

**NOT PROTECTIVELY MARKED****COMMISSION****4 NOVEMBER 2009****JUDITH BARNES, SENIOR POLICY OFFICER****POLICIES FOR POLICING - IMPACT ON STOCK TAKE PROPOSALS****1. Purpose of Report**

1.1 This report summarises the current policy proposals the three main political parties have published in relation to policing, insofar as they relate to those Stock Take proposals that involve a change in the law. These proposals are summarised in Annex 1. (References to Stock Take proposals two include Stock Take-related proposals, on the Policing Pledge and Blunkett recommendation – see 3.4.1 and 3.4.3 below and the last two items in Annex 1.)

**2. Recommendations**

2.1 Commissioners are invited to

- **NOTE** the report and **DISCUSS** the implications for the Stock Take proposals that require legislative change
- **REPORT** any developments in the policies of political parties of which they have become aware and which are not referred to in this paper.

**3. Summary/Considerations**

3.1 The main political parties have over the last couple of years produced a range of policies on policing, many of interest to the IPCC. This paper, however, addresses only those policies which are relevant to the proposals coming out of the Stock Take which require changes to the law. It focuses more on Conservative and Liberal Democrat policies as Commissioners will be more familiar with Labour thinking on policing from recent Government reports and papers.

3.2 The economic situation may well impact on what a new government, whichever party is in power, is able or decides to do. Constraints on public spending may make it difficult to implement declared policies. Where the Stock Take proposals are concerned, the aim has always been that they should, at worst, not increase costs and at best save money. However, the focus of any new Government may be to seek ways to make much more significant savings in the operation of the police complaints system.

3.3 The two themes common to all three parties of most significance to the Stock Take proposals are (i) local police accountability and (ii) reduction of bureaucracy.

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**NOT PROTECTIVELY MARKED****3.4 Labour Government/Party policies****3.4.1 The Labour Government has**

- Introduced the Policing Pledge, whereby all forces have committed themselves to meet certain standards in delivering their services (a backstop arrangement for the IPCC to provide a review mechanism where appropriate has been agreed but on a voluntary basis only);
- Introduced neighbourhood policing teams;
- Removed national targets for the police, apart from one on improving public confidence in whether local crime and community safety priorities are being identified and addressed;
- Required local authorities to have a crime and disorder committee and introduced the power for a local councillor to refer a crime/disorder issue arising in his/her ward to the committee for consideration (community call for action)
- Published local crime maps.

3.4.2 The Labour Government proposed last year that Chairs of Crime and Reduction Disorder Panels and the majority of police authority members should be directly elected but dropped these proposals in December 2008.

3.4.3 The Government then commissioned David Blunkett to consider the issue of police accountability last year. His report - A People's Police Force – was published in July 2009, but the Government has not yet accepted the proposals made. The report does not propose any radical changes in the structure of policing but does suggest that the IPCC should have a remit to investigate inadequate service to a particular neighbourhood or community where asked to do so by the local council or MP.

3.4.4 A White Paper with proposals on policing is expected in early November. This is likely to include a section focusing on redress and include material covering aspects of the Stock Take. An update will be given at Commission.

3.4.5 The Labour Party as such does not appear to have yet published any policing policies of relevance.

**3.5 Conservative Party Policies**

3.5.1 The Conservative Party proposes to introduce a directly elected Police Commissioner for each force, responsible for:

- appointing/dismissing the Chief Constable;
- setting priorities;
- setting the budget;
- monitoring how well the force performs;

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- publishing local crimes statistics monthly and a crime map at street level;
- ensuring beat meetings are held quarterly in each neighbourhood. Although not yet party policy, it appears from the party's task force interim report in 2007 that the Police Commissioner is intended to replace the police authority and would chair a police board with non-executive directors playing an important role in exercising scrutiny. At this stage, it appears that the Conservatives propose keeping the Policing Pledge.

3.5.2 The Conservative Party is concerned at the number of inspections and audits to which the police are subject (quoting HMIC, NPIA, the Audit Commission, police authorities and the IPCC). They propose a review of the police audit regime to:

- Scrap or consolidate the range of existing inspection and review bodies;
- Reduce the number of inspections;
- Where more than one inspection body remains, alleviate the effect on police operations by requiring joint inspections.

3.5.3 The Conservative Party's proposals for cutting bureaucracy include cutting the number of police performance indicators and replacing them with local accountability and a limited number of national priorities.

