# Raising the standard

A thematic inspection of professional standards

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# Preface

It is impossible to overstate the importance of professional standards activity to the effective functioning of the Police Service and the continued confidence and support of the public it serves. In 1999, in the Her Majesty's Inspectorate of Constabulary (HMIC) thematic report into police integrity, the then Chief Inspector rightly stated that:

> **"There can be no more important qualities for members of the Police Service than that they are honest and act with integrity. Without these basic attributes, the public can never be expected to trust the police and have the confidence in them that is necessary for a system of 'policing by consent'."**

'Professional standards' now encompasses a very broad church of issues that directly or indirectly impact on the organisational health of the Service, and levels of public confidence and support. These issues include the handling of complaints against members of police forces, investigation of professional misconduct, tackling vulnerability to corruption, addressing competence of staff and stamping out discourteous or bullying behaviour, whether towards colleagues or the public.

This comprehensive programme of inspections, carried out in every police force in England and Wales, is testimony to the importance with which HMIC regards the range of activity carried out under the generic heading of professional standards. Uniquely, virtually every member of HMIC staff was involved substantially in the programme's implementation and its results will significantly inform lead staff officers' interaction with all forces for the foreseeable future.

At a time of major change in policing and high-profile scrutiny of police professionalism, the recommendations within this report will contribute substantially to the sustainable improvement of police professional standards. It will be important that they are taken forward through a partnership approach with all the key stakeholders engaged in their implementation.

Encouragingly, the inspection and its findings were greatly influenced and enhanced through the active support and collaboration from those key stakeholder groups through representation on the inspection Reference Group. Members

included the Independent Police Complaints Commission (IPCC), the Association of Chief Police Officers, the Association of Police Authorities, the Home Office and staff associations. Members contributed both their individual and organisational expertise and knowledge, which informed and challenged the inspection team's provisional findings. For this, I wish to thank all involved and I look for such collaboration to continue throughout implementation.

My personal thanks are also extended to the thematic inspection team, regional HMIC colleagues who carried out the individual inspections, police authority members and IPCC representatives who participated or were interviewed, and members of forces at all ranks who provided such a comprehensive body of evidence and good practice.

Sir Ronnie Flanagan GBE MA
Her Majesty's Chief Inspector of Constabulary

# Executive summary

1. The importance of achieving and maintaining high standards of professionalism and discipline within policing has been clearly acknowledged since the emergence of the modern Police Service in the 18th century. The honesty, integrity and professionalism of members of a police force are absolutely key determinants in how the public perceive them and consequently in the degree of confidence and support that is afforded. The British Police Service is built on the foundation stones of public consent and support and, without these, it simply cannot function effectively.

2. The handling by police forces of professional standards issues, and in particular complaints from the public, is one of the few areas within policing where Her Majesty's Inspectors of Constabulary are under a statutory direction to keep themselves informed as to the effectiveness of provision. Successive statutes have reinforced this direction and Her Majesty's Inspectorate of Constabulary (HMIC) has consistently taken its duty very seriously, making inspection of this function a standing element of its core inspection programme in every force.

3. The central importance of this issue was further emphasised by a number of high-profile scandals in the 1990s, and even more recently through the findings of three major reports emanating from two public inquiries, carried out by Sir William Morris and the Commission for Racial Equality, and a thorough review of police discipline procedures by William Taylor.

4. Against this rapidly changing landscape, HMIC resolved to reinforce the importance of the issue and ensure compliance with its statutory duty through a comprehensive programme of inspections of professional standards in every police force in England and Wales. This programme produced a report on the performance of every individual force, which was published as a supplementary report to HMIC's annual baseline assessment of forces for 2004/05. In addition, themes, good practice and issues of national importance have been collated in this thematic report.

5. While the inspection focused on the structures, activities and resourcing of professional standards departments (PSDs), the opportunity was grasped to look at the differences in scope and scale of these particular functions and to identify how related professional standards issues are addressed. For example, few PSDs have routine responsibility for overseeing grievance procedures or

becoming involved in employment tribunal cases, but there are issues in each relevant to the core PSD activities of complaints, misconduct, anti-corruption and organisational learning.

**The structure of professional standards**

6. Professional standards is a complex area of policing that has evolved over many years. Individual forces have developed their PSDs and associated functions in very different ways, producing disparate structures and functional definitions and using different terminology. Despite the issue of guidance by the Association of Chief Police Officers (ACPO) in 2003, forces have largely retained their different approaches. While understandable, given the historical and political contexts, these differences present a threat to effectiveness, in particular in light of the impending transition to strategic police forces, which will require the efficient merger of different cultures and systems.

