



## **Policing in the UK: Governance, Oversight and Complaints**

### **Summary**

This briefing sets out how the police service in the UK is governed, including details of recent reforms. It also focuses on how the police are held accountable for their actions through systems of oversight and complaints.

Devolution has enabled different countries in the UK to take varying approaches to the organisation of policing services. As a result, the police service is divided into separate forces. There are 43 territorial police forces in England and Wales, and a national police force in Scotland (Police Scotland) and Northern Ireland (Police Service of Northern Ireland). In addition, there are four national special police forces which cover specific areas, for example the British Transport Police.

A further result of devolution is that there is no unified policy for the UK. Policing policy and funding are therefore the responsibility of: the Home Office in England and Wales; the Safer Communities Directorate in Scotland; and the Department of Justice in Northern Ireland. Several national bodies also contribute to policing policy and governance. The College of Policing is a professional body which sets standards and develop those working in policing, while the National Police Chiefs' Council is a collaboration body that enables independent chief constables and their forces to work together to improve policing.

In respect of police accountability, all police in the UK are subject to an independent oversight body. There are four bodies which cover different geographical areas. The purpose of such bodies is to ensure that the quality of policing keeps improving.

The system for complaining about police conduct is complex and governed by multiple pieces of legislation. In most cases, the police force deals with complaints made against it. However, there are bodies in each country which deal with the most serious and sensitive matters.

In recent years, several police investigations into allegations of historic child sexual abuse have led to criticism of the police complaints and oversight systems. Some of the most high-profile complaints were in relation to an investigation called Operation Midland. The investigation looked at claims by Carl Beech, which were later found to have been false. Beech was subsequently sent to prison.

Nicole Winchester | 14 January 2020

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## I. Introduction

According to the academics David H Bayley (professor emeritus in the School of Criminal Justice, State University of New York) and Philip C Stenning (professor of criminology and criminal justice at the Griffith Criminology Institute, Australia), every democracy confronts a fundamental problem regarding policing:

How can elected governments create and manage police so they act in the public interest while avoiding the temptation to use them for their own partisan advantage?<sup>1</sup>

Police governance is a way of addressing this dilemma. Governance structures are designed to stop politicians directing the police in ways that they should not, while also preventing the police from: claiming too much independence; avoiding oversight; and evading political accountability. This briefing sets out how the police service in the UK is governed, including details of recent reforms. It also focuses on how the police are held accountable for their actions through systems of oversight and complaints.

### 1.1 Policing in the UK: Overarching Concepts

#### **Devolution**

In the UK, justice and policing is a devolved policy area. This means that the devolved administrations in Scotland and Northern Ireland are responsible for policing policy. In England, there has also been decentralisation, with powers, budgets and responsibilities transferred to mayors through city deals.

(Source: Civil Service, [Devolution: Factsheet](#), accessed 11 November 2019)

#### **Policing by Consent**

Policing in the UK is different from most other countries as it is based upon consent. The historian, Charles Reith, said that under this philosophy, policing is not derived from fear, but almost exclusively from public cooperation. The concept of policing by consent is set out in greater detail in the 'General Instructions' issued to new officers in 1829, the first of which is "to prevent crime and disorder, as an alternative to their repression by military force and severity of legal punishment".

(Source: Home Office, [Definition of Policing by Consent](#), 10 December 2012)

## 2. Structure of the Police Service

Devolution has enabled different countries in the UK to take varying approaches to the organisation of policing services.<sup>2</sup> As a result, the police service is divided into separate forces. There are 43 territorial police forces in England and Wales, and a national police force in both Scotland (Police Scotland) and Northern Ireland (Police Service of Northern Ireland).<sup>3</sup> In addition, there are four national special police forces:

- British Transport Police (BTP);
- Civil Nuclear Constabulary (CNC);

<sup>1</sup> David H Bayley and Philip C Stenning, *Governing the Police: Experience in Six Democracies*, 2016, p 1.

<sup>2</sup> House of Commons Library, [Policing in the UK](#), 23 September 2019, p 3.

<sup>3</sup> Police.uk, [List of UK Police Forces](#), accessed 28 October 2019.

- Ministry of Defence Police; and
- National Police Air Service.

An operationally independent chief constable leads all these forces.

The structure of the police in England and Wales has recently come under criticism. In the December 2019 Queen's Speech, the Government announced that it would establish a royal commission to review and improve the efficiency and effectiveness of the criminal justice process.<sup>4</sup> Following this, Martin Hewitt, head of the National Police Chiefs' Council, has called for the Government to include policing in the commission, stating that it was the right time to rethink policing priorities and set out proposals to address the national impact of having dozens of force areas.<sup>5</sup> His comments have been supported by other senior officers. For example, Sir Mark Rowley, the former head of counter terrorism for the Metropolitan Police Service, argued that "Martin Hewitt is right to question the current model of 43 forces governed entirely locally". However, it has been reported that Mr Hewitt's comments put him "at odds" with the Home Secretary, Priti Patel, who is said to be focused on recruiting 20,000 additional police officers over the next three years.

## 2.1 Leadership: Policy

As policing is a devolved policy area in Scotland and Northern Ireland, there is no unified policing policy for the UK. Policing policy and funding are therefore the responsibility of:

- the Home Office in England and Wales;
- the Safer Communities Directorate in Scotland; and
- the Department of Justice in Northern Ireland.

However, many of the policing policy powers have been passed down to other actors and bodies, some of which are directly elected by the public.

### *England and Wales*

The Home Office is the lead government department in England and Wales for policing and counter terrorism.<sup>6</sup> Its responsibilities include:<sup>7</sup>

- keeping the UK safe from the threat of terrorism; and
- supporting visible, responsible and accountable policing empowering the public and freeing up the police to fight crime.

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<sup>4</sup> Royal commissions are advisory committees established by the Government on an ad hoc basis to investigate a matter of public concern (BBC News, '[Royal Commissions](#)', 27 October 2008; and Prime Minister's Office, '[Queen's Speech December 2019: Background Briefing Notes](#)', 19 December 2019, p 89).