### 3.6 Liberal Democrat Policies

3.6.1 The Liberal Democrats propose more power for police authorities, giving them:

- the sole right to appoint/dismiss the Chief Constable;
- set local policing priorities;
- agree minimum standards;
- determine budgets;
- change that element of taxation that would be allocated to them under Liberal Democrat tax proposals.

3.6.2 They are also proposing changes to the way police authorities are constituted:

- The Local Authority would be the police authority where the Local Authority and force borders were co-terminous (this is apparently the case with eight forces);
- Police command units would be aligned with Local Authority boundaries;
- Two thirds of the elected members would be directly elected (by single transferable vote);
- A third would be nominated by councillors within the force area;
- Extra members such as magistrates would be co-opted by the police authority.

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3.6.3 They advocate increased resources for police authorities to research their force's performance and publication of crime and detection data at ward level.

### 3.7 Inter-relation with Stock Take and related proposals

3.7.1 The main thrust of the Stock Take and related proposals involving legislative change are broadly in tune with the themes of local accountability and reducing bureaucracy:

- Widening the definition of complaint will introduce an element of independent oversight to non-conduct (service) complaints as well as conduct complaints, thus enhancing accountability.
- Giving the police a greater range of techniques to use in handling complaints locally will reduce bureaucracy, speed up the force's response to the complaint and focus it more on the complainant's needs.
- Introducing a public interest test for appeals will reduce bureaucracy, freeing up much of the time taken by forces in relation to appeals (fewer than 20% of appeals against the outcome of an investigation were upheld in 2008/9).
- Scrapping the requirement for the police to apply to the IPCC for consent to dispense with or discontinue a complaint will reduce bureaucracy.
- Referring issues under the Policing Pledge/Blunkett proposals to the IPCC for possible review (even where they do not fall within the wider definition of complaint) would add an independent element to investigation of matters of concern to the local community.

3.7.2 There are, however, elements where the interface with some of the parties' proposals, if implemented, will need to be explored in greater detail if and when the policies in question are fleshed out. These are outlined below.

### 3.8 Accountability

#### *Accountability generally*

3.8.1 The Conservatives and Liberal Democrats both envisage more powerful bodies holding the local police to account – either a police commissioner (Conservatives) or police authorities with enhanced powers (Liberal Democrats).

3.8.2 To what extent those bodies might be expected to undertake any of the current functions of the IPCC is unclear; the Liberal Democrat proposal to increase resources for police authorities to research their force performance is unlikely to obviate the need for the consistent collection of complaints data and other national research undertaken by the IPCC.

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- 3.8.3 The emphasis on their role in monitoring performance may switch some of the focus around accountability from the complaints system as a whole to these bodies. However:
- There is no current suggestion that these bodies will undertake investigation of complaints and the demand for a more independent element in investigation of complaints than these bodies will be able to provide is likely to continue.
  - The information the IPCC is able to extract from the operation of the complaints system can help them fulfil their responsibility for monitoring force performance.
- 3.8.4 The public interest test for appeals would mean the IPCC stepping back from direct involvement in complaints at the lower level and relying more on general oversight mechanisms to ensure complaints were handled properly. There is a risk this might be seen as detracting from accountability, even if counterbalanced by bringing service complaints within the remit of the IPCC; it might also be argued that, with more effective monitoring at the local level of the service provided by the police, there would be no need to bring service complaints within the remit of the IPCC, which could therefore remain confined to conduct.
- 3.8.5 The role of the Standards and Quality Directorate will need to take account of these wider developments.

*Accountability through direct elections*

- 3.9 The mandate those bodies will have through direct election is likely to give them greater authority and a higher political profile than police authorities as currently constituted.
- 3.10 These bodies will have responsibility for setting budgets and priorities. In the context of widening the definition of a complaint to include service complaints, this raises an issue over the appropriate considerations in judging whether a force has acted to a 'reasonable standard' (the test for deciding whether or not to uphold a complaint under the draft new Statutory Guidance). To what extent, if at all, should we take into account the overall priorities/allocation of the resources for the force as determined by the body in question? For the IPCC, an unelected body, to be seen to question the decisions of a body with an electoral mandate might be considered inappropriate.
- 3.11 However, not taking force priorities/allocation of resources into account may lead to unfairness:
- If we uphold on the basis the complainant has received a sub-standard service without considering resources we may be upholding where it is not reasonable to do so (e.g. a lot of officers were allocated elsewhere at the time because of a riot or murder);

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- Conversely, we may find ourselves not upholding when the complainant should clearly have received a better service because of reluctance to pronounce on the allocation of resources/priorities.