7. There is an urgent need for a standard template for the structure, functions and terminology used within the professional standards environment. It is pleasing that ACPO has already begun the process of updating their 2003 guidance and has indicated an intention to produce standard templates. However, it is important that all the relevant elements are examined in depth and that the resultant design is fit for purpose in the new policing landscape and is available at the earliest opportunity.

8. It is also vital that the standard template requires that the National Intelligence Model (NIM) intelligence-led approach is embedded across all professional standards functions. This will require dedicated and skilled resources to provide intelligence handling, analysis and appropriate evaluation. The work of PSDs must also be fully integrated into the core business processes of forces, and relationships with basic command units and other departments must be strong, formalised and sustained.

9. As ever, the importance of strong and active senior leadership, personal engagement, effective oversight and support cannot be overstated. This can be enhanced through such bodies as the force's professional standards committee, and perhaps, above all, through the identification and sharing of lessons learnt, both at local and national level.

**Complaints and misconduct**

10. A crucial factor in maintaining the high reputation of policing is the way in which the Service is seen to address complaints and

misconduct, as identified both by the general public and by the workforce. The profile of this aspect of police work has been raised significantly by the establishment of the Independent Police Complaints Commission (IPCC) and the Taylor Review of misconduct procedures.

11. Both developments have highlighted the need for a greater focus on: the accessibility of the system to all parties, not least to those from hard-to-reach groups and minority communities; greater consistency in the capture and recording of complaints; the need for proportionality of approach in responding to reported cases or incidents; and the importance of learning from lessons identified in all aspects of the scrutiny of professional standards to achieve sustainable service improvement. There is much good practice in evidence in all of these areas, although no forces are achieving excellence across the board.

12. In improving accessibility, there is a role for expanding the use of 'mystery shopper' approaches and confidential reporting lines. There is also an opportunity to target the areas of concern identified in the recent survey by the IPCC, which highlighted such issues as fear of consequences and lack of awareness of the processes. Marketing and publicity remain key to promote the work of PSDs, both within forces and externally, and to build trust and confidence among the public, particularly among minority or hard-to-reach groups.

13. There is an unacceptable level of disparity in recording practices, both of initial complaints generally and in the recording of the ethnicity of complainants, as required by statute. Building on the Service's experience of establishing a standard approach to crime recording, there is a strong case for applying a national recording standard for public complaints. The IPCC statutory guidance is a sound basis for progressing this, but HMIC would wish to see a greater level of detail regarding the standard expected and the proposed methods for ensuring and checking compliance.

14. Early and ongoing assessment of individual cases is an essential element in ensuring a proportionate response to their investigation and resolution. Local resolution provides an as yet under-used option that will help achieve early resolution in a large number of cases, which currently take a considerable time to reach a similar conclusion. Addressing unnecessary delays in progressing investigations or decision making will be equally important; HMIC is collaborating with the Crown Prosecution Service (CPS) Inspectorate to specifically examine the delays reportedly created by CPS processes.

15. Another essential element of achieving proportionality will involve a greater use of risk-based decision making. A combination of early assessment and consideration of likely outcomes should allow more rapid decisions based on less comprehensive case files, therefore requiring less resource-intensive investigations. Clearly, any risk-based approach must have appropriate checks and balances supported by good management and oversight, to ensure a healthy transparency.

16. There is a need for complaints and misconduct training for PSD staff, and indeed for line management, to be improved, and, with the likely changes to the discipline codes resulting from the Taylor Review, the case for a nationally accredited training package is strengthening.

**Anti-corruption**

17. Since the establishment of the ACPO presidential task force on police corruption, in 1999, the Service has developed highly professional and effective anti-corruption investigation teams in virtually every force. These units are overwhelmingly organised under NIM principles, usually with dedicated analytical capacity and access to covert and other intelligence-gathering capabilities.

18. The compilation of a national strategic threat assessment, carried out for the Service by the National Criminal Intelligence Service (NCIS) in 2004/05, made a significant contribution to the targeting of force and unit activity. The major threats identified in respect of professional standards were information leakage, in particular using intelligence or information for personal gain or passing it on to associates; infiltration of the organisation, which is an increasing threat in the ever-widening 'police family'; and substance misuse, with its associated risks of coercion and targeting for blackmail.

19. Only 29 forces contributed in 2004/05, and so the exercise was not repeated by NCIS in 2005/06. However, the same issues remain the key threats to professional standards and should form the core of local threat assessments. It is vital both nationally and locally that all forces undertake their local threat assessments and that their findings are willingly and readily submitted for national collation and analysis.

20. In view of the threats, it is vital that all forces review their operational security arrangements, to ensure integrity and confidentiality of sensitive information. It is also important that a similarly thorough review is undertaken of the arrangements for

staff vetting and identification of potential staff vulnerabilities, including the creation of a clear policy on substance misuse. These activities represent key measures in preventing and identifying corruption or vulnerability.

