.

Chair: Mr Reckless will cover that when he has a question.

Sir Hugh Orde: Okay. But the College of Policing is taking the lead on it. Only yesterday I was at Bramshill addressing with Peter Fahy the latest cohort of senior command course officers, 32 chief superintendents who have got through the system together with international colleagues and colleagues drawn from the Home Office and probation service and that is the blue-riband training, but there is more to do, and I think the College properly should lead on standards.

Q75 Mr Clappison: Can I take you back to what you were saying about the Andrew Mitchell affair; I notice you said that you thought it required a ruthless quest for justice. I think you would agree this is a very serious matter involving the security of Downing Street and a number of question marks have been raised about that. Do you think the Metropolitan force is the best-placed force to investigate this, even if it is coming from another branch in the Metropolitan force? Do you think there is a case for it being looked at by a force outside the Metropolitan force?

Sir Hugh Orde: It is probably a matter for the Commissioner rather than me but I happy to give an opinion, and the ruthless quest is a quote. I think it is what Bernard said and he appointed a substantial resource, I think he has deployed 20 or 30 detectives on it, which shows how seriously he takes it. It is a matter for him to answer. I personally think his decision is a good one. I think he has clearly shown the leadership at the highest level that he intends it to be dealt with independently. There is a history of other police forces being asked to investigate. That can take place.

Chair: Robert Mark, yes.

Sir Hugh Orde: He has clearly chosen to do it in this way, and I am sure he will explain his rationale behind it when he comes to see you, but I am confident that if Bernard says it will be ruthlessly investigated it absolutely will be.

Q76 Mr Clappison: I appreciate that might be the intention. I am sure it is the intention. I am sure that he is offering leadership and taking it very seriously, but it is a question of how it appears to the outside world.

Sir Hugh Orde: Yes, I understand that.

Mr Clappison: The man in the street might be tempted to think if he sees these matters arising in the context of Downing Street, “Well, how can I rely on the police?”—

Sir Hugh Orde: Yes, I understand that.

Mr Clappison:—until the question mark is resolved.

Sir Hugh Orde: Indeed. The Commissioner has made his decision, and I am sure he will explain it to the Chairman. Of course, it is a huge force so the specialist unit that deals with Downing Street will be very different to the officers deployed to investigate it under, clearly, his personal leadership. I would be confident, but of course I am sure he will happy to explain his rationale to you.

Chair: Thank you. We will ask him that question.

Q77 Lorraine Fullbrook: This is supplementary to the last two questions, Sir Hugh. I wonder if it would be helpful, irrespective of the rank of a police officer, if they were suspended immediately when they were being investigated rather than allowing them to retire to resign, but they should be suspended immediately irrespective of the outcome of the investigation. That does not currently happen; only in some cases.

Sir Hugh Orde: No it does not. I understand why you see that would be of value. It would be a very expensive option. I am speaking pragmatically here. Frankly, some officers who are subject to discipline—and I have done this in Northern Ireland: I have made a pragmatic decision to remove the individual from the service—that is my primary objective—and if the likely outcome of a disciplinary hearing may be a lower sanction or a very drawn-out, complex legal process—because these things are—I would rather lose the individual. I think there are some valid observations made about making sure such individuals then cannot get back into the service. There may well be the need for a national register of people who have left under those circumstances to make sure that we do not then allow people to come in, and one could almost certainly make sure that the individuals are aware of that as well as the officer.

The other point is one of proportionality. Just because a complaint is made against an individual does not mean they have committed any offence. I was subject to two investigations as a result of complaints quite lawfully delivered to the police ombudsman of Northern Ireland, who investigated all complaints over there, and was investigated twice. The board’s decision was not to suspend me or to take me out of circulation; I would say that was the right one, wouldn’t I? The findings were I was exonerated on both counts, but some time later. If someone is under investigation we must have a proper rigorous investigation process and we must then respond to what the outcome of that is. I am concerned at the moment that there is a growing concern in many newspaper articles about integrity in the police. In a general sense when one looks at the evidence, and by that I refer to independent evidence as I have said—Lord Leveson’s inquiry, the IPCC’s inquiry and the HMCIC’s inquiries—while there are clearly issues, there is no evidence in any of those independent inquiries of endemic corruption or integrity issues in the British police service. It is getting the balance.

Chair: That is very helpful.

Q78 Mark Reckless: Sir Hugh, you cite these various inquiries that say that corruption is not endemic in the police. Nick Herbert, the Policing Minister, said the same in an article in *The Observer* on 23 December. He then qualified that by saying, “Neither is it an aberration”. Would you agree with his qualification?

Sir Hugh Orde: I would, absolutely. That is why we have to make sure our resources are placed to deal with exactly those officers that no one in the service wants, whatever rank, and I think every staff association and professional body in policing is at one with that statement. We did commission Transparency International to look at how we deal with integrity, and I think we appended it as an annex to our evidence to you. It is a very well respected body, and what it says about the British policing model is we have more to do. One of the things it observes is we tend to be reactive not proactive. We have PSD departments; we put a lot of responsibility on them. It is around making sure we lead from the front—and that is ACPO—and we make very clear statements about standards and integrity and then we underpin that with systems that are not just to respond to events as they unfold but to prevent them happening in the first place, and that is exactly where Mike Cunningham is taking that development.

Q79 Mark Reckless: You say leading from the front is for ACPO, but what about the role of the new College of Policing in upholding integrity?

Sir Hugh Orde: I think that will own the standards, but to operationalise the standards, that has to be led by the operational chiefs and that is why we have a chief constable in charge of the quality of policing as a chief executive. We will have somebody who is not a police officer as the chair. We think that is entirely right to hold that chief constable to account. Alex Marshall will be part of chief constable’s council, so there is that transition so we can operationalise that, which Alex leads on, and as you know all the non-operational aspects of ACPO business areas will go into the College and go into that system for greater scrutiny through a broader panel on the management board.

Q80 Mark Reckless: But have we not now reached the point where there is at least a risk that police officers, for instance when they are giving evidence in court, will no longer get the benefit of the doubt, so to speak, from juries when giving evidence?

Sir Hugh Orde: They should not get the benefit of the doubt now, Mr Reckless. I think it is absolutely right that that their evidence is robustly challenged at every level. Your observation is right in the sense that when I joined in 1977—I was discussing this with Peter Fahy yesterday, and basically what the officer said in court was accepted unquestioned, certainly in magistrates courts. I think that has changed over time. I think that is not just an issue for policing. If one looks at confidence in all the public sector over the last 10 years, confidence in all institutions has fallen. I think we have a far more challenging society. I think that is right. The law requires us to prove something beyond reasonable doubt. It is right that it is tested in extremis because of the consequences if a citizen is locked up.

Q81 Mark Reckless: But has there not still been at least a residual assumption that police officers will tell the truth, be it a jury or be it a magistrate? Other things being equal, that is the assumption. What I meant by benefit of the doubt is are we not losing that and are we not losing that in a way that is going too far in the process which you have just described?

Sir Hugh Orde: I think the vast majority of police officers absolutely tell the truth in court and are absolutely clear on their role as part of a judicial process. That is why I think all the checks and balances we have in the criminal justice system around our role, the CPS role, the role of the jury and the role of the judge makes it a very robust system. There is far more challenge now than there was when I joined. I think that is right, and I think it is right that

police officers expect to be challenged. What we must do, and the College of Policing has a role in this, is to make sure they absolutely understand the need to gather evidence properly, the need to record stuff, the integrity of exhibits, the use of forensics to present the best possible case but then let the prosecutor decide on who is prosecuted and who is not.

Q82 Mr Winnick: Sir Hugh, there has been some coverage very recently about police officers who have second jobs. Apparently the figure from last May was over 23,000. Is that a desirable aspect?

Sir Hugh Orde: It is governed by regulation and ACPO guidance, which is available on the ACPO intranet. I am happy to forward a copy to the Committee.

Chair: Very helpful.

Sir Hugh Orde: There is inconsistency. The guidance is quite specific, and it covers all sorts of issues you would expect; for example, no police officer can have a role where licensing is involved, where the use of their skills primarily obtained as a police officer is used for their benefit outside the police service, the likelihood of injury, and all those sorts of things as you would expect. But we cannot stop it. We can regulate it, and that is what we do.

Mr Winnick: Why can you not stop it?

Sir Hugh Orde: I would spend my time in tribunals explaining why I was denying an officer off-duty the right to do something which he or she would say they have a right to do and I suspect, and I know my advice would be, I would lose them. We can regulate it; we cannot stop it. We do regulate it, and I do think the article which you may be referring recently—and I know this Committee has been interested in this for some time, but the recent article—we did attempt to put substantial input to that article but none of it sadly was published by the paper, but ACPO did submit a full response to the reporter; he just chose not to use it, so it was slightly one-sided.

Mr Winnick: But you are not disputing the figure?

Sir Hugh Orde: I do not know we would agree with the figure, and frankly we do not have a national figure. We have a devolved service, and in a devolved service it is always going to be interpretation, a different interpretation, and you do get the odd case where you raise an eyebrow, quite frankly.

Q83 Mr Winnick: There may well be a case for having second jobs. I am not putting forward the argument against, but, you see, a lot of people would say, “A police officer has a full-time occupation, or it should be; where on earth does he or she find the time to do another job?”

Sir Hugh Orde: Many people have full-time jobs and do other jobs as well. Many people have more than one job. The largest proportion of officer’s registrations and ACPO guidance requires police forces to report what sort of jobs individuals are doing by job description and rank, frankly, rather than individual. Many are simply people who have inherited a second house or whatever which they then let, so it is not as if they are doing a full-time job. Some do certainly have other employments, which they have registered and reported, but their primary duty is to be a police officer. When they come to work, as a leader I expect them to give me 100% commitment and to do their job to the very best of their ability. We cannot prevent it.

Q84 Mr Winnick: I have two questions remaining, the first to Hugh. In the police service, is it registered if someone takes an outside job? Is there an obligation to register in anyway?

Sir Hugh Orde: Yes. I will send the ACPO guidance. It explains in full what is expected and all chiefs have signed up to the national guidance. They have to register it and it

has to be approved. They cannot just register it and say they are doing it. It has to be approved.

Mr Winnick: I see.

Sir Hugh Orde: Most of that will be undertaken by the HR resource within the service.

Q85 Mr Winnick: As far as rank is concerned, is there a level where it would certainly not be expected, say a senior police officer, not to take a second job? Is that the situation?

Sir Hugh Orde: I think each case has to be considered on its merits. If it is helpful, I can draw that together and forward to you. It will be aggregated up from the service. It would be a piece of work that might take a short amount of time to put together.

Chair: That would be very helpful.