<sup>5</sup> John Simpson, '[Overhaul Outdated System of 43 Separate Forces. Urges Head of National Police Chiefs' Council](#)', *Times* (£), 7 January 2020.

<sup>6</sup> Home Office, '[About Us](#)', accessed 29 November 2019.

<sup>7</sup> *ibid.*

It feeds into strategic decision making for policing in four main ways—by:<sup>8</sup>

- publishing the *Strategic Policing Requirement*, which sets out the most pressing national crime threats and how police forces should respond to them;<sup>9</sup>
- convening the National Policing Board, which was created in July 2019 and aims to provide a forum to improve collaboration and consistency across the police service;<sup>10</sup>
- producing ad-hoc strategy documents which often focus on cross-government and multi-agency approaches (for example, the *Serious Violence Strategy*<sup>11</sup>); and
- convening ad-hoc task forces on specific types of crime (for example, the burglary taskforce<sup>12</sup>).

As head of the Home Office, the Home Secretary is legally accountable for national security and for the role that the police service plays in delivering any national response to policing issues.<sup>13</sup> They are also responsible for setting out in the *Strategic Policing Requirement* what, in their view, are the national threats at the time and the appropriate national policing capabilities that are required to counter them.

Reserved powers and legislative tools enable the Home Secretary to intervene and direct where action is necessary to prevent or mitigate risk to the public or national security. However, such powers and tools can only be used as a last resort.<sup>14</sup> The Home Secretary is ultimately accountable to Parliament and is charged with: “ensuring the maintenance of the Queen’s peace within all force areas, safeguarding the public and protecting our national borders and security.”<sup>15</sup>

Every force area in England and Wales—except London, the City of London and Greater Manchester—is represented by an elected police and crime commissioner (PCC). The role of PCCs is set out in the Police Reform and Social Responsibility Act 2011. It states that PCCs must:

- secure an efficient and effective police for their area;
- appoint the chief constable, hold them to account for running the force, and if necessary, dismiss them;
- set the police and crime objectives for their area through a police and crime plan;
- set the force budget and determine the precept (a council tax charge for policing<sup>16</sup>);
- contribute to the national and international policing capabilities set out by the Home Secretary; and
- bring together community safety and criminal justice partners, to make sure local priorities are joined up.<sup>17</sup>

<sup>8</sup> House of Commons Library, [Policing in the UK](#), 23 September 2019, p 11.

<sup>9</sup> Home Office, [‘Strategic Policing Requirement’](#), last updated 3 March 2015.

<sup>10</sup> Home Office, [‘Prime Minister Opens First Meeting of National Policing Board’](#), 31 July 2019.

<sup>11</sup> Home Office, [‘Serious Violence Strategy’](#), 20 June 2018.

<sup>12</sup> Home Office, [‘Burglary Taskforce Will Drive Work to Combat House Break-Ins’](#), 29 April 2019.

<sup>13</sup> Policing Protocol Order 2011, s 29.

<sup>14</sup> *ibid*, s 28.

<sup>15</sup> *ibid*.

<sup>16</sup> Home Office Blog, [‘Factsheet: Provisional Police Funding Settlement 2019–20’](#), 13 December 2018.

<sup>17</sup> Association of Police and Crime Commissioners, [‘Role of the PCC’](#), accessed 28 October 2019.

In addition, the Policing and Crime Act 2017 introduced opportunities for PCCs to take on responsibility for fire and rescue governance.<sup>18</sup>

The Policing Protocol Order 2011 provides a framework for how the relationship between PCCs and chief constables should operate. It states:

The PCC and chief constable must work together to safeguard the principle of operational independence, while ensuring that the PCC is not fettered in fulfilling their statutory role.<sup>19</sup>

In two of the force areas which do not have a PCC, the responsibilities sit with the mayor.<sup>20</sup> In London, the Mayor's Office for Policing and Crime (MOPAC) is directly accountable for police performance in the capital.<sup>21</sup> Similarly, the Mayor of Greater Manchester, Andy Burnham, has taken on the role of police and crime commissioner for the force area.<sup>22</sup> He also has responsibilities for the governance and budgets of Greater Manchester Fire and Rescue Service. In other areas where a combined authority has been created, with a local mayor established, the transfer of PCC powers is under consultation. For example, this is the case for the West Midlands Combined Authority.<sup>23</sup>

In the City of London, the City of London Police Authority assumes the role of the PCC. Its role is to:

- to make sure the City of London Police runs an effective and efficient service by holding the commissioner to account;
- to ensure value for money in the way the police is run; and
- set policing priorities taking into account the views of the community.<sup>24</sup>

### **Mayor's Office for Policing and Crime (MOPAC)**

MOPAC is headed by the Mayor of London, Sadiq Khan. However, Mr Khan has exercised a legislative power to appoint a statutory deputy mayor for policing and crime—currently Sophie Linden—who is responsible for the day-to-day running of the office.

MOPAC sets the strategic direction of the force and allocates resources across London in its police and crime plan. It has a duty to consult with Londoners in setting its objectives. Operational policing, however, remains the responsibility of the Metropolitan Police commissioner. MOPAC is scrutinised by the London Assembly Police and Crime Committee which examines its work and reviews the police and crime plan for London.

(Sources: Mayor of London, '[The Deputy Mayor for Policing and Crime](#)', accessed 28 October 2019; and Police.uk, '[Mayor's Office for Policing and Crime—for the Metropolitan Police Service](#)', accessed 28 October 2019.)

In addition, the College of Policing was created in 2012 as the professional body for everyone who works for the police service in England and Wales.<sup>25</sup> It was established as a company limited by

<sup>18</sup> Policing and Crime Act 2017, part 1.

<sup>19</sup> Policing Protocol Order 2011, s 35.

<sup>20</sup> Association of Police and Crime Commissioners, '[Role of the PCC](#)', accessed 28 October 2019.

<sup>21</sup> Police.uk, '[Mayor's Office for Policing and Crime—for the Metropolitan Police Service](#)', accessed 28 October 2019.