3.12 In practice, this issue may not cause any difficulties:

- On current plans there will be no power to insist that recommendations are implemented; we would no more be interfering with the electoral mandate of the body in question than we currently interfere with the operational independence of the Chief Constable by making learning recommendations.
- It is unlikely that we would uphold a complaint involving priorities/allocation of resources except where it is plain that the complainant could reasonably have expected a better service, whatever the force's resources/priorities (taking into account any temporary strain on resources such as a riot, murder investigation).
- Any comments the IPCC considers it appropriate to make on resources/priorities in the light of an investigation should be seen as part of the evidence base needed by any budget/priority setting body to decide on the allocation of resources, in the same way as reports from independent bodies with specific expertise inform political decisions at government level.

3.13 If the Policing Pledge (or something comparable) survives, the review provisions would not give rise to any conflict with the authority of an elected body as the referral would presumably come from the elected body (and add to its accountability armoury). A referral under the Blunkett proposals would come from an elected person or body, thereby giving it a comparable mandate. These two proposals are not, in any event, integral to the Stock Take proposals.

*Monitoring/inspection*

- 3.14 The higher profile given to monitoring presents the IPCC with an opportunity. We are able to make a significant contribution, through our investigations and appeals, Learning the Lessons, complaints data, research reports and tools such as the Performance Framework, to the evidence base needed to monitor police performance effectively.
- 3.15 There may indeed be increased pressure on the IPCC to produce timely information relevant to monitoring. We may need to develop mechanisms to extract information more speedily from the data we hold on complaints and learning.
- 3.16 The risk of duplication between inspections was recognised by the IPCC at an early stage; consequently, the IPCC has largely refrained from exercising its statutory powers in this direction. This may change to some extent with the need for increased oversight if, as anticipated in the Stock Take proposals, the IPCC comes to rely more on oversight

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mechanisms than involvement in low-level appeals to underpin its guardianship of the complaints system. However:

- One element of any such oversight system would be for the IPCC to use whatever reliable information was available from other sources, such as HMIC, to avoid duplicating oversight/inspection.
- A police commissioner/police authority with effective monitoring systems could be a valuable source of relevant data and perhaps reduce the extent to which the IPCC would need to develop oversight mechanisms as envisaged by the Stock Take proposals.

### 3.17 Next steps

3.17.1 The latest possible date for the next general election is 3 June 2010. Current polls suggest no assumptions can be made about which party (or parties) will form the next government. More information about the respective parties' policies may not be available until nearer the election date when manifestos are published. (They will be reviewed at that stage.)

3.17.2 The Legislative Change Project team has been aiming to have detailed legislative proposals ready for the Home Office by May 2010, this being the practical deadline for inclusion in a Bill in the November 2010 session of Parliament. This timetable envisaged the team

- consulting internally and bringing any initial issues identified to Commission for a steer in November 2009;
- developing outline proposals for Commission in January 2010;
- consulting externally and internally with a view to producing detailed proposals for Commission in May 2010.

The initial internal consultation has been conducted but, in the light of the uncertainty created by the impending election, the Legislative Change Project team will be considering with the Chair, the Chief Executive and the Home Office how best to take the planned legislative changes forward.

3.17.3 Three main options are under consideration:

- Put all work on hold until the political picture is clearer. This option would almost certainly mean we would not be ready for a Bill in the November 2010 session; the earliest we could reasonably look for inclusion in a Bill would probably be November 2011. It would, however, enable us to take into account the political approach of the then government.
- Put on hold work on formulating proposals where political developments may have an impact but carry on with:
  - the research that needs to be done on relevant areas; and

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- formulating proposals on those elements of the work which are unlikely to be affected by political developments.

We could then progress those elements of the work that are not politically sensitive and be ready with more specific proposals/options for Commission on the other elements when political developments permitted (though at some risk that of work being wasted if there proved to be little prospect of implementation). Again, however, it is unlikely we would be ready for a Bill in or shortly after 2010.

- Dispense with an initial steer from Commission, research the relevant issues and formulate outline proposals (with some but fewer options) for Commission in February or March, if political intentions are clearer by then. This will increase the risk of wasted work, if the political scene is no clearer than now or policies change. It would, however, give us the best chance of getting legislation in or shortly after 2010.