Q86 Chair: Thank you, Mr Winnick. Some of these jobs that they are doing include being a priest, a pole dancing teacher, four pall bearers and even an ice cream salesman, so the register that you are describing, for example, that Leicestershire would have is people would write to the Chief Constable and say, ‘I would like to be a priest in my spare time’, and the Chief Constable would say, ‘Yes, you can be a priest’, and then there is a register which can be inspected by whom? I think that is what we are trying to get at. You have been very restrained in not saying that Members of Parliament also of course have second jobs, some of them, and they put it in a register.

Sir Hugh Orde: I cannot seek divine intervention on this, but Simon may be able to help you at the operational end on how it would work in Leicestershire, if that would be helpful.

Q87 Chair: Yes. They would write to Simon Cole, they would get approval, it would go in a register, would they?

Simon Edens: Yes, Mr Chairman, that is correct. The application would come through against the policy and then indeed it is my responsibility on behalf of the Chief Constable to assess them.

Q88 Chair: You would have a register with all the jobs? You would have names, what they want to do, hours—

Simon Edens: Indeed.

Chair: And how much they are paid?

Simon Edens: I do not know if that detail is published on the register, and I think that would depend very much on the particular occupation that people are seeking as a second job. I had occasion to review the register only last week, and, just to re-iterate the point that Sir Hugh made, the vast majority of second jobs on that list were people who owned property and were letting that property out but of course had an obligation to declare that.

Q89 Chair: How many are there in Leicestershire, out of interest?

Simon Edens: I do not have the details with me, but I can provide those to you.

Q90 Chair: Who can see that register?

Simon Edens: My understanding is that it is not published.

Chair: The chief constable?

Simon Edens: The chief constable would see it.

Q91 Chair: And other chief constables? If someone applies for a job elsewhere, would they have to declare it?

Sir Hugh Orde: It is part of the guidance.

Q92 Mr Winnick: I assume the two witnesses before us do not have second jobs.

Sir Hugh Orde: No.

Simon Edens: No.

Sir Hugh Orde: We are fairly well employed.

Chair: Coming before the Select Committee does not mean you have a second job.

Q93 Lorraine Fullbrook: In 2011 Her Majesty's Inspectorate of Constabulary highlighted, "Conflicts of interest, tax and other legal implications of police officers and staff having second jobs or other business interests", but there are currently 23 forces that do not check whether they are currently paying companies that are run by their own officers. Do you know what changes have been made in the last 18 months to control this risk?

Sir Hugh Orde: Sorry, are you saying people the service is employing?

Lorraine Fullbrook: Yes, 23 forces do not check whether they are paying with taxpayers' money their own staff to do other jobs.

Sir Hugh Orde: I do not know the answer to that. I can find it out and get back to you.

Q94 Lorraine Fullbrook: Okay. The report went on to say that forces should act on the basis of national standards and expectations and there should be no geographical variables when it comes to integrity. Surely you must agree with that?

Sir Hugh Orde: I do, which is why there is national guidance. It is the interpretation of the guidance which Roger Baker's report found to be the complexity. Frankly, as long as we have 44 forces we will get variation in what is acceptable and what is not.

Q95 Lorraine Fullbrook: There is no national guidance if 23 forces are not checking.

Sir Hugh Orde: There is national guidance. The question is, are they complying with it?

Lorraine Fullbrook: They are not using it; yes, okay.

Sir Hugh Orde: Yes.

Lorraine Fullbrook: They are ignoring it.

Sir Hugh Orde: I am happy to forward the guidance to you if that is helpful. I do not have a photographic memory on the guidance, but the reality is—

Chair: What is the answer to Lorraine Fullbrook's question?

Sir Hugh Orde: —there should not be an officer having a business interest if the skill that officer is using as a business interest is one they got by virtue of being a police officer, so it should not happen.

Lorraine Fullbrook: But 23 forces are not checking, so therefore they are ignoring your national guidance.

Sir Hugh Orde: That would be correct, yes. If that is what they have done, then that would be correct, yes.

Q96 Lorraine Fullbrook: What can you do about that?

Sir Hugh Orde: As I have told you on frequent occasions, sadly, as President of ACPO, I have no power. We have power to put it out. I am delighted to raise it again with chief constables and Roger Baker's report is the way of bringing it to the attention of the Home Secretary, who can then, if she wishes, stamp her feet.

Q97 Nicola Blackwood: I am a little confused, Sir Hugh. You said at the beginning of this series of questions about second jobs that you cannot stop it, but it appears that officers have to register a second job and be approved for it, so presumably the second job can not be approved.

Sir Hugh Orde: That is correct.

Nicola Blackwood: What happens when a job is not approved? You can stop it?

Sir Hugh Orde: Then the officer cannot do it.

Nicola Blackwood: Which is stopping the second job.

Sir Hugh Orde: Yes, but you cannot have a rule that says, “No police will do no second job”, which is why we have guidance that says, “Here’s what is acceptable and here’s what is not”, against which a job application is judged, as Simon has described.

Nicola Blackwood: The point is that you can stop specific jobs?

Sir Hugh Orde: Yes.

Q98 Nicola Blackwood: Are you able to stop specific categories of jobs?

Sir Hugh Orde: You are, and that is exactly what the guidance I will forward to you says. It is on the website; it is an open document.

Chair: Give us an example.

Sir Hugh Orde: As I said, anything; for example, around licensing. The service is responsible for licensing. You cannot, for example, be a barman. You cannot work in licensed premises. I certainly would not approve someone, for example, being a minder outside a licensed club.

Q99 Nicola Blackwood: When we did our private investigators’ inquiry, we received evidence from Commander Peter Spindler who told the Committee that most forces had introduced the association’s policies but that in fact there were many forces who did not check whether police officers were working as private investigators or whether they were paying those private investigator companies for the services of those private investigators, so in effect whether they were paying their own police officers for services that they were providing as private investigators. Is that something that you would consider unacceptable?

Sir Hugh Orde: I cannot see how a person could have an approved job as a private investigator while being a serving police officer.

Nicola Blackwood: But if there are 23 forces that are not checking whether they are paying—

Sir Hugh Orde: It is a matter for those forces, frankly, to answer if they are not checking. I am not sure how many police forces employ private investigators. Frankly, I am not quite sure where this is going.

Q100 Chair: Would you write to us on this?

Sir Hugh Orde: I would be delighted to, Chairman. I think you will find the guidance helpful because it makes it absolutely explicit that there are certain categories of job that are incompatible with your role as a constable, which we all are with regards to rank.

Q101 Nicola Blackwood: The real question is how can you improve the uptake of the guidance? How long has the guidance been in existence?

Sir Hugh Orde: The guidance is relatively new. It was reissued to make sure we had absolute clarity. It is on the website.

Nicola Blackwood: When was it reissued?

Sir Hugh Orde: I cannot remember the exact date, and I do not have the actual copy with me, but I will send it to you and it will be on there.

Q102 Mr Clappison: I have no problem with the concept of second jobs as you described it and certainly not with the types of second jobs that have been mentioned, up to and including being a priest. I will take my text as, “Judge not that ye be not judged”, in the case of Members of Parliament, but on the question of private investigators—Nicola Blackwood’s question—can we take it then that per se it would be unacceptable for a police officer to be employed or in receipt of monies from a private investigator?

Sir Hugh Orde: I cannot see how a chief constable can authorise someone to be a private investigator, someone to be running licensed premises, someone to deploy their skills they obtained as a police officer in the training they got as a police officer as a registered private business interest. That is against the ACPO policy, period.

Q103 Mark Reckless: As I was more fortunate than ACPO in my remarks being taken forward to the *Mail on Sunday* article, can I give you the opportunity to speak to the point I raised which was police officers taking second jobs and obviously taking those second jobs subject to their shift pattern. Do you think there is an issue at all that because officers arrange their private lives, including any second jobs, around their expected shift pattern that makes it harder and puts at least some resistance to any change in a shift pattern that a chief constable might otherwise wish to push through?

Sir Hugh Orde: Anyone who applies for a second job has to categorically state this will not interfere with their primary role as a police officer, so I think the short answer to that is no. Of course not all police officers work shifts. If it comes to the tension between doing your primary duty as a police officer and a secondary employment, the secondary employment goes. You have to be able to appear for duty as and when the chief constable requires, as you are fully aware with your history. I do think that strikes me as something that would happen.

Q104 Mark Reckless: Are you sure that when chief constables are weighing up the pros and cons, the arguments of moving from one shift pattern to another, that it is never a consideration even against such a shift, that it might destabilise police officers’ other arrangements?

Sir Hugh Orde: Speaking personally, it would not affect my thinking one jot, and I think I can say with confidence that would apply to the chief constables I represent, but Simon being at the coalface is probably better placed than I am.

Simon Edens: Coincidentally, today in Leicestershire police we are introducing a new shift pattern that was subject to extensive consultation with officers themselves and their representative body, primarily the Police Federation. The Chief Constable, Mr Cole, introduced that new pattern in order to better match demand with the resources that we have to provide a policing service. I have no direct evidence to present to you today, but I have no doubt that individuals may have had as a consideration, “How will this affect my private life?” in its many forms. Officers and individuals will, of course, consider how it will affect them individually. However, the operational imperative—in balancing the needs of the individual officer against the need for us to provide a service—was what won out. We introduced a new pattern to make sure we had the right numbers on at the right time in the right place. That was the priority.

Q105 Mark Reckless: With that consultation process itself, does that not give an opportunity whereby officers who will be affected by perhaps not being able to continue with

their previous second jobs can put in representations against a change in shift pattern? Should it not just be determined by the Chief Constable on the basis of operational needs rather than through this consultative negotiating process?

Simon Edens: There are many reasons why officers, because of their private life, may not want a particular pattern, for example child care is one of the biggest reasons for that. Embodied in the guidance is the principle that people have freedom, and that when they finish their shift or when they go home after a busy day at work or are off for a few days they have the freedom within the law to spend their time in the way they see fit, as long as it does not conflict with their role as a police officer, which the guidance reflects.

Q106 Michael Ellis: Sir Hugh, just taking a step back to professional standards, I appeared in court for 17 years as a barrister in criminal practice, and I doubt there were many cases where police officers did not give evidence of one sort or another. The fact is that many cases were lost or won, as the case may be, by the word of an officer over that of perhaps a lone civilian witness. These cases did arise frequently. Is it your position for the questions you have answered earlier that you believe that magistrates, judges, juries, the general public, should view police officers' statements in exactly the same way as they view evidence from other members of the public, civilian members of the public? Is that your position?

Sir Hugh Orde: I do not think the law distinguishes.

Michael Ellis: The law does not.

Sir Hugh Orde: Every individual giving evidence should be rigorously tested which no doubt—I am not sure if you stood for prosecution or defence.

Michael Ellis: Both.