<sup>22</sup> Greater Manchester Combined Authority, '[Police and Fire](#)', accessed 28 October 2018.

<sup>23</sup> West Midlands Combined Authority, '[Consultation on the Transfer of Powers and Responsibilities of the Police and Crime Commissioner to the Mayor of the West Midlands](#)', accessed 6 November 2019.

<sup>24</sup> City of London Police, '[Police Governance](#)', accessed 1 November 2019.

<sup>25</sup> College of Policing, '[About Us](#)', accessed 29 October 2019.

guarantee in order help it operate independently from the Home Office. To maintain this independence, the College's long-term aim is to achieve royal charter status.

The purpose of the college is to:

Provide those working in policing with the skills and knowledge necessary to prevent crime, protect the public, and secure public trust.<sup>26</sup>

The College states that it has three complementary functions:<sup>27</sup>

- **Knowledge:** develop the research and infrastructure for improving evidence of 'what works' to ensure that over time, policing practice and standards are based on knowledge, rather than custom and convention.
- **Education:** support the development of individual members of the profession by setting educational requirements to assure the quality and consistency of policing skills. Also facilitate academic accreditation and recognition of members expertise.
- **Standards:** draw on the best available evidence of 'what works' to set standards in policing for forces and individuals. Examples include authorised professional practice (APP) and peer reviews.

As part of its work, the College has a mandate to set standards in professional development, including codes of practice and regulations, to ensure consistency across the 43 forces in England and Wales.<sup>28</sup> It also has the remit to set standards for the police service on training, development, skills and qualifications. The College provides support to help with the implementation of these standards.

### *Scotland*

The Scottish Police Authority (SPA) oversees the Police Service of Scotland, also known as 'Police Scotland'. The SPA has similar powers to PCCs and the College of Policing in England and Wales (further information provided later on this body), with its members appointed by Scottish ministers.<sup>29</sup> However, the SPA is also responsible for Scotland's crime scene to court forensic service and network of volunteer independent custody visitors.<sup>30</sup>

### *Northern Ireland*

The Policing Board of Northern Ireland is the police authority for Northern Ireland and supervises the activities of the PSNI.<sup>31</sup> It is an executive non-departmental public body sponsored by the

<sup>26</sup> College of Policing, '[About Us](#)', accessed 29 October 2019.

<sup>27</sup> *ibid.*

<sup>28</sup> College of Policing, '[About Us](#)', accessed 29 October 2019.

<sup>29</sup> House of Commons Library, '[Policing in the UK](#)', 23 September 2019, p 6.

<sup>30</sup> Scottish Police Authority, '[SPA Key Facts](#)', accessed 30 October 2019.

<sup>31</sup> HM Government, '[Northern Ireland Policing Board](#)', accessed 30 October 2019.

Department of Justice (Northern Ireland). The board states that its work includes:<sup>32</sup>

- oversight of the PSNI;
- community engagement;
- policing and community safety partnerships; and
- police pensions and injury benefits.

The board also has a statutory duty to monitor the exercise of the functions of the National Crime Agency in Northern Ireland and has agreed a memorandum of understanding with the NCA to support this.<sup>33</sup>

Northern Ireland was without a functioning elected government between January 2017 and January 2020 due to the collapse in power sharing between the Democratic Unionist Party (DUP) and Sinn Féin.<sup>34</sup> Following the Northern Ireland Assembly election in March 2017, the parties failed to reach a power sharing agreement and the Northern Ireland Executive was not formed.<sup>35</sup> As a result, a justice minister was not appointed and members of the policing board could not be selected.<sup>36</sup> In November 2018, the Secretary of State for Northern Ireland introduced the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018. This legislation provided for the appointment of members to the board by the Secretary of State. The board was reconstituted on 1 December 2018.

#### *National Police Chiefs' Council*

The National Police Chiefs' Council (NPCC) is a UK wide collaboration body that “enables independent chief constables and their forces to work together to improve policing for the public”.<sup>37</sup> It has both an operational and policy-making role. For example, the council coordinates the operational response to threats, such as terrorism, organised crime and national emergencies. Through work with the College of Policing, it also implements standards and develops national approaches to finance, use of technology and human resources. In addition, the leaders of the service take decisions on how to operate to meet the demands of the day via the Chief Constables' Council. Chief officers also speak on behalf of the NPCC to explain the operational police response on a range of issues.

The NPCC has the following functions:<sup>38</sup>

- the coordination of national operations including defining, monitoring and testing force contributions to the strategic policing requirement<sup>39</sup> and working with the NCA where appropriate;

<sup>32</sup> Northern Ireland Policing Board, '[Home: Our Work Covers](#)', accessed 30 October 2019.

<sup>33</sup> Northern Ireland Policing Board, '[National Crime Agency](#)', accessed 30 October 2019.

<sup>34</sup> Aamna Mohdin, '[Timeline of Northern Ireland's Power-Sharing Crisis](#)', *Guardian*, 26 April 2019.

<sup>35</sup> *ibid.*

<sup>36</sup> Northern Ireland Policing Board, '[History](#)', accessed 30 October 2019.

<sup>37</sup> National Police Chiefs' Council, '[Frequently Asked Questions](#)', accessed 30 October 2019.

<sup>38</sup> National Police Chiefs' Council, '[What We Do and Why](#)', accessed 30 October 2019.

<sup>39</sup> The strategic policing requirement focuses on areas where government has a responsibility for ensuring that sufficient capabilities are in place to respond to serious and cross-boundary threats. It also supports chief constables and PCCs in balancing local and national priorities (Home Office, '[Strategic Policing Requirement](#)', 3 March 2015).

- the command of counter terrorism operations and the delivery of counter terrorist policing through the national network as set out in the counter terrorism collaboration agreement;<sup>40</sup>
- the coordination of the national police response to national emergencies and the coordination of the mobilisation of resources across forces borders and internationally;
- the national operational implementation of standards and policy as set by the College of Policing and the Government;
- working with the College of Policing, to develop joint national approaches on: criminal justice; value for money; service transformation; information management; performance management; and technology; and
- working with the College of Policing in order to develop joint national approaches to staff and human resource issues, including misconduct and discipline, in line with the chief officers' responsibilities as employers.