21. Inevitably, many of the anti-corruption investigations require highly specialised skills and equipment. It is important that all staff deployed in these investigations are appropriately trained, and HMIC recommends that such training should meet national standards and be accredited accordingly. In addition, the decisions to deploy covert equipment or tactics must be subject to extremely careful consideration and comply fully with all the relevant legislation.

**Other professional standards processes**

22. While not universally included in the remit of PSDs, the importance of at least monitoring unsatisfactory performance procedures, employment tribunals (ETs), grievances and civil actions should not be underestimated. The same is true of the use of 'stop and account' and complaints relating to employment equality issues. Analysis of these processes can provide a useful insight into the 'health' of an organisation and will support organisational learning and thereby the prevention of repeated mistakes or problems.

23. The inconsistency in scope of PSDs leaves responsibility for, and therefore usually transparency of, these procedures outside PSDs. It is important that every force ensures that there are strong links between all the departments or units involved in these procedures to ensure appropriate organisational learning, both at local and national level.

**Police staff**

24. It may seem to some observers rather unusual that within one organisation two very different systems operate to investigate wrongdoing by staff. In many forces, PSD staff do not possess the necessary skills to manage the police staff misconduct procedure effectively. Often the PSD and human resources departments deal with different parts of the police staff discipline process, and this can lead to delay and confusion. This matter was highlighted in the HMIC thematic report *Modernising the Police Service* in 2004, and yet the necessary changes have not yet been made.

25. The issues and drivers for change highlighted above all require a concerted effort to ensure progress towards a more consistent and fair system for police staff. To achieve the change required will be a major challenge for the Service, police authorities and the Home

Office. Police staff trade unions must not be left out of the consultation and investigative process, and police staff should not be interviewed inappropriately, through the use of techniques that some say are oppressive and disproportionate.

26. Outcomes and sanctions are in need of alignment, and although work is ongoing nationally to achieve this by amending police regulations, a sustained effort is needed to bring systems for police officers closer to those of the private sector and police staff.

**Welfare and support of staff**

27. The disciplined nature of the Service demands high standards and, rightly, makes it ever-easier for members of the public, or indeed colleagues, to lodge complaints or allegations of misconduct. The Service and police authorities have a duty of care to all their staff involved in this process, whether they are the subject of a complaint or a witness to the alleged misconduct.

28. There are at present four different procedures for providing those who are the subject of a complaint with a 'friend', to provide advice and support, depending on whether the accused is a chief officer, superintendent, federated rank or police staff member. Unsurprisingly, the Police Federation, which represents the greatest numbers of accused officers, has the most comprehensive friending structures at force level. Friends for superintendents and chief officers are drawn from nationally maintained panel lists. However, for police staff it very much depends on whether they are members of a trade union.

29. HMIC commends the support given by friends throughout the differing procedures, but, in an era of an increasingly 'mixed-economy', modernised workforce, the proportion of police staff is increasing, and their roles leave them increasingly vulnerable to complaint. It seems only right that the respective procedures, the funding of training, the provision of friends and the availability of support across the workforce should be the subject of holistic consideration, to achieve fairer access to this important service.

30. As well as considering staff within forces, it is important to recognise that at any given time in excess of 1,700 police officers of all ranks are seconded away from their forces, in some cases away from the UK altogether. It is all too easy for home forces to lose track of their seconded staff and for the relevant staff to therefore lack appropriate advice and support when they are the subject of a complaint or other suspicion or allegation. At present, the Police

Advisory Board for England and Wales is progressing formulation of standard terms and conditions and a template approach for seconded officers, to ensure consistency and visibility. HMIC commends this approach and fully supports the template approach.

31. Lastly, but by no means least when considering staff welfare, are those officers and police staff who work within PSDs and have the unenviable task of dealing with allegations against their friends and colleagues. It is important that managers and chief officers recognise the inherent pressures and give full consideration to issues of tenure, rotation and reintegration packages when PSD staff return to mainstream roles.

**Learning the lessons**

32. A vital measure of the health of any organisation is its capacity to learn lessons from previous events, good or bad, and feed these into continuous improvements in service delivery. While there is evidence in most PSDs of a desire to capture organisational learning, this is hampered more widely by the lack of national consistency and of any national forum for learning the lessons.

33. Pleasingly, there are examples of very good practice in individual forces, but often learning is not sufficiently structured and there are gaps in capture, in particular in respect of potential lessons from ETs and civil cases.

34. In addition to learning lessons from incidents, the analysis of performance and management information is crucial to any structured improvement process. In the case of professional standards, while there has traditionally been a plethora of data categories captured nationally, few have proved highly relevant to performance improvement in the key service delivery areas, and, in any case, the disparity in recording approaches and practices has rendered any comparison largely invalid.