Sir Hugh Orde: I think that is right and I think that is the right place for it to take place. I also think it is right that officers who routinely give evidence become very experienced in it, their demeanour, their status and, frankly, their honesty in 99% of the cases can often be persuasive. I have no idea how juries reach their decisions. Some I have been very pleased with; some I have been rather disappointed with. That, of course, then is a matter for those to judge. I think it is right: however, it is simply a fact that if one looks over the last 10 years there has been a drop in confidence overall across the public sectors, not unique to policing. There is generally a far more challenging environment. I do not think that is a bad thing.

Michael Ellis: No. You would encourage healthy scepticism?

Sir Hugh Orde: I would always encourage healthy scepticism, and I think the more rigorously the case is tested in the lower courts, the less likely you are to get an appeal in the higher courts; that is equally important. I think the public still trust their service. That is what the evidence tells us in opinion surveys. They have held up despite, as the Chairman rightly points out, a number of cases currently running, be they historic or more recent. It is not something we should give up. We should always lead the service on the integrity issue and be very direct about what is acceptable and what is not acceptable. That is what we would expect because this service survives on the trust and confidence of the public.

Michael Ellis: Exactly, Sir Hugh, and there will be always one or two bad apples.

Sir Hugh Orde: Indeed.

Michael Ellis: But your position, your case is that they do not spoil the whole barrel.

Sir Hugh Orde: It is not just my case: it is what other people who have looked at this quite recently, be it the IPCC or Lord Leveson, have said. They would say likewise. I have had experience working in some quite difficult territory—and one only has to look at what is going on this week in Northern Ireland, for example, where we have officers out on the front line. I guarantee the officers out there are not even thinking about their second jobs. They are

thinking about keeping citizens safe in very difficult policing environments. I think that can be applied generally across the service that I have been involved in for some time.

Chair: Thank you. We know you have to go. We are most grateful. Thank you very much.

Sir Hugh Orde: Chairman, if I may just say by way of information, the revised policy issue has come out in the last six months, and I will make sure you get it in the very near future.

Chair: Thank you very much. We look forward to seeing you at the seminar on Monday. Thank you very much.

We have some questions about anti-social behaviour for you, Mr Edens, before we release you.

Q107 Michael Ellis: Deputy Chief Constable, as far as the anti-social behaviour issue is concerned there is a draft Bill, which, amongst other things, introduces two important new avenues where communities, local people, are involved in dealing or can be involved in dealing with anti-social behaviour in their own local communities. This is a departure from the centralising methods of before. One of those is the community trigger that allows communities to set a threshold where the authorities must respond. So local communities would be able to say after X number of incidents or Y type of incidents we would expect the authorities to respond. The other is a community remedy which allows the victims to suggest their own punishments for malefactors. These are two very important new avenues where communities can deal directly with the anti-social behaviour from which they may be suffering. Do you think, from a policing perspective, that officers will retain sufficient discretion in those circumstances and do you see that working satisfactorily? Clearly, in the same way that courts will produce different sentences for the same offence in different parts of the country, there may well be circumstances where there will be different results for the same type of offence in different parts of the country here. That happens already in the criminal courts, but do you see any policing problems?

Simon Edens: Thank you, Mr Chairman. Thank you, Mr Ellis. In broad terms we welcome both those provisions. The ACPO President's review has talked about accountability and we operate in a network of accountability within the democratic society. That is only right and proper. If I deal first of all with the community remedy; the provision in the draft Bill proposes that the elected PCC would draw up a menu of sanctions or measures that might be applied to someone who has not committed anti-social behaviour serious enough to go to court but should receive some form of sanction, some form of signal from the community that what they have done has broken the social code within that community. That sort of measure is already in place in many forces across the country.

About four or five years ago—on the back of a review by Sir Ronnie Flanagan—we rolled out measures to emphasise community resolution, and officers have more discretion than they had in the few years previously to identify the best outcome so that the solution does not cause a bigger problem than the original problem, and that has worked very effectively. While we welcome that proposal and we can see some benefits, for example, I personally have heard representations from magistrates who are concerned that there is not the necessary oversight or scrutiny around the process as it currently exists, so the new proposal would provide that oversight and scrutiny through the PCC.

We would be concerned if professional judgment and discretion was constrained too much—if, for example, we were policing by a menu as opposed to policing around the best outcome in a particular situation. We would look for consultation to draw up that menu to be as broad as possible; ensuring, for example, that minority communities and hard-to-reach groups are included in that consultation. That will be a matter for PCCs. We would also look

for strength in the caveats that are currently in the proposals around situations whereby officers might want to step away from the menu; so, greater flexibility around using the menu.

Q108 Michael Ellis: You want as wide a discretion as possible.

Simon Edens: We want as wide a discretion as is appropriate, because we are dealing with people. We are dealing with sometimes messy human lives, and we cannot always prescribe that or constrain that. It would not be appropriate.

Q109 Chair: One final question from me, Mr Edens, but we will be writing to you again, because the Committee is going to be doing pre-legislative scrutiny of this area, and I will bring in Dr Huppert, who has a supplementary. Do you think Leicestershire has learned the lessons of the Fiona Pilkington case and, if that was re-applied to the new law that is being proposed, the situation would be quite different?

Simon Edens: I think, in short, Leicestershire Police has made huge strides over the last five years at improving the way we respond to anti-social behaviour from an ACPO point of view, from a national point of view. We are very clear in the police service. People have a right to live their lives free from intimidation and harassment and anti-social behaviour represents a threat to people's quality of life.

Q110 Chair: That sounds very much like an inaugural address. In terms of the practicalities, Fiona Pilkington's life was put at risk because the police force failed to respond. Are you telling us now that, with these changes that are being made, people like Fiona Pilkington would have survived the ordeal of what happened to her?

Simon Edens: These changes are only a part of a wider programme around our response.

Chair: What more needs to be done then?

Simon Edens: The changes are important. If I can set out briefly why they are important and then put them in a wider context.

Chair: We accept they are important but, practically, how different would it have been?

Simon Edens: I think what this does is it streamlines and simplifies what is a very complex range of options, 19 different powers that are in current legislation. This reduces that to six. It gives us greater clarity. It brings in partners and cements them into the response, encourages us to work with partners with whom we perhaps had difficulties working with in the past.

Q111 Chair: With respect, I know you were not there at the time, but she kept ringing up the police and saying she was being harassed and the police did not respond. That is going to change under this, is it?

Simon Edens: The actual Bill itself does not offer those changes. What offers those changes is a much broader and much more effective response to antisocial behaviour with our partners through, for example, better case management. The issue that we learned in Leicestershire around the Fiona Pilkington case was that we needed to join up the dots within our own systems where we hold information and between our systems and partners' systems. We have invested very heavily in that over the last few years, as you know, Mr Chairman.

Chair: I think the Committee may want to come and have a look at it, because it sounds as if you have made a lot of improvements.

Q112 Dr Huppert: Just very briefly, can I ask about how the Anti-Social Behaviour Bill will interact with under-18s; whether you think the provisions should be different for

under-18s compared to over-18s? I note, for example, the new injunction for nuisance and annoyance is an injunction that applies to anybody who is 10 or over, which the previous crime prevention injunctions did not. Do you think that is appropriate? Do you think there should be a different treatment for under-18s that, for example, would focus more on the role of youth offending teams and holistic approaches to try to reduce bad behaviour?

Simon Edens: In short, yes, I do believe there should be separate provisions, but the provisions are catered for in the draft Bill and catered for very well. I think there is a wider issue, however, around the risk of criminalising young people. For some people anti-social behaviour amounts to kids hanging around a street corner. In some cases that can be very intimidating, but in other cases the kids themselves are intimidated, and that is why they are hanging around the street corner where, for example, they have safety in numbers or they have street lights or shop-fronts that offer them added security. I would be concerned on behalf of the service about the effects that the inappropriate use of some of this legislation may have on young people and their future prospects.

Chair: We will write to you, Mr Edens, and we will also come and see the work that you are doing. Thank you very much for coming and we will obviously talk to you while we do the scrutiny of this Bill. We are very grateful, thank you.

Examination of Witness

Witness: **Sir Bernard Hogan-Howe QPM**, Metropolitan Police Commissioner, gave evidence.

Chair: Sir Bernard, thank you very much for coming to give evidence to us today. We are most grateful to you for coming in. Whenever we have asked you to come in you have appeared very quickly and very properly and we are most grateful. Can I also, on behalf of the Committee, congratulate you most warmly on the knighthood received in the new year honours? It was fully deserved for the work you have done in other police forces and indeed in the Metropolitan Police. I looked at the Metropolitan Police website, as I do from time to time, and I saw the tribute that you made to all the colleagues that you have worked with and indeed your wife and you mentioned your mum, who would have been very proud of what you have achieved.

Sir Bernard Hogan-Howe: Yes, Chair, thank you and if it is the only kind word I hear today, then I appreciate the gesture. Thank you very much.

Q113 Chair: I hope the Select Committee will always be kind to commissioners, though we may be robust in our questioning. There will be a number of other issues that we may wish to raise at the end, but if I may I would like to start, Sir Bernard, with the circumstances surrounding the Andrew Mitchell affair, which we will call “the Andrew Mitchell issue”. I know that the press have various different names for it, but that is the name that we wish to use. Why do we want to raise it with you? It is not just a village story. It is an issue of integrity and the confidence of the police, and we know that you have initiated an inquiry under Pat Gallan, which is at the moment still operating. We do not wish to intrude on that inquiry, nor do we wish to ask you about that inquiry.

All we are concerned with today is what you said and what you did and what the Metropolitan Police did before the inquiry began, so you can clarify how we got to this point. You were very clear when you spoke to Victoria Derbyshire on 21 November. To quote your words, you were 100% behind your police officers, and you said, “They had no reason to lie. All the evidence I saw led me to think it”—the log—“was accurate. I believe my officers”, then to a position where you made a statement on 23 December when you said that there

would be a ruthless search for the truth: “It is vital that we get the truth in order to maintain public confidence in the police”. We are interested in what happened and what you did between having full confidence in the officers and the log and then your ruthless search for the truth. That is what we are concerned with.

First of all, do you have anything to say about the way in which either you or the police handled this issue, either in respect of the work that you have done so far or anything that you would like to say concerning Mr Mitchell?

Sir Bernard Hogan-Howe: Only to say in response to the two or maybe three comments I made publicly about this case—because certainly in the beginning I tried to involve getting involved in what I thought was an important issue but not one for a commissioner to comment on after the initial incident—is that when I commented on the Victoria Derbyshire show of course then Mr Mitchell had resigned. He had apologised to the officers about some of what had been alleged, and as far as I knew there was no reason for me to doubt what had happened.