The NPCC is funded by a number of parties, including PCCs. It has an independent governance structure and is hosted by the Metropolitan Police Service (MPS) rather than being a company limited by guarantee.<sup>41</sup> The council's current role differs from that of its predecessor, the Association of Chief Police Officers (ACPO), because ACPO's responsibility for setting standards, policy and guidance was transferred to the College of Policing.<sup>42</sup>

## **2.2 Leadership: Operational**

### *Chief Constables*

Chief constables are held directly accountable for the operational delivery of policing services in their force area.<sup>43</sup> Chief constables also influence the development of regional and national policing and may be held accountable for national operations or standard setting. They are appointed by the force's PCC and must answer to courts for how police powers are used.<sup>44</sup>

In addition, as the 'corporation sole'<sup>45</sup> for their force, a chief constable is responsible for fulfilling all the statutory and legal obligations of their office.<sup>46</sup> They must also comply with any schemes of governance or consent that exist, and which determine force governance arrangements.

However, there are no chief constables in London. Both the Metropolitan Police Service and the City of London Police are led by a commissioner, currently Cressida Dick and Ian Dyson.<sup>47</sup>

<sup>40</sup> Eversheds, [A Collaboration Agreement—National Counter Terrorism Police Services Version 2019 v. 1](#), 26 July 2019.

<sup>41</sup> National Police Chiefs' Council, [Frequently Asked Questions](#), accessed 30 October 2019.

<sup>42</sup> *ibid.*

<sup>43</sup> College of Policing, [Chief Constable](#), accessed 31 October 2019.

<sup>44</sup> Home Office, [Have You Got What It Takes? Working with and Holding Your Chief Constable to Account](#), accessed 29 November 2019

<sup>45</sup> Defined by *Osborn's Concise Law Dictionary 12th Edition*: "a corporation (q.v.) consisting of a certain office (eg a bishop) which continues as a legal entity regardless of the human holder of that office".

<sup>46</sup> College of Policing, [Chief Constable](#), accessed 31 October 2019.

<sup>47</sup> Metropolitan Police, [Senior Management Team](#), accessed 18 November 2019; and City of London Police, [Chief Officer Team](#), accessed 18 November 2019.

## National Crime Agency

The National Crime Agency (NCA) leads the UK's response to serious and organised crime. It operates across the UK—respecting the devolution of policing—as an operationally independent non-ministerial government department.<sup>48</sup> Many of the NCA's officers are accredited with the operational powers of:

- a police constable;
- an immigration officer; or
- a customs officer and general customs official.

Some officers also have additional powers to enable them to operate within the devolved administrations.

The NCA is headed by a director general, currently Lynne Owens. Ms Owens is responsible for the agency's performance and is accountable to the Home Secretary and to Parliament (primarily to the House of Commons Home Affairs Committee).<sup>49</sup> The Scottish Parliament and Northern Ireland Assembly are also able to scrutinise the agency, in addition to the following bodies:

- Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) on efficiency and effectiveness, working with other inspection bodies as appropriate;
- The Independent Office for Police Conduct (IOPC)—for activity undertaken in England and Wales; the Police Ombudsman for Northern Ireland; and the Police Investigations Review Commissioner for Scotland;
- The Office of Surveillance Commissioners, which provides oversight of the use of covert surveillance and covert human intelligence sources;
- The Interception of Communications Commissioner, who provides oversight of the use of interception powers and the acquisition of communications data; and
- The Investigatory Powers Tribunal, which can investigate complaints from the public about the use of intrusive powers.<sup>50</sup>

The NCA framework document sets out the respective roles and responsibilities of the Home Secretary and the director general of the NCA.<sup>51</sup> It also outlines the relationship between the roles and how these relationships function. In addition, the agency publishes an annual plan which sets out how it proposes to meet its strategic and operational priorities in the year ahead.<sup>52</sup> The NCA's annual report and accounts include a summary of the agency's performance against the annual plan and include its year-end accounts.<sup>53</sup>

<sup>48</sup> National Crime Agency, '[Governance and Transparency](#)', accessed 29 October 2019.

<sup>49</sup> *ibid.*

<sup>50</sup> *ibid.*

<sup>51</sup> National Crime Agency, '[Governance and Transparency](#)', accessed 29 October 2019; and Home Office and National Crime Agency, [Revised Framework Document for the National Crime Agency](#), May 2015.

<sup>52</sup> National Crime Agency, '[Governance and Transparency](#)', accessed 29 October 2019; and [Leading the UK's Fight to Cut Serious and Organised Crime: Annual Plan 2019–20](#), 2019.

<sup>53</sup> National Crime Agency, '[Governance and Transparency](#)', accessed 29 October 2019; and [National Crime Agency Annual Report and Accounts 2018–19](#), 22 July 2019, HC 2397 of session 2017–19.

Regarding transparency, the NCA is not subject to the Freedom of Information Act 2000 or the Freedom of Information (Scotland) Act 2002.<sup>54</sup> However, the agency has a statutory obligation under the Crime and Courts Act 2013 (section 6) to publish information about the exercise of its functions and other matters relating to the NCA.

### **2.3 Background: How Was the Current Structure Achieved?**

#### *England and Wales*

In England and Wales, the current governance framework is a result of reforms carried out by the Conservative lead Coalition Government (2010–15). Initially set out in the 2010 Conservative Party manifesto, the plans were further detailed in a 2010 white paper.<sup>55</sup> The document proposed creating directly elected PCCs to concentrate on policy in local force areas and hold chief constables to account. This would allow the Home Office to focus on combatting organised crime on a national level, which it would do through a new agency: the National Crime Agency.