35. The IPCC has taken over responsibility from the Home Office for collection and publication of professional standards data. Together with ACPO, the IPCC will be seeking to identify a more helpful basket of measures. This work needs to be progressed quickly to provide consistent, valid and relevant comparative capability.

**Oversight and inspection**

36. While the roles of police authorities and the IPCC in this regard were not subject to formal inspection, it is possible from the information gathered to identify the areas where good practice is obvious and relationships and activities add value to the processes being

scrutinised. ACPO, the Association of Police Authorities (APA) and the IPCC are all engaged in parallel work to revise or replace existing guidance to their members or staff on professional standards. HMIC is happy to be contributing to each revision process and supporting a collaborative and mutually consultative approach.

**The way forward**

37. This programme of inspections took place at a time of unprecedented change and volatility within policing generally and professional standards in particular. There is a great deal of work under way at national level, both as a result of the inspection findings and emerging from recent public inquiries and targeted reviews.

38. ACPO is looking afresh at the overall structures and objectives within professional standards and a working group is progressing standardised definitions and templates for PSDs, in the context of a restructured Service and applying the principles of 'protective services'. The IPCC is looking to embed and assess the impact of its statutory guidance and the in-built performance standards. The APA is rewriting its guidance to authorities to encourage a consistency of approach and a greater overall engagement with professional standards in forces. And HMIC is working with the Service to redefine the definition of good practice within the specific grading criteria for baseline assessment of forces' individual and comparative performance.

39. It is absolutely vital that all this activity achieves a synergy rather than duplicating effort, pulling in different directions or leaving gaps in delivery. It is only in so doing that the Service can hope for a sustainable improvement in effectiveness and, to achieve such synergy, there is a need for a dedicated forum with full stakeholder membership to oversee and inform the progress of the various strands of activity.

40. 'Professional standards' is about more than simply a process for handling public complaints or allegations of misconduct. It goes to the very heart of police service delivery and is fundamental to the continued confidence of the public and their support in core business delivery. It is too important to every aspect of policing to allow the focus upon it to become lost or swept away within the overall volatility of the policing landscape. This report and its recommendations can play an important role in maintaining that focus on professional standards but it will be the demonstrable continued commitment of all elements of its governance structure that will decide its future success.

# Recommendations and suggestions

## Recommendations

**Recommendation 1**

The Association of Chief Police Officers (ACPO) should lead a project to establish and promulgate a standard template for the structure, functions and terminology used within professional standards, having regard to, and in anticipation of, the restructuring of the Service into strategic police forces.

**Recommendation 2**

All forces should embed the National Intelligence Model across every aspect of professional standards and have direct and robust links between professional standards departments and the core business processes of the force.

**Recommendation 3**

Chief officers[1] should establish methods of testing processes, systems and staff, for example by using mystery shoppers, to ensure that they are able to record and process complaints against the police in a timely and efficient manner.

**Recommendation 4**

Chief officers should review policy in relation to disciplinary sanctions and subsequent payment of competency-related threshold payments (CRTPs) and special priority payments (SPPs). They should ensure that the principles espoused in the Taylor Review are reflected in this policy and that disciplinary sanctions and the payment of CRTPs and SPPs are kept entirely separate.

[1] The term 'chief officers' includes Chief Constables and Commissioners.

**Recommendation 5**

Strategic threat assessments, at both local and national levels, should be completed by all forces in accordance with the timescales and reporting periods set by the National Criminal Intelligence Service (NCIS) (or by NCIS's replacement, the Serious Organised Crime Agency). Assessments should draw on intelligence from, and subsequently inform, all the business areas within the professional standards environment, including complaints, civil actions, claims against the force, security issues and vetting.

**Recommendation 6**

Subject to the findings from the pilot, Centrex,[2] in agreement with the ACPO PSC (ACPO's Counter-Corruption Advisory Group), should develop a nationally accredited course for anti-corruption staff to cover the skills areas specific to the role.

**Recommendation 7**

ACPO and the Home Office should ensure that there is a coordinated approach to the ongoing research into the disproportionate number of investigations conducted into officers from black and ethnic minority backgrounds.

**Recommendation 8**

Forces should cease to use executive authorities and – depending on the circumstances – either utilise the existing Regulation of Investigatory Powers Act 2000 (RIPA) legislation to authorise surveillance methods or use lawful business monitoring methods.

**Recommendation 9**

Forces should apply the full effect of the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 to all monitoring or recording of transmissions on telecommunication systems used wholly or partly for Police Service business, unless authority for such action is granted by RIPA.

[2] Centrex – the Central Police Training and Development Authority.