I accepted his apology, or the officer accepted his apology, as we do generally and that was trying to draw a line under that, although I often get challenged in front of my own officers about whether or not we—the Met and I, the Commissioner—will stand up for them and say clearly that we support them. It was in that leadership role that I was speaking at the time, just following on from the fact that we had no complaint about the officer’s behaviour but, of course, an inquiry of some kind had taken place by the Cabinet Secretary about the allegations that had become public, the leak that became public, about Mr Mitchell’s behaviour at the gate on that day. We had no inquiry on which for me to base my comments to Victoria Derbyshire, and I had not had access, obviously, to Sir Jeremy Heywood’s account.

Q114 Chair: But you said “all the evidence that I saw”. What evidence did you see? You clearly did not see the police log.

Sir Bernard Hogan-Howe: Certainly, I had not seen the log.

Chair: You did not see the CCTV?

Sir Bernard Hogan-Howe: I can’t remember exactly, but we can always inform you later. Certainly, I had not seen the CCTV. The only thing I think I had seen by then was a report on what our officers had said broadly.

Chair: You had not seen any evidence?

Sir Bernard Hogan-Howe: That is what I was saying. I had just seen a report that included—

Chair: But that is not evidence, is it?

Sir Bernard Hogan-Howe: Sorry, a report about the evidence that had been talked about from the individual officers, but we had not had an inquiry. I could hardly look at all the evidence and, in any case, as a commissioner you would not look in great detail about any investigation of 800,000 crimes or any other allegations that are looked at each year.

Q115 Chair: Do you therefore accept that there was too much of a rush to judgment? We understand your leadership position—and I suppose all of us are in the same position, even though the organisations that we lead are much smaller than yours—that if something is alleged against your officers you stand by your officer, but here we had a situation where officers guarding the Prime Minister’s home—a log-book that was supposed to record who was going in and out and what was being said was being put up to verify the statement of an officer that subsequently, of course, as we know because somebody has been arrested, turns out to be untrue. Do you accept that that original evidence that you received has subsequently turned out to be untrue? Otherwise why have you initiated another inquiry?

Sir Bernard Hogan-Howe: There is an inquiry going on that, as you said at the beginning, is rather difficult for me to comment on. I do not think it has yet been proved that the original log was untrue. I think the allegation is that an email received by the deputy Chief Whip appears, on the allegation, to be inaccurate. That is the thing I think that has been particularly challenged, but, in terms of the original account, we had no complaint from Mr Mitchell about the officer's behaviour—in fact at the time he had apologised—so we had nothing to investigate because, of course, the Government were concerned about the behaviour of the Chief Whip on the basis of a leak to a newspaper, the source of which is yet to be determined.

Q116 Chair: Were you not even concerned about that leak? Of course, on the very next day the entire log—and I know you are very tough on the issue of confidentiality—appeared in the *Daily Telegraph*.

Sir Bernard Hogan-Howe: That is right. What we have initiated is a leak inquiry into whether or not the police are the source of that leak. That is yet to prove who that leaker is, but that was the inquiry that we had started.

Q117 Chair: But you are the Commissioner, you are the most experienced police officer in the country, in my view. How do you think it got from Downing Street to the front page of the *Telegraph* if the only people who had access to this log were police officers? How would it have got into the hands of journalists?

Sir Bernard Hogan-Howe: First of all, one of the things that the leak inquiry has tried to establish—and is now being looked at again as a consequence of this further email—is what exactly was the source of the information that appeared in the newspapers. Was it the police log? Was it an account of the police log and, if so, who had access to the log and who might have given an account? Even now we are still not sure exactly whether the police log, which is clearly a potential source of the information, is the only source and, if so, who gave that to the press or, alternatively, if it is an individual who was aware of the log or its contents or the events of the day and then passed those on. Those are the things that our leak inquiry is trying to establish.

Q118 Chair: I fully appreciate that you cannot look into every single incident, but you will know that this was in the newspapers for 33 continuous days. You also know that these are the police officers who protect the Prime Minister. This is where the Prime Minister lives. You also knew that this was a member of the Cabinet. Did you not think of asking Jeremy Heywood, the Cabinet Secretary, to provide you with a copy of the CCTV? Is this not a basic policing instinct? What I find extraordinary is that Michael Crick, who as far as I understand has not been through Bramshill, was able to get all the information together but you and many other senior officers just failed to do so. Is there no regret over the way this has been handled?

You seem to be accepting that, “On 21 November I saw the evidence. I stand by my officers”. You then said on 18 December to LBC, “I do not think, in terms of what I have heard up to now, that it has affected the original account of the officers at the scene. There is more to this than meets the eye. I hope that when people hear the full story they will support what we have done”, basically again supporting your officers. Then on 23 December, when it turns out that one of the diplomatic protection officers was apparently masquerading as a member of the public, you then have a ruthless search for the truth. You do not seem to have any regret over anything that has happened over the last few weeks.

Sir Bernard Hogan-Howe: Chair, if you do not mind, you have run a few things together there, and I think they are worth unpicking individually. If you look at the comments on the *Nick Ferrari Show*, if you remember what happened at the time was—

Chair: Is that 18 December, Nick Ferrari?

Sir Bernard Hogan-Howe: Yes, I believe that is right. If you remember, what happened at the time was we had received the email from the Cabinet Secretary. I think it was on the Thursday, which would be 13 December, and on 15 December we had arrested an officer on suspicion of misconduct in a public office. By the Monday morning, the story that was running in three newspapers, including one of the columnists, was we were the big bad wolves, the police, for arresting one of our own officers for being a whistle-blower. This officer had whistle-blown on a member of the Cabinet who had badly treated a police officer. Why were we, the police, arresting our own for that whistle-blowing incident? On that day, I probably concentrated too much on that aspect because I was trying to explain, although the leaking of information had been one of the reasons that officer was arrested on the Saturday, it was not the fundamental concern we had. Of course, what we discovered was that the author of the email appears to have been a police officer and the content of the email appears to be in dispute by other things. That was the major issue I was trying to concentrate on the *Nick Ferrari Show*, but, of course, in trying to explain what I just have, some of this information that is now public knowledge was not public knowledge on that Monday.

Q119 Chair: Sir Bernard, this is a 60-second incident in Downing Street. You now have 30 detectives on this who have taken upwards of 800 statements. Even John Tully from the Police Federation, who was originally calling for Mr Mitchell to go, is questioning the number of people involved in this. Are you still telling this Committee that you stand by the officer's version of the events as you did before, or do you now have a little bit of an open mind, bearing in mind you do not know what happened?

Sir Bernard Hogan-Howe: In relation to that, what I have said very clearly is that I do have an open mind and if any of my comments on that Monday—and I distinguish those from the Victoria Derbyshire comments a couple of months ago now—have left anybody with a view that I do not have an open mind, then I am sorry about that, but the bottom line is that I think people should judge me and others by our actions rather than by those few words in a quite wide-ranging interview on that Monday.

Chair: You still have an open mind?

Sir Bernard Hogan-Howe: Just to point out, as I say, the thing I probably concentrated on a little too much on that day was the concern that we had arrested a whistle-blower who was an innocent member of our organisation who was merely trying to relay to the public inappropriate behaviour on behalf of a Cabinet Minister, when in fact the allegation now is that that person was not at the event, concocted an email and misled quite a few people and we need to understand why that happened.

Chair: Exactly.

Sir Bernard Hogan-Howe: That is what I concentrated on. In terms of our overall inquiry, I am open-minded. Anybody who knows me will know that I will pursue the evidence. I think the best evidence that you have that in fact I am taking that very seriously, if you do not know, we have a deputy assistant chief commissioner, a deputy chief constable in any other organisation, who will lead the inquiry. That is what is happening. She is very good. She led the Reece Jones murder inquiry, which people will know from Merseyside was very successful. She does have a team of 30 detectives; not every day because we do not need 30 detectives every day. I think yesterday there were 12 on it. It will flex and we will change it as necessary. Within 48 hours of receiving the information that was very significant in terms of

the email we arrested one of our own officers. Within a further few days we arrested one of their relations because of our concerns about what happened.

Q120 Chair: Before I bring in Mr Clappison, are you deeply disappointed, upset or surprised that a serving officer in your force should concoct an email, as you have just said?

Sir Bernard Hogan-Howe: If I said that I will correct myself because, of course, this is an ongoing criminal investigation.

Chair: If it was true, it would be totally unacceptable?

Sir Bernard Hogan-Howe: Yes, if it was proved to be true. If the allegation was proved to be true it would be a very serious matter because I do not expect police officers to lie and I do not expect them to concoct information, but I do have to be very careful for two reasons. As you said, whether or not I personally, or we collectively, had too much of a look at the evidence, I sit at the top not only of the Metropolitan Police in terms of our criminal investigations but also on top of our misconduct inquiries, and at various points down that chain there are decisions to be made about whether misconduct charges are laid and whether appeals are heard. We have to be careful sometimes when sitting on top of the organisation that we maintain that impartiality for the public as well as for the officers.

Q121 Chair: Which you did not do, did you? What you should have said was, “We have some fine police officers in London. I do not know the facts, and the facts need to be established. Once we have established the facts then we will be able to say something”. What you said was, “I stand by my officers 100%”. That is pretty accurate, and it is pretty absolute.

Sir Bernard Hogan-Howe: That is not quite right. That is what I said in relation to Victoria Derbyshire’s question after Andrew Mitchell had resigned and after he had apologised for his behaviour in Downing Street on that night, and even at that stage he was not complaining about the behaviour of the officers, formally, nor was he fundamentally challenging their account. I gave my account as best I could in a broad response to Victoria Derbyshire.

By the time we came to the Monday after we had received the email, which we had not seen until the previous Thursday, then I tried to explain that we had not arrested a whistleblower. I agree that in responding on the Monday I probably should have taken more care and said, “I am very open-minded about what this now tells us”. I think I probably took too little time to respond to the specific question, and I responded too much on the email, but, of course, the indication was there may be a wider conspiracy that we would have to respond to.

Q122 Chair: Basically what you are telling the Committee is because Andrew Mitchell had resigned you thought that was the end of the matter and, therefore, you made these comments assuming that he was at fault rather than anyone else?

Sir Bernard Hogan-Howe: Certainly I was unaware entirely of the email, and we had not, as I have already said, looked at the CCTV.

Q123 Chair: Do you regret that now? Do you wish you had?

Sir Bernard Hogan-Howe: No, I do not think so, because the difficulty we have is that the inquiry initially was about Mr Mitchell’s behaviour, not about the officer’s. I think at that time it was entirely appropriate that the Cabinet Secretary inquired into that information. If we start trying to run a parallel inquiry, there are some significant risks that both of us overlap, and I would also have to explain to our own officers why we are investigating officers about whom there is no complaint. I understand why the question is being asked but we did try to deal with it as thoroughly as we could at the time. Mr Mitchell seemed to accept it. That obviously was not the case after the email came to light, and I say that on the Monday

after that email came to light I could have taken more care in the words I used and I accept that entirely, but I hope the Committee will accept that in the thoroughness of our investigation to date, supervised by the Independent Police Complaints Commission, we have been very thorough and we continue to be thorough to get to the bottom of this case.