Over the following years, several pieces of legislation provided for these reforms:

- Part I of the **Police and Social Responsibility Act 2011** provided for the majority of the reforms, including abolishing Police Authorities and replacing them with PCCs.
- Part I of the **Crime and Courts Acts 2013** abolished the Serious and Organised Crime Agency and replaced it with the NCA, which was given a wider remit than its predecessor body to enable it to better coordinate the UK's response to international organised crime.
- Part II of the **Anti-Social Behaviour, Crime and Policing Act 2014** formalised the College of Policing in legislation and transferred the responsibility for issuing codes of practice to chief constables from the Home Secretary to the College.

The NPCC was also created in this period. Its predecessor body, ACPO, developed organically and was initially not formalised in legislation.<sup>56</sup> However, the Police and Social Responsibility Act 2011 formalised it under a collaboration agreement.<sup>57</sup> Then in 2013, PCCs from across England and Wales commissioned an independent review of ACPO. Published the following year, the review recommended that the NPCC replace ACPO. Section 14 of the Police and Crime Act 2017 provided for this change.

#### *Scotland*

Scotland has had a single national police force since 1 April 2013.<sup>58</sup> The Police and Fire Reform (Scotland) Act 2012 provided for this change. The act also:

- established a single Scottish Police Authority (taking over many of the tasks formerly

<sup>54</sup> National Crime Agency, '[Governance and Transparency](#)', accessed 29 October 2019.

<sup>55</sup> Home Office, [Policing in the 21st Century: Reconnecting Police and the People](#), 20 September 2010.

<sup>56</sup> House of Commons Library, [Policing in the UK](#), 23 September 2019, p 7.

<sup>57</sup> Eversheds, [National Police Collaboration Agreement—in Relation to the Setting Up of a Co-ordinating Body Known as the National Police Chiefs' Council \("NPCC"\)](#), 2015

<sup>58</sup> Scottish Parliament Information Centre, [The Scottish Criminal Justice System: The Police](#), 26 June 2013, p 2.

- carried out at local authority level by police authorities and joint police boards);
- created new police governance and funding arrangements;
- established the post of Police Investigations and Review Commissioner (taking over from the Police Complaints Commissioner for Scotland); and
- abolished a number of previous bodies including the eight territorial police forces.

### *Northern Ireland*

The current structure in Northern Ireland is a result of the Good Friday Agreement. In 1998, following the signing of the agreement, an independent commission on policing was set up for Northern Ireland.<sup>59</sup> The commission considered how to implement a ‘fresh start’ in regard to policing, a commitment that was included in the Good Friday Agreement. The commission published its report, *A New Beginning: Policing in Northern Ireland*, in September 1999.<sup>60</sup> Responding to the report, the UK Government accepted all of the recommendations.<sup>61</sup> The Police (Northern Ireland) Act 2000 subsequently provided for the reforms. It established the PSNI, the Northern Ireland Policing Board and the Police Ombudsman for Northern Ireland.

## **3. Oversight**

All police forces in the UK are subject to oversight by an independent body. The purpose of such oversight is to ensure that the quality of policing keeps improving.<sup>62</sup>

### **3.1 England and Wales**

In England and Wales, Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) is responsible for independently assessing and reporting on the efficiency and effectiveness of police forces. Since 2017, it has also been responsible for inspections of England’s fire and rescue services.<sup>63</sup>

Under the Police Act 1996, HMICFRS’s annual inspection programme for police forces is subject to approval of the Home Secretary. When devising its annual inspection programme, it must consider:

- the risks to the public;
- service quality;
- public concerns;
- the operating environment;
- the effect which inspection may have on a force; and
- the benefits to the public of improvements which may follow inspection.<sup>64</sup>

<sup>59</sup> House of Commons Library, [Policing in the UK](#), 23 September 2019, p 7.

<sup>60</sup> Independent Commission on Policing for Northern Ireland, [A New Beginning: Policing in Northern Ireland](#), September 1999.

<sup>61</sup> House of Commons Library, [Policing in the UK](#), 23 September 2019, p 7.

<sup>62</sup> HM Inspectorate of Constabulary and Fire & Rescue Services, [‘What We Do’](#), accessed 11 November 2019.

<sup>63</sup> HM Inspectorate of Constabulary and Fire & Rescue Services, [‘About Us’](#), accessed 4 November 2019.

<sup>64</sup> *ibid.*

The Home Secretary may also require HMICFRS to carry out inspections beyond those set out in the annual programme. PCCs can also commission HMICFRS to do inspections in their force area, however, HMICFRS is not required to accept any such commission. In addition, it may carry out inspections of police forces on its own initiative if it considers that the performance or circumstances of a force merit it.

HMICFRS inspectors are appointed by the Crown and are not employees of the police, fire and rescue service, or the Government.<sup>65</sup> They may be called to give evidence before committees of Parliament and are accountable for their actions to the public through the media.<sup>66</sup> As a public body, HMICFRS is also subject to judicial review.

Inspectors have the power to secure information, but no powers to give orders for change.<sup>67</sup> It is for chief constables, and in extreme cases, the Home Secretary, to take action as a result of HMICFRS's recommendations. PCCs are required to publish their comments on each HMICFRS report within 56 days of publication and must include an explanation of the steps to be taken in response to each HMICFRS recommendation or an explanation as to why no action has been or is going to be taken in that respect.

### **3.2 Northern Ireland**

HMICFRS also has a role in Northern Ireland. Under the Police (Northern Ireland) Act 1998, it must inspect the PSNI at least once every year on its efficiency and effectiveness.<sup>68</sup> The inspection focuses on how efficient the service is at keeping people safe and reducing crime. It also examines how effective the PSNI is in reducing crime, tackling anti-social behaviour and keeping people safe. The results of the inspection are reported to the Department of Justice, Northern Ireland. In addition, the Northern Ireland Policing Board “closely monitors” the reports of HMICFRS and follows up on PSNI's response to them.<sup>69</sup>

The Criminal Justice Inspection Northern Ireland (CJI) also has an oversight role. It is an independent, statutory inspectorate which was established in 2003 by section 45 of the Justice (Northern Ireland) Act 2002.<sup>70</sup> The CJI operates as a non-departmental public body and is the only unified inspectorate in the UK or Ireland that can look at all the agencies that make up the criminal justice system, apart from the judiciary.