3.17.4 The decision taken as to how to proceed will be reported to Commission in due course.

**4. Consultation Undertaken**

- 4.1 Enquiries have been made of all three political parties.
- 4.2 The Director of Strategy and Communications has endorsed this report.

**5. Resource Implications**

- 5.1 At present there would not appear to be any significant resource implications for the IPCC in the parties' policies outlined above. However, the resource implications will be explored in greater detail when they are clearer.
- 5.2 A decision to delay progressing the proposals for legislative change would free up resources for other work but equally make demands on resources at a future date if and when the work resumed.

**6. Legal Implications**

- 6.1 Several of the policies outlined above will require changes in the law.

**7. Diversity Implications**

- 7.1 The emphasis placed by all three parties on accountability and reducing bureaucracy has the potential to increase confidence in, and improve access to, the complaints system among those sections of the community that have traditionally had least confidence in the system. However, not enough detail is yet available to judge whether this will be the case in practice.

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- 7.2 An equality impact assessment will accompany any presentation of proposals for legislative change to Commission in the future.

**8. External Relations Implications**

- 8.1 Expectations have been raised among stakeholders that the IPCC will progress proposals with the Home Office to change the law to implement the Stock Take.
- 8.2 Consideration will be given to how stakeholders should be informed of the position when a decision has been taken as to how to proceed.

**9. Risks and Risk Management**

- 9.1 There is a risk that the parties' policies will develop in a direction that is not supportive of the Stock Take proposals.
- 9.2 This will be addressed through contact with the Home Office and political contacts where considered appropriate.

**10. Next Steps**

- 10.1 See above

**11. List of Annexes**

- 11.1 Annex 1 – Stock Take and related proposals for legislative change

**12. Publication**

- 12.1 There is no reason not to publish this report.

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**23 October 2009**

### Stock Take and related proposals for legislative change

<b>Stock Take Proposal 1</b>	<b>Remove the current distinction between conduct, maladministration and service failure matters.</b>
	Issues to be resolved: <ul style="list-style-type: none"> <li>• ensure that police operational independence is maintained.</li> <li>• identify the potential impact of widening the definition of a complaint on the system and ensure the system can manage this (see proposal 6 below).</li> </ul>
<b>Stock Take Proposal 2</b>	<b>All complaints to be dealt with at the lowest appropriate level (keeping a direct route to the IPCC for the most serious cases).</b>
	Issues to be resolved: <ul style="list-style-type: none"> <li>• Review the mandatory referral categories (to provide greater clarity on what is expected to be resolved in the first instance at the local level).</li> </ul>
<b>Stock Take Proposal 3</b>	<b>Local assessment and handling with the aim of resolving complaints and improving service through a range of techniques.</b>
	Issues to be resolved: <ul style="list-style-type: none"> <li>• Explore how the complainant's interest can be safeguarded through appeal rights rather than a right to choose how the matter is handled.</li> </ul>
<b>Stock Take Proposal 6</b>	<b>Review the appeal structure. Introduce one overarching right of appeal to the IPCC, a public interest test and clearer standards showing how appeals to the IPCC will be handled.</b>
	This proposal is likely to be necessary if proposal 1 is implemented to counterbalance the anticipated increase in complaints within the IPCC's jurisdiction.
<b>Stock Take Proposal 7</b>	<b>Greater oversight role for the IPCC to check force handling of lower-level complaints (not yet clear whether needs change in the law).</b>
	This is closely linked to proposals 6 and 9 and aims to focus the IPCC's role as 'guardian' of the complaints system on quality assurance rather than procedural checks. The IPCC recognises that critical to delivering this proposal is how the IPCC links in with HMIC and Police Authorities to avoid duplication.
<b>Stock Take Proposal 9</b>	<b>Remove excessive bureaucracy from the complaints system.</b>
	In particular in relation to dispensation and discontinuance processes.
<b>Policing Pledge</b>	<b>Put on a statutory footing the current arrangements for voluntary referral to the IPCC of a small number of Policing Pledge complaints that cannot be resolved locally.</b>
	Would apply where such complaints fall outside the jurisdiction of the IPCC even if extended as envisaged by Stock Take Proposal 1.

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<b>Blunkett proposals</b>	<b>Take forward David Blunkett's proposals for dealing with community concerns by obtaining powers to consider concerns expressed through representative channels, such as the local council or an MP</b>
	Couple it with a threshold for consideration - all internal police processes to be exhausted, IPCC to have discretion whether to accept referral, using eg criteria similar to those used by the Parliamentary and Health Service Ombudsman