Q124 Chair: Just to clarify before Mr Clappison comes in, did you ask for the email or was the email sent to you by John Randall at Number 10? Did you say, “Could we have this email?”

Sir Bernard Hogan-Howe: No, we did not know about it. I would have to reply to the Committee at some point about the date on which we discovered the email, but certainly at the point at which I talked to Victoria Derbyshire we were completely unaware of it.

Chair: You did not have the detail. I accept that, but did you ask for the email, or was it sent to you?

Sir Bernard Hogan-Howe: We did not ask for it when we were first told about it because we did not know the content of it, and eventually it was sent to us.

Q125 Chair: By whom?

Sir Bernard Hogan-Howe: That was sent by Sir Jeremy Heywood.

Q126 Mr Clappison: Can I welcome what you have said about seeking a ruthless inquiry to get to the bottom of this and the importance that you are now attaching to the seriousness of the integrity of guarding Downing Street and the sensitivity of it—it is probably one of the most secure places to guard in the country—and the very serious nature of the background to this. Can I ask you on your comments that the Chairman has put to you about standing by the account of the officers at the gate, which I think in the course of television interviews and radio interviews you said a number of times up to 18 December. Had you seen the CCTV footage at that stage?

Sir Bernard Hogan-Howe: This is when I was talking to Victoria Derbyshire?

Mr Clappison: Up to 18 December, because you quoted 18 December as giving of the BBC interview in which you stood by the original account of the officers and you said, “I do not think from what I have heard up to now that it has really affected the original account”.

Sir Bernard Hogan-Howe: I had not.

Q127 Mr Clappison: You had not. You have seen the CCTV now?

Sir Bernard Hogan-Howe: I have seen that material that is in the public domain.

Q128 Mr Clappison: You have seen the material in the public domain from the CCTV pictures of Downing Street. If those CCTV pictures are correct and of the correct time, it is very hard to reconcile them with the log, is it not?

Sir Bernard Hogan-Howe: As I said right from the beginning, and I am going to have to hold to this, in terms of a criminal investigation and in terms of any misconduct inquiry, for me to start making pronouncements on the validity or otherwise of certain publicly available material is quite inappropriate. I do not think it is fair on the officers, and I do not think it is fair on Mr Mitchell. I have already heard your concerns expressed, which is that if I express an opinion without seeing all the evidence then it is difficult. To only have a partial account of the evidence without having a full inquiry, which is exactly what we are embarked on—and the Independent Police Complaints Commission will decide whether that is a thorough investigation or not—I do not think it is fair to expect me to hold accounts of part of the evidence.

Q129 Mr Clappison: I appreciate that, but you were prepared to say that when you said on 18 December about standing by the officer's account. The question I am putting to you is that there is an opportunity to revisit that. On the basis of the police log, which is in the public domain, and on the basis of the CCTV it is very hard to reconcile the two accounts because the police log speaks about members of the public being there visibly shocked and taken aback by the language, whereas the CCTV quite simply does not show that and only shows one person walking up and down in a desultory fashion. The two cannot be married up, can they?

Sir Bernard Hogan-Howe: The only thing I am prepared to say, as I have said right from the beginning privately—although publicly I accept there are comments that you are now asking me questions about—I am entirely open-minded about what happened here. That is entirely as an investigator should approach this and that is what we are doing. I am not going to pick pieces of the evidence and try to compare it and then try to come up with an account. It would not be fair on the investigators, it would not be fair on the officers and I think it would not be fair on me or the Independent Police Complaints Commission who are now supervising this inquiry and will presumably want to confront the very questions that you are addressing to me.

Q130 Mr Clappison: You have seen the police log as well, I think. I can only go on the reports that I have seen in the press, which the House Library has very helpfully provided me with. I think there was a suggestion in what you said to the Chairman as to whether or not that was an accurate account. It looks like a police log to me. Can you confirm that the account that was in the newspapers, particularly in the *Daily Telegraph*, is indeed the police log?

Sir Bernard Hogan-Howe: I am sorry, Chair. You can keep asking about a particular piece of information. I agreed to come to this Committee with the constraints that are around me around a criminal investigation that is ongoing and with a misconduct investigation that is ongoing. I am sorry, but I am not able to start commenting on an individual piece of evidence.

Mr Clappison: That is not relevant to a criminal investigation. It is a question of fact whether this is simply the same police log or not.

Sir Bernard Hogan-Howe: I am sorry, that is not true, and there are different aspects to this investigation. I have already said an investigation has started about the leak, part of which you are now referring to in terms of the newspaper accounts. There is an investigation about the behaviour at Downing Street on the day of the event. There is an investigation into what happened between then and the email that was sent, and what happened subsequent to that. It is very difficult to discriminate between certain parts of it that appear entirely unconnected to the rest, but in my view they are entirely connected and I am afraid I cannot just dictate little parts of it and then give you a comment about whether that looks right or wrong.

Q131 Mr Clappison: I am not asking about the inquiries that were held, least of all am I asking you to reach a judgment on the inquiry, I am simply asking you as a question of fact—as you did cast doubts on this, I think, in your answer to the Chairman—is it the same log as appeared in the *Daily Telegraph*?

Sir Bernard Hogan-Howe: I didn't cast doubt on it. I can't remember exactly the question now. I was merely trying to make the point in response to a question—I think I was being asked about the source of the leak. The point I was making is that one of the things the investigators will have to establish is: was the police log the source of the leak as an original document, or was it someone's account of it? That is the point. I am not saying anything other

than there are various options for describing how that leak came into the public domain. That is entirely what the investigators are trying to substantiate.

Mr Clappison: I am not asking you a question about how it came into the public domain. I am just asking simply is it the same log. It is a simple question of fact.

Sir Bernard Hogan-Howe: I am saying that I am not prepared to comment on an individual piece of evidence.

Q132 Mr Clappison: Are you looking at the question of the security of the log in Downing Street in general terms?

Sir Bernard Hogan-Howe: When you say “security of the log”, what do you mean?

Mr Clappison: As I understand it, the log at Downing Street is confidential, and I would not ask you for anything about confidential operational matters in the police, but I think I can legitimately ask you questions as to the security of that and whether you are concerned about the security of it in the light of what has taken place.

Sir Bernard Hogan-Howe: One of the reasons I am choosing to be careful about answering the questions that you are putting is that what is being described as a log may not be a log. It could be an email. It could be many things, and depending on what you are asking me about depends on the answer to your question. I realise it must be frustrating for the Committee, as it must be for individual members, but this is one of the dangers of having a public inquiry obviously and this type of questioning about an ongoing investigation where, frankly, other witnesses will be listening to what I say and the way in which I say it.

Q133 Chair: Sir Bernard, I think what Mr Clappison is trying to do is just look at what you did and the decisions that you made rather than what Pat Gallan is doing. All he is trying to establish, and I think you have told us, is: was what we saw on the front of the *Daily Telegraph* a log? That is not an issue of evidence. Do you know that that was the log or do you not know, or do you think it is best not to say anything until you know?

Sir Bernard Hogan-Howe: We do not know for certain yet, and that is why I am being careful. I know it is unhelpful, but I am doing my best to remain impartial about the thing I have been accused of being partial about in the past.

Chair: You are not being partial at all. You are being extremely helpful, and we are very grateful for what you are telling this Committee. It is assisting us in getting to the sequence of events. It is because of the comments that you made on 23 December. It is about full confidence in the police. That is why we are involved in this: because we are doing an inquiry into leadership within the police.

Q134 Mr Winnick: Sir Bernard, what is not in dispute, so far as I understand the position, is that Mr Mitchell, the Chief Whip at the time, swore at a police officer—that is not in dispute—and that he apologised afterwards. Is that disputed?

Mark Reckless: Yes.

Mr Winnick: But he has apologised for swearing, so I do not see where—

Chair: Sorry, could I just remind colleagues that Sir Bernard is the witness, and Mr Winnick is asking the questions. It is very helpful to have other Members of the Committee answering for Sir Bernard, but I think we must allow Mr Winnick to finish his question and the commissioner to give an answer, whatever that answer is.

Mr Winnick: Sir Bernard, perhaps I will put the question again. Is it in dispute that Mr Mitchell swore at a police officer and afterwards apologised?

Sir Bernard Hogan-Howe: My understanding from the same information that probably members of the Committee have through the public domain is that Mr Mitchell, I believe, accepts that he swore at some point in the conversation, although I think he contests

that he swore at the officers. I think he says he swore when the officers were there. That is the distinction he makes, which may account for some of the reaction perhaps that people have had.

Q135 Mr Winnick: Yes. As regards the incident that brought this about—again, I do not think this is in dispute, but perhaps my colleagues disagree—the incident which led to what you just stated is because the police officer on duty did not open the main gate when Mr Mitchell was cycling, or trying to cycle, out of Downing Street, is that correct?

Sir Bernard Hogan-Howe: That is correct.

Q136 Mr Winnick: In the circumstances, as far as you understand the situation in Downing Street, was the police officer right to take the action that was taken, in other words to say to Mr Mitchell, “No, use the side door”?

Sir Bernard Hogan-Howe: I am not going to be pretentious about this but if I am going to be straight with Mr Clappison about saying I will not go into detail, if you do not mind me just answering in broad policy terms over how we deal with the security at that gate. Generally, we try to keep that gate closed for obvious reasons of security at Downing Street. Access is allowed by vehicle. There are certain restrictions that people have seen as they have wandered in and out of there or have just walked past. Generally, we try to stop pedestrians, and cyclists we ask to go through the foot gate because the wider the gate is opened the more access allowed so therefore if you have to open the gate—particularly if there is not a vehicle in situ—then it means that there can be a problem. The reason for the general policy is to restrict access by the gate only to vehicles and to make sure that other people travel through the foot gate.

Q137 Mr Winnick: Sir Bernard, I want to ask you this question. Should there be a distinction between one individual and another? If that is the policy, would it make any difference if it is the Prime Minister on a bicycle, the Mayor of London, Mr Mitchell—being the Chief Whip—or people working in junior positions in Downing Street at No. 10 or No. 11? Should there be any distinction when the police decide, according to the policy which you have described, whether to open the main gate or the side door when the people involved are on a bicycle?

Sir Bernard Hogan-Howe: In broad terms, if the policy is that it should not open for a pedal cycle, then presumably no one should get through, but I do not think I can sit before you and say it has never happened because I am sure there have been quiet times when it will. There may have been individual officers who have not followed the policy, but that is the policy, and that is what should happen.

Q138 Mr Winnick: But this should apply to all without distinction?