HMICFRS and the CJI work together to agree inspections to be taken forward and have participated in joint inspections in the past.<sup>71</sup>

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<sup>65</sup> HM Inspectorate of Constabulary and Fire & Rescue Services, '[About Us](#)', accessed 4 November 2019.

<sup>66</sup> *ibid.*

<sup>67</sup> *ibid.*

<sup>68</sup> HMICFRS, '[PEEL: Police Efficiency and Effectiveness 2018—Police Service of Northern Ireland](#)', 10 June 2019.

<sup>69</sup> Northern Ireland Policing Board, '[Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services](#)', 4 November 2019.

<sup>70</sup> Criminal Justice Inspection Northern Ireland, '[About Us](#)', accessed 5 November 2019.

<sup>71</sup> Northern Ireland Policing Board, '[Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services](#)', 4 November 2019.

### 3.3 Scotland

Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) provides independent scrutiny of both Police Scotland and the Scottish Police Authority (SPA).<sup>72</sup> The Police and Fire Reform (Scotland) Act 2012 reaffirmed its role, providing HMICS with wide ranging powers to look into the "state, effectiveness and efficiency" of Police Scotland and the SPA. Scottish ministers can direct HMICS to investigate any issue related to the SPA or Police Scotland. HMICS also has a role in providing professional advice and guidance on policing in Scotland.

## 4. Complaints About Police Conduct

The system for complaining about police conduct is complex and governed by multiple pieces of legislation.<sup>73</sup> In most cases, the police force deal with the complaints made against it.<sup>74</sup> However, there are bodies in each country that deal with the most serious and sensitive matters.

### 4.1 England and Wales: Independent Office for Police Conduct

The Independent Office for Police Conduct (IOPC) oversees the police complaints system in England and Wales. It investigates "the most serious matters", including death following police contact. The IOPC also sets the standards by which police should handle complaints and use the learning from complaints to influence changes in policing.

#### *Recent Reforms: Policing and Crime Act 2017*

The Policing and Crime Act 2017 made changes to the police complaints and disciplinary systems. Under the Act, the Independent Police Complaints Commission (IPCC) became the IOPC. The governance structure was also changed. A single head of the organisation—a director general—was created and focus was given to ensuring there is a clear division of responsibilities between the director general, non-executive members and executive members.<sup>75</sup>

The 2017 Act also included provisions to allow PCCs to take on a greater role in the police complaints system.<sup>76</sup> Part two strengthened PCCs' oversight role of the local complaints system. It provided PCCs with an explicit responsibility for ensuring the effective and efficient delivery of the local police complaints system and made PCCs the appellate body for those appeals currently heard by chief constables.<sup>77</sup> The Act also enabled PCCs to take on other functions within the complaints system.<sup>78</sup> For example, they were given the option of taking on responsibility for all duties concerning contact with complainants.

<sup>72</sup> HM Inspectorate of Constabulary in Scotland, '[Our Purpose](#)', accessed 4 November 2019.

<sup>73</sup> House of Commons Library, '[Police Complaints Systems in the UK](#)', 14 June 2018, p 3.

<sup>74</sup> Independent Office for Police Conduct, '[Police Complaints: Statistics for England and Wales 2018/19](#)', October 2019, p 1.

<sup>75</sup> Home Office, '[Policing and Crime Bill: Overview of the Bill](#)', July 2016, p 4.

<sup>76</sup> House of Commons Library, '[Police Complaints Systems in the UK](#)', 14 June 2018, p 4.

<sup>77</sup> Home Office, '[Policing and Crime Bill: Overview of the Bill](#)', July 2016, p 3.

<sup>78</sup> *ibid.*

In addition, the 2017 Act created a new system of super-complaints, which has been in place since 1 November 2018.<sup>79</sup> A super-complaint is a complaint that a feature(s) of policing by one (or more) police force is significantly harming the interests of the public.<sup>80</sup>

Only designated bodies can make a super-complaint. Section 29b of the Police Reform Act 2002 sets out that a designated body is one which the Home Secretary has designated in regulations.<sup>81</sup> When deciding whether to designate a body, or revoke their designation, there are criteria the Home Secretary must apply. The Government publishes a list of those bodies which have met the criteria to be designated. Examples include: the Children’s Commissioner for England; Liberty; and the Suzy Lamplugh Trust.<sup>82</sup>

Super-complaints can be made against: the 43 police forces in England and Wales; the NCA; the Ministry of Defence Police; the Civil Nuclear Constabulary; and the British Transport Police.<sup>83</sup> The complaints must be made to HMICFRS, however, they are considered by HMICFRS, the College of Policing and the IOPC, who together decide what, if anything, needs to be done as a result of the super-complaint.

#### **4.2 Scotland: Police Investigations and Review Commissioner**

The Police Investigations and Review Commissioner (PIRC) was created in 2013 at the same time as Police Scotland.<sup>84</sup> Scottish ministers appoint the commissioner who is independent of the police and provides “a free and impartial service”. Its role is to independently investigate incidents involving the police and review the way the police handle complaints from the public.

#### **4.3 Northern Ireland: Police Ombudsman’s Office**

The Police Ombudsman’s Office independently investigates complaints about the police in Northern Ireland.<sup>85</sup> It examines whether police officers have acted properly or not. In some cases, it will also investigate civilian employees of the police, for example those performing custody and escort duties.

#### **4.4 Operation Midland**

In recent years, several police investigations into allegations of child sexual abuse have led to criticism of the police complaints and oversight system. Some of the most high-profile complaints regarding police conduct were in relation to a Metropolitan Police Service (MPS) investigation called Operation Midland. The investigation looked at claims made by Carl Beech (known initially in the media as ‘Nick’) that he had been abused in the 1970s and 1980s by a group of prominent public figures.<sup>86</sup>

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<sup>79</sup> HM Government, ‘[Collection: Police Super-Complaints](#)’, last updated 18 April 2019.