**Recommendation 10**

Chief officers should review their operational security arrangements to guarantee that measures are in place to ensure the integrity and confidentiality of sensitive information and that operational security is thoroughly maintained.

**Recommendation 11**

Chief officers should carry out an analysis of current vetting structures within their force and, where gaps exist, move towards being fully compliant with ACPO's vetting policy no later than April 2007.

**Recommendation 12**

The Home Office should determine a nationally agreed grievance procedure.[3]

**Recommendation 13**

Chief officers should review all forms used in misconduct proceedings and unsatisfactory performance procedures to ensure that they are fit for purpose, contain all the necessary information, and comply with employment legislation and police regulations.

**Recommendation 14**

The Police Superintendents' Association of England and Wales should, in collaboration with police forces, explore the option of introducing a cadre of retired superintendents whose services could be employed on a retainer basis as friends.

**Recommendation 15**

Centrex should clarify its policies and procedures concerning seconded members and work to improve the information provided before induction and increase the level of awareness among staff of their personal and professional responsibilities following appointment.

[3] This was also a recommendation in the Commission for Racial Equality formal investigation into the Police Service of England and Wales, March 2005 (recommendation 80).

**Recommendation 16**

The Home Office should review the legislation relating to officers on secondment to achieve transparency, clarity and consistency. Secondments should be subject to central registration and recording.

**Recommendation 17**

The Independent Police Complaints Commission (IPCC) should, in consultation with ACPO, the Home Office, the Association of Police Authorities (APA) and key stakeholders, agree a national standard for the recording of complaints and a programme of implementation and monitoring of compliance, without adding unnecessary layers of bureaucracy or other impediments to improving police performance.

**Recommendation 18**

ACPO should work in partnership with the IPCC, the APA, HMIC and other stakeholders in the design and implementation of a robust and transparent performance framework which is subject to routine internal and external oversight and monitoring.

**Recommendation 19**

ACPO, APA, IPCC, the Home Office and HMIC, as the key stakeholders in the implementation of this thematic's recommendations, should establish a dedicated implementation group to regularly review the progress of recommended action and address any barriers to implementation.

## Suggestions

### Suggestion A

It is suggested that, in the revised ACPO PSD guidance, the role of a professional standards committee is defined to enable forces to ensure that their own strategic groups address professional standards issues appropriately. It is further suggested that all forces develop professional standards subgroups at basic command unit (BCU) level to improve communication between BCUs and PSDs.

### Suggestion B

ACPO should include consideration of appropriate levels of resourcing for PSDs in the work it has already started on structures and terminology (see recommendation 1).

### Suggestion C

There is the potential for ACPO to identify a national standard package, or perhaps for Centrex or the National Policing Improvement Agency (NPIA) to fill this void, or to use the experience of the training provider to develop a national programme delivered regionally to professional standards practitioners, superintendents and ACPO. The case for training is even more imperative in the light of potential changes to the discipline code, which are likely to be implemented in 2007.

### Suggestion D

Chief officers should review audit arrangements currently in place in respect of IT systems and put in place measures to ensure that all internal systems are both capable of audit and audited in order to prevent unauthorised access and information leakage.

In addition, a member of the ACPO team should be a suitably qualified professional chief information officer, taking responsibility for information management and information and communications technology, which includes data quality, information security, data protection and freedom of information.

### Suggestion E

In view of the forthcoming force restructuring, before any further police funds are spent purchasing vetting databases that may prove to be incompatible, the ACPO PSC should carry out a review of vetting databases. Any review should take into account the feasibility of a national product.

### Suggestion F

In view of the recent legislation and the threat posed to the Service by drug misuse, forces should now be treating the area of drug testing as a professional standards priority. They should have fully human-rights compliant and integrated policies in place no later than January 2007.

### Suggestion G

All forces should have a service confidence policy in place by January 2007.

### Suggestion H

Centrex should make better use of the management information available from records of the unsatisfactory performance and misconduct processes.