Sir Bernard Hogan-Howe: Yes. Unless there are some circumstances at the time that you have—I mean, if the gate is jammed, I suppose you have to come to conclusions that you have to decide what you have to do at the time.

Q139 Mr Winnick: In circumstances where a person refuses to accept the police decision or makes a long argument about it, would the police officer on duty, or the police officers, plural, on duty be able to arrest the person regardless of rank?

Sir Bernard Hogan-Howe: For merely not agreeing with the officer’s direction? For just not doing as they were asked to do, you mean?

Q140 Mr Winnick: What I am asking is that if an individual, be it the Chief Whip or anyone else for that matter, junior or senior in position, refuses to do what the police officers ask that person to do, can that person regardless of rank be arrested?

Sir Bernard Hogan-Howe: It is not a criminal offence to fail to follow that advice—in short, no, without any aggravating factors. The worst that would happen is presumably the gate does not open.

Q141 Mr Winnick: If a person of whatever rank swears persistently, which is denied, but in fact was the position, would that be a cause for arrest?

Sir Bernard Hogan-Howe: It depends. As I say, I will not go into detail of the day, but police officers every day of the week, more in the evening than during the day, get sworn at. It is not unusual. Often when you are dealing on a Friday and Saturday night with people who have been drinking that is the broad challenge that we face. What usually happens is that you ask the person to stop and most people do. People still do respect the police, and they will do as they are asked.

Mr Winnick: If they do not?

Sir Bernard Hogan-Howe: They run the risk of being arrested. It is not an absolute thing. You do not arrest everybody. Often what happens is that somebody that is with them will take them home if they have any sense. You make your best efforts to make sure that you are not going to have to arrest, unless of course you know you have a repeat offender and then you probably have to deal with them a different way. On the whole, officers use their discretion; that is my broad point.

Chair: Thank you, Sir Bernard; that is very helpful.

Q142 Nicola Blackwood: I just wanted to follow up on some of your answers to Mr Clappison and to the Chairman. You said earlier on in your answers that initially there were no concerns about the behaviour of the police in this incident because the complaint was about a Cabinet Minister, but surely by the time you got to 24 September when the police log or something very like it had appeared in the *Daily Telegraph* there must have been some concerns potentially about the behaviour of the police in your mind, and did you not want to investigate that?

Sir Bernard Hogan-Howe: Do you mean in terms of the leak of the information?

Nicola Blackwood: Yes, exactly. That aspect of the incident: was that not a concern to you in terms of police behaviour?

Sir Bernard Hogan-Howe: It was, which is why we started an investigation into that leak.

Q143 Nicola Blackwood: At what point?

Sir Bernard Hogan-Howe: Very quickly after it appeared in the newspaper.

Nicola Blackwood: What date?

Sir Bernard Hogan-Howe: I cannot remember offhand, but we could find out for you.

Nicola Blackwood: That would be very helpful.

Sir Bernard Hogan-Howe: It would be quickly after the event, because we then know the potential—

Nicola Blackwood: I thought that you advised that it had been with Jeremy Heywood?

Sir Bernard Hogan-Howe: No, the investigation if you remember at the time was that Mr Mitchell's behaviour had not been appropriate as a result of the leak. Sir Jeremy was looking at the behaviour of the Cabinet Minister and whether or not he could reassure the Prime Minister about that. Our concern was had there been a potential leak of police

information, log or otherwise, from us. Other people had that information, but obviously that was a concern for us as opposed to what happened at the gate on the day. That is the only distinction I was trying to draw.

Q144 Chair: I spoke to Sir Jeremy today, and he confirmed his involvement was very narrow. It was merely concerned with the conduct of the Cabinet Minister at the request of the Prime Minister. He did not look at the CCTV. He did not look at other issues. It was a very narrow search.

Sir Bernard Hogan-Howe: People may think perhaps we should have done more and yes, we could always have a look at that. But, at the time, Mr Mitchell did not make a formal police complaint. He did not complain to me; he did not complain to anybody. He may have done eventually, I do not know, but, of course, the leak may have overtaken him as it did others.

Q145 Michael Ellis: Can we just look, Commissioner, at one or two of these points? I have seen reports in the public domain that officers at the gate had opened the gate already several times for Mr Mitchell, but it was only on the last occasion where there was a refusal to open the gate. Because obviously Mr Mitchell was rather busy. His office is at No. 9, and he had been coming in and out several times during the course of the day. This is according to public reports. I have seen nothing confidential. Would you say that is inconsistent? Why would they have opened the gate several times and then refuse to open it on the last occasion? Would you say that bears looking into?

Sir Bernard Hogan-Howe: It does, and one of the things that the inquiry is looking at is—bearing in mind Mr Winnick’s comment—how exactly this policy has been operating in the past either for Mr Mitchell or for others. One of the things I wanted to convince myself of is: was this a one-off event? I don’t know what the outcome of that is going to be, but I did say this to Mr Winnick: I can almost guarantee that over the 20 or 30 years the gates have been there—I do not know how long it is—the policy will not have been followed every day and there will be occasions when it has been opened or not. The reasons for that are difficult for me to establish at this point.

Q146 Michael Ellis: Of course it is right that officers should be able to use their discretion. The other thing I wanted to ask you is, it is not a criminal offence, is it, to swear in the presence of a police officer? There is a rather important difference between swearing at a police officer, using threatening, abusive or insulting words or behaviour or disorderly behaviour, which is an offence and has been for many years and rightly so, and swearing in the presence of a police officer, in other words not directly at the officer: that would not be a criminal offence, would it?

Sir Bernard Hogan-Howe: If that was the case, then that would be true.

Q147 Michael Ellis: I am talking in the generality at the moment rather than in the specific. There has been some activity, or there was certainly some activity, by the Police Federation and I would like to ask you about that now, if I may. Mr Mitchell’s record of his meeting with the Police Federation in the West Midlands seems to suggest that officers may have exaggerated his unwillingness to offer a version of events. The Federation have announced an internal review, so clearly I think we can assume that the Federation take the matter seriously. Do you believe the Police Federation has overstepped the mark in terms of its political involvement in this incident? Some have described what happened as not much short of bloodlust. I have heard it described in the media as bloodlust. The Chairman referred to 33 days, and there are conflicts around the world that are not in the newspapers 33

consecutive days in a row. This incident was treated in a particularly acute way; do you think police officers were involved in that bloodlust?

Sir Bernard Hogan-Howe: First of all, just in terms of point you made about the Federation's review, and people of the public may not understand this but of course there is a national Federation then each of the forces has their own. My understanding is that the national Federation's new secretary, or chair, may decide to have a review to decide about the relationship between the national body and the local, so I think there is some concern about how that is managed in this particular set of circumstances. Certainly my concern would be from some of the public statements of the Federation representatives is that they seemed to get involved in—I think they explicitly got involved in—asking for the resignation of a member of the Government, and, for me, I think that is too much. That is a decision for a Government to make or a Prime Minister to make and for police officers to get involved in. If that is a concern, others will draw that conclusion.

Q148 Michael Ellis: You think that the conduct of the Police Federation in this case was improper?

Sir Bernard Hogan-Howe: Those are your words, and I think I will stick with mine, which is that I think it is not for the Police Federation or police officers generally to call for the resignation of members of the Government.

Michael Ellis: Thank you.

Q149 Lorraine Fullbrook: Sir Bernard, before I go on to my main question I would just like to ask a supplementary to Mr Clappison's. I think you did say earlier that you were not sure whether the leaked log that turned up in the *Daily Telegraph* was the actual log or a copy of the log. We have a copy of the leaked log which turned up in the *Daily Telegraph* and it finishes with the words, "I have recorded this fully in my pocket book". Without getting into the detail of the investigation, in that strand of the investigation, we have here less than one half of an A4 page, which was the leaked log to the *Daily Telegraph*. How long would you expect one of your investigating officers to take to compare the *Daily Telegraph* leaked log, the actual leaked log, or the actual police log, and the pocket book? How long would somebody take to compare less than half an A4 piece of paper?

Sir Bernard Hogan-Howe: That should not take too long.

Lorraine Fullbrook: Or three?

Sir Bernard Hogan-Howe: That should not take too long.

Lorraine Fullbrook: How long do you think?

Sir Bernard Hogan-Howe: I do not know. I am not going to guess. I mean, hours, minutes.

Q150 Lorraine Fullbrook: You should have the answer by now, should you not?

Sir Bernard Hogan-Howe: I am sure that the investigators do, but, as I have said already, I do not intend to reveal the detailed investigation here. I do not have all the detail. One of the things I have been challenged about is people have some concerns about my public comments, how much detail do I get involved in? They have to be left to investigate this matter, and, frustrating as it is for all of us, I am afraid that that is where I have to rest.

Q151 Lorraine Fullbrook: On that strand of the investigation I reckon I could do that in about three minutes comparing those three pieces of paper. Given that, why do you think it is necessary to have 30 officers investigating this case and interviewing 800 SO6 officers, and asking each of them to sign a document of what they have been told and what they have heard?

Sir Bernard Hogan-Howe: There are two contradictory things there, aren't there? What you are juxtaposing is, as you say, a few minutes' comparison with the interview of, if you believe it is a good thing to do, 800 police officers. It would take a significant number of officers a significant amount of time to conduct those interviews and take statements. The reason that there are a significant number of officers is twofold. This is not the only inquiry we have into public complaints about police misconduct; it could have fallen further down the priority list.

Lorraine Fullbrook: But on this investigation—

Sir Bernard Hogan-Howe: If we had left it to just the normal flow of things, it would probably have ended up with fewer officers taking more time to come to a conclusion on what this Committee has concluded is something of significant public interest. The reason we put more officers onto it was to make sure they could conclude things as quickly as possible. Moving onto the second issue, which is whether or not they should interview 800 people, then, as I have said already to Mr Clappison and I have to repeat to you, I am not going to try to comment on their ongoing investigation, but of course one of the things that we have to establish here is who knew what at the time. The Prime Minister has already said, as have other people, this is a very serious matter, and we want to get to the bottom of it. If we had chosen not to talk to all the officers involved in that department, of which these are the majority, people might say, "Well, what was publicly known? Did the only information come from the log?" The investigators have to be very clear about two things. First, who said what to whom? Secondly, if at a later time an officer was to change their view or their account of what happened, we would then refer back to our initial account which is where the statement comes in. I think the broad answer I can give you is in any investigation at the beginning you try to capture the evidence and you try to capture what you believe to be the truth—and I know that what this inquiry is trying to do is talk to as many witnesses as possible as quickly as possible to establish the truth—and if later more information comes up we will check the account we first took with the one that was later discovered.

Q152 Lorraine Fullbrook: I would like to talk about the IPCC running the supervised investigation of the inquiry into the veracity of the account of the officer who claimed to be a witness.