<sup>80</sup> *ibid.*

<sup>81</sup> *ibid.*

<sup>82</sup> Home Office, ‘[Guidance: Designated Bodies](#)’, 25 June 2018.

<sup>83</sup> HM Government, ‘[Guidance: Police Super-Complaints](#)’, last updated 18 April 2019.

<sup>84</sup> Police Investigations and Review Commissioner, ‘[About Us](#)’, accessed 31 October 2019.

<sup>85</sup> Police Ombudsman for Northern Ireland, ‘[About Us](#)’, accessed 30 October 2019.

<sup>86</sup> Martin Evans, ‘[Nick: Operation Midland Report Into Carl Beech’s Bogus VIP Paedophile Ring Claims Published for First Time](#)’, *Telegraph* (£), 4 October 2019.

Beech also claimed that he had witnessed members of the group murder three boys. Following a two year investigation, in 2016 the operation ended without any arrests or charges made.

Beech was later found to have made up the allegations. In 2017, Northumbria Police passed a file to the Crown Prosecution Service (CPS) to determine whether Beech should face charges for perverting the court of justice and fraud.<sup>87</sup> Two years later, Beech was sentenced to 18 years in prison for: 12 counts of perverting the course of justice; one count of fraud; and several child sexual offences.<sup>88</sup> Sentencing Beech, Mr Justice Goss said that those accused by Beech and their relatives had been victims of “a totally unjustified witch hunt”.<sup>89</sup>

### *Henriques Report*

In February 2016, the then Commissioner of the Metropolitan Police, Bernard Hogan-Howe (now Lord Hogan-Howe), asked the retired High Court Judge, Sir Richard Henriques, to carry out a review into the MPS’s handling of Operation Midland.<sup>90</sup> Lord Hogan-Howe also asked Sir Richard to review other investigations into allegations of non-recent sexual offences. In total, the review examined eight MPS investigations.

Initially, the resulting report was published in a redacted form. This decision attracted criticism, including from some Members of the House of Lords.<sup>91</sup> In October 2019, the MPS published an unredacted copy (during this time the IOPC had announced that no officers would face any disciplinary action).<sup>92</sup> In the report, Sir Richard stated that during Operation Midland the MPS had made 43 errors that led to the investigation carrying on for ten months longer than it could have.<sup>93</sup> His findings included that:

- officers had shown poor judgement in believing Beech’s “inconsistent” claims;<sup>94</sup>
- delays in the case meant that witness statements which would have shown the allegations to be untrue were not taken until later in the investigation<sup>95</sup>; and
- some of the search warrants asked for by the MPS were obtained unlawfully.<sup>96</sup>

<sup>87</sup> Flora Thompson and Henry Clare, [‘Timeline: How ‘Westminster Paedophile Ring’ Probe Unfolded’](#), *Belfast Telegraph*, 3 October 2019.

<sup>88</sup> BBC News, [‘Carl Beech: ‘VIP Abuse’ Accuser Jailed for 18 Years’](#), 26 July 2019.

<sup>89</sup> *ibid.*

<sup>90</sup> Sir Richard Henriques, [‘An Independent Review of the Metropolitan Police Service’s Handling of Non-Recent Sexual Office Investigations Alleged Against Persons of Public Prominence’](#), 31 October 2016.

<sup>91</sup> [HL Hansard, 9 November 2019, col 1151–4.](#)

<sup>92</sup> Hayley Dixon and Martin Evans, [‘Operation Midland Report: the Litany of Failures That Left Scotland Yard’s Reputation in Tatters’](#), *Telegraph* (£), 4 October 2019.

<sup>93</sup> A full list of the 43 failing are available: Hayley Dixon and Martin Evans, [‘Operation Midland Report: the Litany of Failures That Left Scotland Yard’s Reputation in Tatters’](#), *Telegraph* (£), 4 October 2019.

<sup>94</sup> Henriques Review; and Hayley Dixon and Martin Evans, [‘Operation Midland Report: the Litany of Failures That Left Scotland Yard’s Reputation in Tatters’](#), *Telegraph* (£), 4 October 2019; and Sir Richard Henriques, [‘An Independent Review of the Metropolitan Police Service’s Handling of Non-Recent Sexual Office Investigations Alleged Against Persons of Public Prominence’](#), 31 October 2016, p 343.

<sup>95</sup> Sir Richard Henriques, [‘An Independent Review of the Metropolitan Police Service’s Handling of Non-Recent Sexual Office Investigations Alleged Against Persons of Public Prominence’](#), 31 October 2016, p 157.

<sup>96</sup> *ibid.*, p 183.

In addition, Sir Richard criticised the role of Tom Watson, the then deputy leader of the Labour Party, stating that interventions made by Mr Watson had put pressure on officers.<sup>97</sup> Mr Watson responded to the review stating:

It is unfortunate that this review, which contains multiple inaccuracies regarding myself, has been selectively leaked, seemingly to refocus criticism away from the Metropolitan Police.<sup>98</sup>

BBC journalists, and the now defunct website Exaro, were also said to have “prejudiced the investigation” into Beech’s claims.<sup>99</sup> Sir Richard found that information provided by journalists was used by Beech in his interactions with the police.<sup>100</sup>

### *IPCC and IOPC Investigations*

Following the Henriques review, in November 2016, the Metropolitan Police Service referred a number of allegations involving five police officers to the then Independent Police Complaints Commission (IPCC).<sup>101</sup> The allegations related to Operation Midland and Operation Vincente.<sup>102</sup> Some of the allegations were discontinued as it was found that they did not constitute misconduct. However, the IPCC concluded that one matter might constitute misconduct, and this was investigated further.

This investigation focused on the decision to apply for search warrants and the accuracy of the information provided to a court relating to properties linked to the accused in February 2015.<sup>103</sup> The IOPC found “no evidence the police officers investigated had deliberately misled a district court judge but found gaps in processes and systems”. However, it made 16 recommendations to change policing practice in relation to this finding. Responding to the IOPC investigation, Sir Richard has criticised the decision that there was no wrongdoing.<sup>104</sup>

### *MPS Response*

Commenting on its publication of the full Henriques report, the Deputy Commission of the MPS, Sir Stephen House, repeated an apology for the mistakes made during the operation.<sup>105</sup> However, he

<sup>97</sup> Sir Richard Henriques, [An Independent Review of the Metropolitan Police Service’s Handling of Non-Recent Sexual Office Investigations Alleged Against Persons of Public Prominence](#), 31 October 2016, p 143.