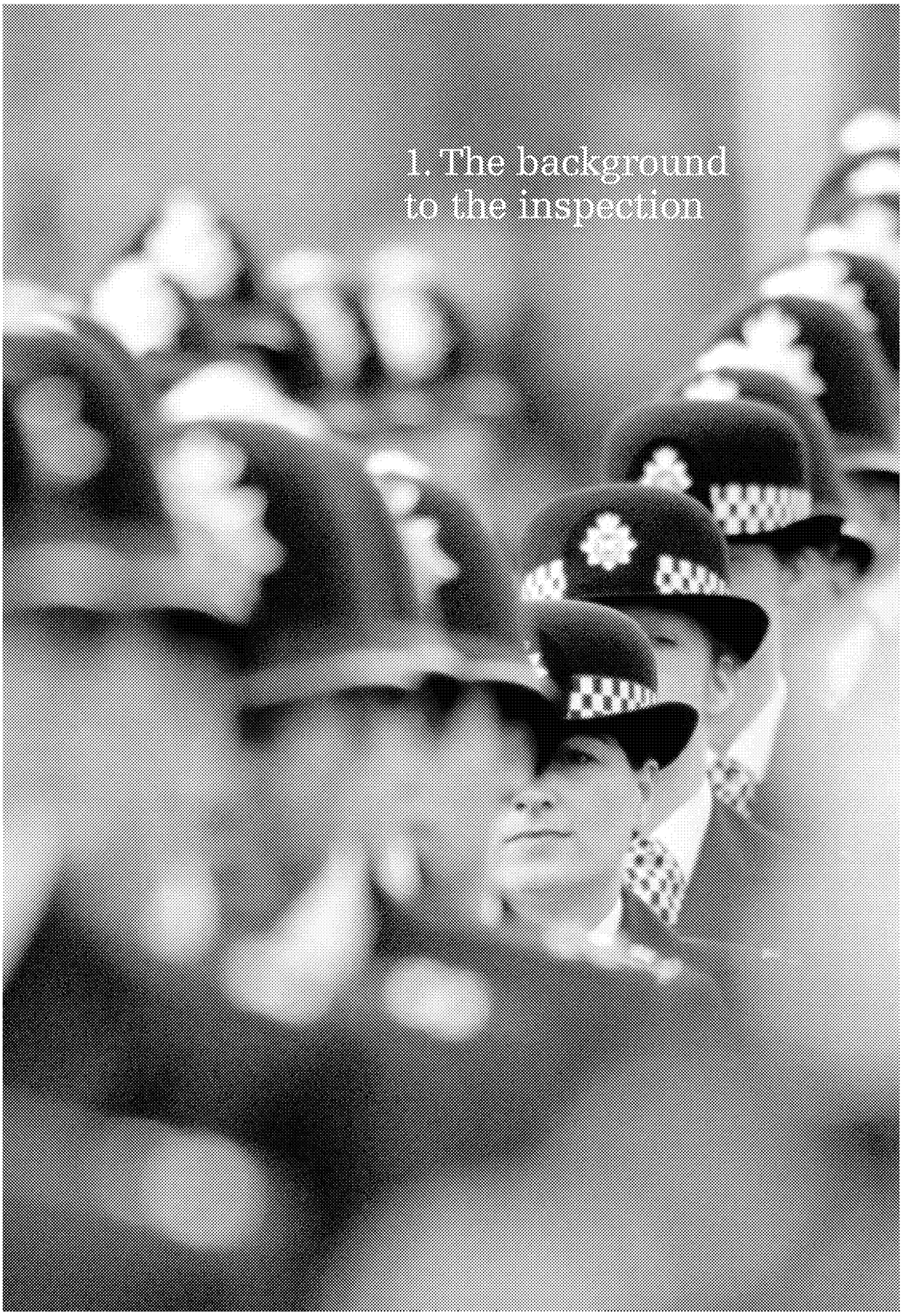
### Suggestion I

The Police Advisory Board for England and Wales (PABEW) should ensure that the secondment template recognises the increasing and diverse secondments available and ensures that:

- secondees are appropriately supported during the secondment;
- there is a named central contact within each seconding-out force;
- each seconding-in unit has a central role, with responsibility for management of secondees; and
- the secondment template agreement is completed between the two organisations and the secondee prior to commencement of the secondment (subject to exigencies of urgent demand).

**Suggestion J**

Stakeholders, including the APA, the IPCC, HMIC and NPIA, should devise a nationally accredited training package for members, chairs and officers of police authority professional standards panels, to ensure that they are fully equipped to deal with the complex issues surrounding professional standards and related issues such as civil litigation.



# 1. The background to the inspection

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**Introduction**

1.1 The creation of statutory police forces throughout Great Britain in the early 19th century marked a major change in the history of law enforcement. For hundreds of years, 'constables' had been disorganised, inefficient and not infrequently corrupt. The creation of the 'New Police'[4] – starting in 1829 – was certainly necessary to cope with the consequences of the industrial revolution and massive urban expansion, but it created a great unease, as reported by a Select Committee in 1822:

> **"It is difficult to reconcile an effective system of police with that perfect freedom of action and exemption from interference, which are the great privileges and blessings of society in this country..."**

1.2 In short, the fear was of creating an instrument that could serve the ends of tyranny – improving the efficiency of the previously unthreatening police systems could result in some form of 'police state'. The task presented to the Government of the day was how to create an impartial force, free from external influence, while also providing it with some form of external control. The compromise was to retain the independence of the post of constable and also the traditional subordination to the Justices. In addition, responsibility for equipping, paying and appointing the police was given to local authorities.