Sir Bernard Hogan-Howe: Sorry, just to be clear, this is the original officer who—

Lorraine Fullbrook: This is the IPCC running a supervised investigation into the inquiry of the inquiry into the veracity of the account of the officer who claimed to be a witness, i.e. the person outside the gate, the tourist who was with his nephew from Hong Kong, I believe.

Sir Bernard Hogan-Howe: I think that is the emailer.

Q153 Lorraine Fullbrook: This means that the IPCC supervising this investigation means that the Met's own professional standards department will run the inquiry and the IPCC will set the terms of reference and receive the investigation report when it is complete. Do you acknowledge that there are concerns that the Met was conducting its own inquiry into this matter and how are you ensuring maximum transparency?

Sir Bernard Hogan-Howe: There are two ways, and I will come back to the options we had right at the beginning.

Lorraine Fullbrook: It is a bit like putting the fox in charge of the hen house.

Sir Bernard Hogan-Howe: You may consider that. I hope to convince you that that is not the case. First of all, the Met is a very large organisation and our investigators don't generally know the people they investigate, but probably more important is that the

Independent Police Complaints Commission had two or three options when they first had the referral. The first was that they could have chosen to carry out the investigation themselves. They have limited resources and as you know they have many challenges for them at the moment, so I suspect that was always going to be a bit of a challenge for them just in resource terms but they could have done that. I suppose there are things that I do not know; you will have to ask them about their criteria. But I suppose the types of things that they would look at is the seriousness of the issue and whether they could trust their force to investigate, given their experience of the force.

The second option they had was to manage the inquiry or to supervise it and, finally, they had the option to ask another force to come in and investigate the Met. Having had the referral they did not choose anything other than to supervise our own investigators. I am reassured by that. What we have done though also, because of the very reason you asked the question, is that we intend to ask another force to independently review our investigation, so they will come in and look at the quality of the investigation taken together with the Independent Police Complaints Commission supervision of it. I am not sure what more I can do other than finally coming back to your point.

Q154 Lorraine Fullbrook: Why do you not give it all over to the IPCC?

Sir Bernard Hogan-Howe: We did try. We did ask them; of course, they concluded they either could not or would not. The only thing that I finally rest on is this: as I say, when we received the email within 48 hours we had gone out and looked at one of our own officers and within a few days we looked at a relative, which is what we have confirmed. Of course, we could have waited for the IPCC to get involved in this. We could have waited for another force to be appointed. I can assure you it would not have happened within 48 hours, just pragmatically, not because anybody was reluctant; it would just have taken time.

Q155 Lorraine Fullbrook: Are you not concerned about people? There is concern by the public about the Met conducting its own inquiry, in effect. Does that not concern you?

Sir Bernard Hogan-Howe: Not generically there is not, because that is what we do every day of the week. As every other organisation does generally, they conduct enquiries into public complaints. The reason Parliament decided that it had a need for an Independent Police Complaints Commission was to reassure everybody that either it was appropriate to have internal investigation or they would carry it out or they would get another force to.

Q156 Lorraine Fullbrook: But this is not an average inquiry, though. As Mr Ellis says, there is perceived to be a political motivation here.

Sir Bernard Hogan-Howe: There is, but just bear in mind the way things transpired. You may not agree with this, I accept that entirely. We received the email and then within 24 hours realised it was one of our own officers who had written an email that appeared to come from an independent member of the public, our immediate reaction was to find them and we arrested them. If we had gone through this other process of finding another force, getting them down, IPCC, and so on, I assure you it would have taken longer. We could have handed it over at some point, but of course the longer it went the harder it gets to hand it over.

Q157 Chair: I think we need to move on. Can I just ask, has it been agreed with the IPCC how this investigation is going to be conducted?

Sir Bernard Hogan-Howe: Yes.

Chair: It has; so, the parameters are all in place?

Sir Bernard Hogan-Howe: Yes, the terms of reference are available to the Committee, if you would like to see them.

Q158 Chair: Sir Hugh Orde, who was here earlier, backs your judgment that this should be done by the Met, maybe unsurprisingly. But the fact is, does it not look like, as Mrs Fullbrook has said, the Met investigating the Met over something that is of big public concern? Do you understand that?

Sir Bernard Hogan-Howe: I do understand that, and I do not want to breach any confidences here other than to say that we have—at various times during this inquiry, as it has started and as it has progressed, I have checked with various people whether they are content for us to continue for the very reason that I am being asked the question. Significant parties within it have remained convinced, and some have made public statements about this, that they are convinced that the Met can do this, that the individual who leads this inquiry is robust and independent and that we seem to be making thorough progress. I understand the nature of the challenge.

Chair: Thank you.

Q159 Mark Reckless: Commissioner, I understand that you do not want to prejudice the inquiry, you want to make it clear it is independent and you have an open mind, but isn't the problem that you went on the radio and said that nothing that emerged undermined the account given by the officers initially?

Sir Bernard Hogan-Howe: I think I acknowledged it on that Monday, which is—I think what you are referring to is that I was trying to deal with the whistle-blowing concern and I probably responded too quickly around the email. As a matter of fact, of course, we now believe that it is not an accurate account, but that did not disturb the original account. What I should have taken a little more time in a quick interview to say was of course it raises a concern to discover how did that email therefore get written? Was there a conspiracy? That is one of the terms of reference of our inquiry between officers at the time or anybody subsequently. I am acknowledging that I could have taken a little more time to explain my position; during the quick radio interview I did not, and that is what I am acknowledging.

Q160 Mark Reckless: I just think a lot of the problems that you now have and some of the tone of the questioning today is because of that remark, but if you are clear that you should not have said that and regret doing that, then I think it is easier to just say that.

Sir Bernard Hogan-Howe: If I did not say it—I thought I had earlier, but if I did not, I will repeat it—I regret if anything I said on that day, or any other day, has led anybody to conclude that I was anything other than open minded and would be in ruthless pursuit of the truth. Anybody that knows me knows that that will never be the way that I would do things. But if those comments led anybody to any other conclusion, then I regret that.

Q161 Chair: But you did not need to ruthlessly pursue the truth in November because the matter was closed; that is what you are telling this Committee. It only became open again when you got the email, is that right?

Sir Bernard Hogan-Howe: That was a very significant development, certainly as I saw it on the Friday and we had just received it, so for me that was very significant.

Q162 Chair: Can you just clarify—you said this earlier but I did not get the answer—did you ask for that email, or was it sent to you by somebody?

Sir Bernard Hogan-Howe: It was sent through, as I said earlier, by Sir Jeremy Heywood.

Q163 Chair: By Sir Jeremy; thank you very much for that. Is it established practice that during an investigation, maybe not this one, but any other investigation—because I know you do not want to talk about this investigation in detail—that the victim is able to see the evidence that the police has? I am referring you to the letter that David Davis sent to you requesting a copy of the log and the subsequent letter that you have had from Andrew Mitchell saying, “Could I have a look at the log?” Is there, in principle, any objection to those who are not being investigated but assisting an investigation—which I assume Mr Mitchell is doing—to have a look at the copy of the log? Is there any reason why he should not see it?

Sir Bernard Hogan-Howe: If I can take you away from this a little, because of course I have received a couple of confidential letters which the writers of the letters have not released me to discuss, and I feel a little constrained by not being able to say what was in them in my replies. Generally what happens is that if we have witnesses then of course we need to make sure that we the police or the investigator, in this case the Cabinet Secretary, hold the information, and we do not allow partial access to some of the information. Bearing in mind the corollary for the police—I am not talking about in this case, but generally, if we are investigating someone for drugs and they say, “I would like to have a look at your log about all that you have seen”, that may be what happens in a criminal court, but during the course of the investigation we do not say, “Right, we will now answer your questions, rather than someone else answer ours”. In general terms, which is your question, it would not necessarily be in all our information. Of course, they are able to ask for it under freedom of information and various other mechanisms.

Q164 Chair: Right but that is way down the line because that takes a while. At the moment Mr Mitchell’s statement is that he is a witness assisting the police with their enquiries following the arrest of Mr Wallis and the other person.

Sir Bernard Hogan-Howe: Yes; so far as the other status, that is the category I would put him in.

Q165 Chair: He would be entitled to anything any other witness would have but not anything that other witnesses would not have?

Sir Bernard Hogan-Howe: We would not generally share all the information. I am talking now about a criminal trial, and of course this is not at this stage about Mr Mitchell.

Chair: No, this is a criminal investigation, is it not, into somebody who is being accused of misconduct in public office?

Sir Bernard Hogan-Howe: I suppose our general response to people who ask us for information, if there was any suspicion over a crime or a misconduct or any action of the police, is that when we are dealing with people we do not generally reveal all our sources of information for reasons that we only have so many operational secrets and we would not generally. So our general response is in those terms.

Q166 Mark Reckless: Commissioner, can I just clarify: when did Sir Jeremy Heywood provide this email to the Metropolitan Police?

Sir Bernard Hogan-Howe: I think it arrived at New Scotland Yard on Thursday 13 December.

Q167 Mark Reckless: Were he to have provided it to the Metropolitan Police before that, is it possible that Metropolitan Police might have brought these issues to light rather than it being left to Michael Crick on Channel 4?

Sir Bernard Hogan-Howe: It is very difficult for me to be absolutely sure. The only thing I can observe is that obviously we received it on the 13th and by the 15th we had arrested one of our own officers.

Chair: Thank you.

Q168 Mr Winnick: Arising from a question put to you by a colleague, a distinction was made, Sir Bernard, between swearing and swearing at the police, but is it not a fact that on 21 September, two days after the incident, Mr Mitchell apologised for being disrespectful to police?

Sir Bernard Hogan-Howe: I believe he did.

Q169 Mr Winnick: In short, would that not indicate—I do not know if this needs to be the subject of any investigation—that the swearing was directed at the police, otherwise why the apology?

Sir Bernard Hogan-Howe: I think the only thing I can say, Mr Winnick, is that it is probably for Mr Mitchell to explain exactly why he apologised.

Chair: Exactly. I think we will leave it at that.

Q170 Mr Clappison: Can I just ask you briefly, arising out of what you just said, I am not asking you how the investigation has been carried out but I would like to be reassured as to the ambit of the investigation and what exactly is being investigated. You are investigating the similarity, I take it, between the contents of the email which has been published, the striking similarity which is quite clear, particularly the use of certain words and what has been published in the police log, because it would be very difficult for the email to have come about without any knowledge of the police log?

Sir Bernard Hogan-Howe: I wonder if at this stage, Chair, we can write to you with this, but it might be helpful to read into the minutes the terms of reference for the inquiry.

Mr Clappison: Please, that would be very helpful.