<sup>98</sup> Vikram Dodd, [Tom Watson Criticised Over Role in Bungled VIP Abuse Investigation](#), *Guardian*, 4 October 2019.

<sup>99</sup> Sir Richard Henriques, [An Independent Review of the Metropolitan Police Service’s Handling of Non-Recent Sexual Office Investigations Alleged Against Persons of Public Prominence](#), 31 October 2016, p 299; and Henriques Review; and Hayley Dixon and Martin Evans, [Operation Midland Report: the Litany of Failures That Left Scotland Yard’s Reputation in Tatters](#), *Telegraph* (£), 4 October 2019.

<sup>100</sup> Sir Richard Henriques, [An Independent Review of the Metropolitan Police Service’s Handling of Non-Recent Sexual Office Investigations Alleged Against Persons of Public Prominence](#), 31 October 2016, p 142.

<sup>101</sup> Independent Office for Police Conduct, [IOPC Finds Shortcomings in the Handling of Search Warrant Applications in Operation Midland](#), 7 October 2019.

<sup>102</sup> An investigation into an allegation from a different complainant alleging rape by Lord Brittan.

<sup>103</sup> Independent Office for Police Conduct, [IOPC Finds Shortcomings in the Handling of Search Warrant Applications in Operation Midland](#), 7 October 2019.

<sup>104</sup> Hayley Dixon and Martin Evans, [Operation Midland Report: the Litany of Failures That Left Scotland Yard’s Reputation in Tatters](#), *Telegraph* (£), 4 October 2019.

<sup>105</sup> Metropolitan Police, [Statement Re: Sir Richard Henriques’ Report](#), 4 October 2019.

also stated that “we did not agree with everything Sir Richard wrote in his report or indeed all of his recent statements regarding further investigations into the actions of officers”. Focusing on the recommendations, Sir Stephen said that the MPS has already acted on those made by Sir Richard and would “act on those we expect from the IOPC”. He also welcomed the upcoming inspection by HMICFRS (please see below).

### *Further Calls for Scrutiny*

In October 2019, the Home Secretary, Priti Patel, ordered a further inquiry into Operation Midland.<sup>106</sup> Ms Patel asked Her Majesty’s Inspector of Constabulary, Sir Tom Winsor, to undertake an inspection under section 54 of the Police Act 1996 to follow up on Sir Richard’s review. Speaking on the request in the House of Lords, the Minister of State for Countering Extremism and Equalities, Baroness Williams of Trafford, stated that the Government was “determined to ensure that that lessons are learned and that the failings of this investigation are never repeated”.<sup>107</sup>

In addition, following Sir Richard’s review and the report by the IOPC Lord Cormack (Conservative) asked the Government whether it would review the composition and terms of reference of the IOPC.<sup>108</sup> Responding for the Government, Baroness Williams of Trafford, highlighted the planned HMICFRS review, stating:

My Lords, while this is clearly a concerning case, it is vital that an organisation such as the IOPC operates independently of both the police and the Government. The Government have introduced reforms to improve its efficiency and effectiveness, progress has been made and we expect that trajectory to continue. The Home Secretary has asked HMICFRS to conduct an inspection of the Metropolitan Police Service to ensure that lessons have been learned from the issues highlighted. This will take into consideration the IOPC recommendations.<sup>109</sup>

### *Calls for Reform*

Prior to the 2019 general election, the House of Commons Home Affairs Committee opened an inquiry on police conduct and complaints.<sup>110</sup> The inquiry was to examine the role and remit of the IOPC within the police conduct and discipline system. At dissolution, the inquiry was accepting written evidence on the following issues:

- the role and remit of the IOPC within the police conduct and discipline system;
- progress in reforming the complaints system, including speeding up decision making;
- how the IOPC is working with individual forces and policing bodies in order to respond to complaints;
- the need for the IOPC’s new powers, and their expected impact; and

<sup>106</sup> BBC News, ‘[Home Secretary Orders Review into VIP Abuse Investigation](#)’, 3 October 2019.

<sup>107</sup> [HL Hansard, 7 October 2019, col 1985](#).

<sup>108</sup> [HL Hansard, 8 October 2019, cols 2003–5](#).

<sup>109</sup> *ibid*, col 2003.

<sup>110</sup> House of Commons Home Affairs Committee, ‘[Police Conduct and Complaints Inquiry](#)’, accessed 1 November 2019.

- whether further reforms are required to secure public confidence in the police conduct and discipline system.<sup>111</sup>

Speaking on the issue of recent police investigations into allegations of historical child sexual abuse, Lord Lexden (Conservative) has questioned if action can be taken:

By means of strengthened codes of practice or other measures to ensure that police forces throughout our country conduct themselves with absolute propriety and honour when investigating allegations which, if mishandled—and some have been—can ruin the lives of innocent people and besmirch the reputations of the innocent deceased?<sup>112</sup>

Responding to Lord Lexden, Baroness Williams of Trafford highlighted College of Policing guidance regarding prosecutions for false allegations. She also stated that steps should be taken to test the validity of statements and corroborative accounts, with the decision to support a prosecution an operational matter for the relevant chief officer.

## 5. Further Information

- House of Commons Library, [Police Complaints Systems in the UK](#), 14 June 2018
- Bryn Cales and Jane Owens, *Police and Crime Commissioners: The Transformation of Police Accountability*, 2016
- David H Bayley and Philip C Stenning, *Governing the Police: Experience in Six Democracies*, 2016

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<sup>111</sup> House of Commons Home Affairs Committee, '[Police Conduct and Complaints Inquiry](#)', accessed 1 November 2019.

<sup>112</sup> [HL Hansard, 13 September 2017, col 2455](#).