1.3 By 1856, the establishment of police forces in every county and borough was made compulsory, the responsibilities of local authorities were increased and Her Majesty's Inspectorate of Constabulary (HMIC) was created, to monitor efficiency and effectiveness. In effect, the seeds of the modern Police Service and governance structure were all in place.

1.4 Since that time, the public has voiced two main questions about the activities of the Police Service. First, does it tackle crime and disorder effectively, to protect life and property? Second, in part reflecting the earlier concerns, do officers behave in a way that befits the professionalism, ethics and discipline expected of police constables? The latter area of concern has arguably taken even greater prominence as the powers bestowed on constables and now police staff, by virtue of their role, have increased substantially.

[4] The 'New Police' were the forces created from 1829 to 1856 as the Government's response to mob violence and rising crime.

1.5 Traditionally, one of the most effective external checks and balances on the behaviour of police officers has been the structured process open to every member of the public to make a complaint against the police should they believe that misconduct has occurred. Acting on such complaints, investigations have led, where appropriate, to staff being subject to disciplinary procedures, criminal or civil prosecution and/or dismissal from the Service.

1.6 Through experience, negotiation and planning, the police discipline code has emerged to provide a consistent context within which to consider any allegations of professional misconduct. Every force in England and Wales has a long-established specialist department for dealing with discipline and complaints issues. In parallel, procedures for dealing with lower-level incompetence and higher-level criminality have also evolved, usually with the former being handled within personnel or human resources (HR) departments and the latter (though rare) linking directly into the existing mainstream criminal investigation process.

1.7 The importance of having effective complaints and misconduct procedures has been evidenced by their high profile within the oversight of policing provided by HMIC. In fact, complaints procedures have come to hold a genuinely unique significance.

**The unique importance of complaints against the police**

1.8 The handling of complaints against the police is one of the only areas within policing where HMIC is under specific statutory direction. The monitoring of discipline has featured in the annual reports of HMIC since 1945. The Willink Commission of 1962[5] considered that, while discipline and complaints seemed to be handled well by forces, there was a strong case for HM Inspectors of Constabulary (HMIs) to be placed under a duty to inspect 'complaints books', the divisional registers of complaints made. The same report recommended that complaints books should also be opened for inspection by the police authority. This recommendation resulted in section 50 of the subsequent Police Act 1964, which stipulated:

> **"Every police authority in carrying out their duty with respect to the maintenance of an adequate and efficient police force, and inspectors of constabulary in carrying out their duties with respect to the efficiency of any police force, shall keep themselves informed as to the manner in which complaints from members of the public against members of the force are dealt with by the chief officer of police."**

[5] The Royal Commission on the Police, 1962.

1.9 This statutory responsibility was reinforced in section 95 of the Police and Criminal Evidence Act 1984, which also introduced the Police Complaints Authority, and yet again in the Police Act of 1996 (section 77), which states:

> **"... Inspectors of Constabulary in carrying out their duties with respect to the efficiency and effectiveness of any police force shall keep themselves informed as to the working of sections 67 to 76 in relation to the force" [where sections 67 to 76 relate to the handling of complaints against the police].**

1.10 The Police Reform Act 2002 introduced major changes in the professional standards environment, not least through the establishment of the Independent Police Complaints Commission (IPCC). However, the Act again reinforced the responsibility of HMIC in respect of professional standards by stating (section 15(1)(c)):

> **"It shall be the duty of... every Inspector of Constabulary carrying out any of his functions in relation to a police force, to ensure that... he is kept informed, in relation to that force, about all matters falling within subsection (2)" [where subsection (2) relates to any provision of, matters relating to, act or obligation under, or contravention of Part 2 of the Police Reform Act – Complaints and Misconduct].**

1.11 Hence major legislation has consistently reinforced the responsibility placed on HMIs, and indeed on police authorities, to scrutinise the effectiveness of police complaints systems. In response, information on complaints against the police has featured in all HMIC's force inspection reports and in HM Chief Inspector of Constabulary's (HMCIC's) annual reports, at least prior to 2003. The statutory duty was fulfilled by ensuring that formal inspection of professional standards, including complaints, formed a standard element of all force inspections. An inspection was undertaken in every force at least once every three years – more often for most forces – depending on the risk-assessed frequency of individual force inspections. The inspection was against a standard framework of questions and formed part of the published force report.

**The emergence of professional standards departments**

1.12 During the 1990s, following a number of high-profile scandals, the focus on misconduct was broadened to address the increasing concern over corruption within the Service. The subject of this broader focus was labelled 'professional standards', and its

importance was highlighted in the HMIC thematic report *Police Integrity* (1999). This report led to major advances in how the issue of maintaining professional standards was, and still is, approached (see also Chapter 4).