Sir Bernard Hogan-Howe: And what has been referred to the IPCC, “First of all, to investigate the circumstances surrounding the police officers claims to witness the incident in Downing Street”—this is obviously on the day of the event—“to establish if there is any evidence of a conspiracy between this officer and any other person; thirdly, to establish what, if any, criminal or misconduct offences are apparent; fourthly, to progress the supervised investigation to wherever the evidence takes it; and finally, to establish if there is any organisational learning as a result of this investigation, regardless of whether it was a crime or a misconduct”. They are fairly broad terms of reference, but I hope Mr Clappison would accept that it includes, I think, the question that you raised.

Q171 Mr Clappison: What I have raised would, in your judgment, fall within that?

Sir Bernard Hogan-Howe: Yes. If it reassures you, even if it was not explicit, you would expect an investigator to follow the evidence. Sometimes when you start on the terms of reference, you draw them fairly broadly because you want to follow the evidence. Sometimes you do not know what is going to come up next, and that has certainly happened at least once in this case.

Q172 Michael Ellis: Following on from Mr Clappison’s point, indeed it needs to be broad because one does not know where these things are going to lead in many cases, but you have, in my judgment, taken this very seriously and rightly so. You returned from holiday I think at one point, did you not, to deal with this matter and you have appointed a very senior officer with a large team, so I am inclined to agree with Sir Hugh about his assessment of

your conduct in this matter. It is easy to mis-speak, especially when being interviewed by Victoria Derbyshire—I think it has probably happened to me—but the fact of the matter is that where evidence is being collated, if it turns out that evidence has been tainted for any reason, would you agree with the Prime Minister and others who have said that that would be in the first degree of seriousness?

Sir Bernard Hogan-Howe: I agree entirely, and I think the balance I am trying to strike I suppose both today and in my public pronouncements generally, and perhaps on the radio programmes you have alluded to, is that I have responsibilities as Commissioner of the Metropolitan Police to try to support the staff that I lead. 99.9% of the time they do a great job; in fact, they do an incredible job on behalf of the public of London and right around the country. We expect some incredibly high standards from them, and I hope we always do. We do not want to find that we have low standards and are constantly disappointed, so we need high standards. That is why I always try to strike that balance between supporting them doing their job in very difficult circumstances, often dealing with people that most of us would walk away from, and in this case, obviously, this is a serious issue, as you already said, and the Prime Minister has agreed, and I agree entirely, that we need to get to the bottom of it, and that is what we are going to do.

Michael Ellis: Thank you, Sir Bernard.

Q173 Nicola Blackwood: Thank you, Mr Chairman. I did just have one quick finishing supplementary on Andrew Mitchell. I just wanted to ask: how many officers did you put on the original leak inquiry?

Sir Bernard Hogan-Howe: I cannot tell you exactly. I know it was not 30, but I will let you know as soon as I am able to. It will not be anything of that order.

Q174 Nicola Blackwood: Do you think that because of the general attitude to the incident within the police force that it was not taken very seriously in the first instance?

Sir Bernard Hogan-Howe: I don't think that would be fair. I will give you the number of officers, it probably was not necessary to have that, but I do not think it is fair to say that we are not treating it seriously. In fact I was criticised at the Leveson inquiry, not by Lord Justice Leveson, but by others about the number of leak inquiries we carried out since the phone hacking difficulties where we were said to have overreacted to the very thing I am now being accused of potentially under-reacting to. Striking this balance, I think, is quite difficult. It certainly was not 30 officers, but I hope you would be reassured that we did take it seriously and we put officers into it. Leak enquiries are notoriously difficult to get to the bottom of, although the Elveden part of the phone hacking inquiry is proving that we can.

Q175 Nicola Blackwood: Okay; thank you. I now want to move on to counter-terrorism, and obviously we have had the Home Secretary answering on the case of Ibrahim Magag today and I wanted to ask you about your views about the change across from control orders to TPIMs and whether, in particular, the removal of the option for relocation would have had any bearing on this particular case?

Sir Bernard Hogan-Howe: We do not think so. First of all, obviously Parliament decided it was a change of legislation, and there is always a balance to strike with these things because I think everybody accepts—the Home Secretary has accepted—that the only substantial way that people who are a threat can be restrained is to be in a high-security prison. Of course, if the evidence is not available to neither substantiate the charge nor get a conviction at court, then we have to find some other method. I do not think anybody in this country thinks that either internment or permanent house arrest is a good option, so we are always mitigating that risk, and the control orders of the past have been criticised for being

too restrictive and it was decided that in fact the balance of that was going to change. There were people who absconded under the control order regime, as I am sure you are aware, so the fact that one has absconded under the TPIMs regime does not mean to say that the whole system is a problem. Of course, we and others will review this particular case.

Q176 Nicola Blackwood: As I understand it, additional resources were given to counter-terrorism teams in order to cope with the change of regime, to provide training and to provide extra powers for surveillance and so on within the regime. Do you think that has been sufficient to cope with the TPIMs regime as opposed to the control orders regime?

Sir Bernard Hogan-Howe: I think in broad terms, yes. If you talk to the public service we will always argue for more, you realise that. But I think the response of the Government to the change in legislation, which allowed us and others to invest in this area, was a reasonable change and I am sure if it was proved eventually that there was a problem we would be able to make our case. But I cannot sit before you today and say as a result of this case we do not have sufficient resources to deal with this particular problem.

Q177 Nicola Blackwood: Do you have any concerns about the TPIMs or ETPIMs legislation as it stands?

Sir Bernard Hogan-Howe: I do not think it would be right to do so on the back of this one case.

Nicola Blackwood: Just on your general experience, because it is only just over a year old.

Sir Bernard Hogan-Howe: I think Cressida Dick, the Assistant Commissioner, and Jonathan Evans, the Head of the Security Service, have all given evidence before this and other Committees about this change of legislation, and I think everybody agreed that it was not a substantial change in the risk overall to the threat of terrorism, and given the state of the general threat, which over the years has come down, this seemed a reasonable response. I am sure we will all want to keep it under review for the future.

Q178 Nicola Blackwood: The other change to the TPIMs regime as opposed to control orders is obviously that they are not indefinite. They have a two-year limit, although it can be renewed for another two years with the idea being that after two years a person would have been disrupted from their particular network so the threat will have been reduced. Do you have concerns about those limits and have you plans in place to cope with those changes?

Sir Bernard Hogan-Howe: I do not think so particularly. I think the fact that we are able to make our case again, it seemed to me that there were numerous strategic differences between the old control orders and the new ones, and one of them was clearly that Parliament was persuaded that there ought to be more regular reviews. It seems to me that is not an unreasonable thing. These are fairly significant restrictions on people's liberty. These are for people who have not been convicted of a criminal offence and some of the evidence is not able to be heard in public, so it seems for all those reasons to have reasonable steps in there and I do not think anybody could say that a two yearly review is something that would cause us to have extraordinary problems, and I think it is something that we can deal with.

Q179 Chair: On the Magag case, Commissioner, we clearly do not know where he is at the moment; do you know whether we retained his passport?

Sir Bernard Hogan-Howe: In short, I cannot give you that exact detail. I am fairly sure that he would not have one.

Q180 Chair: He would not have one?

Sir Bernard Hogan-Howe: Whether or not we have it, I will write to you if you would like me to.

Q181 Chair: Yes, the concern we have is that in a previous case involving the Met somebody was able to go to the UK Passport Service and get another passport and leave the country. We are just concerned to make sure that that is not what has happened.

Sir Bernard Hogan-Howe: If it helps, one of the first questions I asked was to make sure that he has not applied for a passport in his own name. I am sure he has not, but I would like to be reassured.

Q182 Chair: In respect of the nine others who are subject to TPIMs, presumably somebody in the operation, Cressida Dick or somebody else, is looking at their arrangements, is that right?

Sir Bernard Hogan-Howe: Yes. That was an immediate reaction to this particular one obviously, because I am sure the Committee will realise that I cannot go through all the detail, but, of course, there is potential for some of the TPIMs subjects being linked, and one of the things that we look at is what their reaction would be to this person's disappearance.

Q183 Chair: Penultimate question: in figures released yesterday, it showed that in the past three years the Met has seized 500 stun-guns, which are more powerful and stronger than the guns that are used by the Metropolitan Police. What is being done to try to deal with the importation of these guns into the UK? People seem to be ordering them online from Germany and other countries and they just seem to be getting in.

Sir Bernard Hogan-Howe: I am afraid I arrive unprepared to explain exactly what the import restrictions are on different types of stun-guns, although I can check for you. First of all, a normal taser-type gun is an offensive weapon and cannot be owned by someone in this country. We have to have special licences for it, so I would hope that we do not see more importation. It is a constant challenge because, of course, of the stun-guns, firearms and ammunition that people are able to buy on the internet in other countries and which sometimes travel through the post.

Q184 Chair: And you had this problem in Merseyside, of course, which you dealt with very effectively.

Sir Bernard Hogan-Howe: Yes, we had to do that. It is still true round the country; it is a constant challenge to stop things travelling in the post or ordered by the internet, whether it be this or CS spray or mace and various things around the country. It is a constant challenge.

Q185 Chair: Commissioner, thank you for coming in. This Committee accepts what you have said, that you were determined to have a search for the truth in the Andrew Mitchell case and that you have said to your deputy commissioner that she must do everything that she has to do to follow the evidence to get to the truth, because we, like you, accept that this is an issue of the public's confidence in the police, not because of Andrew Mitchell on his own, but because of all the circumstances surrounding it and the possibility that a member of the Met may have fabricated evidence; we do not know, so we are as keen as you are to get to the truth, and we are glad that this ruthless search has begun. Do you have a timetable as to when it might end?

Sir Bernard Hogan-Howe: I do not want to tie myself down too long or too much, because one of the things I have already indicated is that the inquiry from time to time has taken an unusual turn. There three milestones that I can offer you. The first is that the person

who was arrested with a police officer—you remember that they are not employed by the police but are related to the police officer—I think is returning from bail on 16 January and the police officer should return from bail on 31 January. Those are two significant milestones. The final thing is we expect that we may be able to share a report with CPS by the end of this month or early next month.

Chair: By the end of this month?

Sir Bernard Hogan-Howe: End of this month or the beginning of next; I am trying to be careful not to be a hostage to fortune. I am just trying to indicate I think we are talking about a matter of weeks before we do as much as we can. If we find something else out that I do not know about today, all bets may be off. I am trying to give you our best account as to where I think we are at the moment.

Chair: We are very grateful to you for coming in and for the candour with which you have answered our questions. Thank you very much indeed.

Sir Bernard Hogan-Howe: Genuinely, thank you for the opportunity. I hope to have reassured you and certainly I always give a straight answer so far as I ever can in terms of some of the things that we have to deal with.

Chair: Thank you, and we look forward to seeing you next Monday at the start of our seminar. You will not be questioned; it is a straightforward speech.

Sir Bernard Hogan-Howe: I will come, then; it is all right. Thank you very much.

Chair: Thank you very much.