1.13 At the time of the 1999 report, the Association of Chief Police Officers (ACPO) established the presidential task force on corruption. At that juncture, only a very few forces possessed any dedicated capability to address anti-corruption issues. Through the work of the task force, latterly carried out by ACPO's Professional Standards Committee, the need for this capability in all forces was recognised and capacity now exists in every force to tackle alleged corruption.

1.14 Almost without exception, anti-corruption units have been merged with existing complaints and discipline departments and renamed as professional standards departments (PSDs). HMIC redesigned its inspection regime to take account of the broader scope of these departments, and their effectiveness remained a feature of published police force inspection reports until 2003.

**The impact of HMIC's baseline assessment methodology**

1.15 Baseline assessments (BAs) combine qualitative professional judgement with the quantitative data of the Home Office's Policing Performance Assessment Framework (PPAF). Areas of underperformance are then subjected to more detailed inspection. The BA model has been refined since the October 2005 assessments, with 21 frameworks being proposed for 2006. With the advent of HMIC's BA methodology in 2003/04, however, the pattern of inspection of professional standards was threatened. While one of the frameworks relates directly to professional standards, it was recognised that BA is a high-level, diagnostic assessment and not an inspection, and therefore it does not achieve the depth of checking that the previous regime provided. BA focuses attention on areas of service delivery where performance has been identified and/or accepted by the force as poor. The referral of professional standards to HMIC for specific scrutiny was likely to become a rare exception rather than an integral part of every inspection. There would, therefore, be a danger of the subject being 'out of sight, out of mind'.

1.16 As if to confirm this danger, the BA results for 2003/04 produced a resounding endorsement of the general high quality of PSDs. Of the 43 forces assessed, 16 were graded as *Excellent*, 19 were *Good*, 8 were *Fair*, and none were assessed as *Poor*. Overall, scoring against the framework of questions for professional standards made it the

policing service with the second highest grading of all those assessed. With hindsight, however, it is important to note that this assessment really focused on just complaints and misconduct, to the virtual exclusion of the anti-corruption element, was carried out before implementation of the IPCC, and was against a far lower expectation of proactivity. Nevertheless, the police professional standards environment **appeared** to be in good shape.

**The changing landscape of professional standards**

1.17 It was interesting that, at a time when HMIC scrutiny looked to be decreasing, the whole subject of police professional standards was once more in the headlines – for all the wrong reasons. Following the impact of the Police Reform Act 2002, between December 2004 and January 2005 three significant reports were published in response to major concerns and events.

*The Morris Inquiry*

1.18 In December 2004, the Morris Inquiry published its report into professional standards and employment matters in the Metropolitan Police Service (MPS). The inquiry was commissioned by the Metropolitan Police Authority (MPA). Chaired by Sir William (Bill) Morris, recently retired General Secretary of the Transport and General Workers Union, the investigation was conducted independently of the MPA and the inquiry report and recommendations were published at the same time as they were presented to the authority. Sir Bill Morris said:

> **"The Metropolitan Police Service is the shop window of British law enforcement agencies and its professional standards and workplace relationships must be a beacon for others to follow and a model of best practice.**
>
> **"The focus of this inquiry is the MPS and not one or two high-profile cases. The inquiry is about professional standards and workplace issues; it is not about race and community policing, but in order to enjoy trust and confidence, a modern police force needs to reflect the community it serves."**

1.19 The report made 37 recommendations based on:

- enhancing the role of constable;
- people issues;
- managing difference;
- governance, accountability and scrutiny;
- professional standards;

- the capacity to deliver;
- building capacity; and
- lessons for the future.

*The Commission for Racial Equality Inquiry*

1.20 In March 2005, the Commission for Racial Equality (CRE) published the final findings and recommendations of its formal investigation into the Police Service of England and Wales. The report made 125 recommendations. Sir David Calvert-Smith, who led the investigation, said:

> **"There is no doubt that the Police Service has made significant progress in the area of race equality in recent years. However, there is still a long way to go before we have a service where every officer treats the public and their colleagues with fairness and respect, regardless of their ethnic origin."**

1.21 The investigation was mounted after concerns raised about the MPS's investigation of the murder of Stephen Lawrence, a black teenager, and the BBC documentary *The Secret Policeman*, which revealed police officers in training school demonstrating racist behaviour. According to CRE on their website:

> **The Police Service is like a permafrost – thawing on the top, but still frozen solid at the core.**

*The Taylor Review*

1.22 In January 2005, the Taylor report into disciplinary arrangements for the Police Service in England and Wales was published. The review was commissioned by the Home Office and conducted by the former HMCIC for Scotland, William (Bill) Taylor. The Taylor Review took into consideration findings from both the Morris and the CRE inquiries and made recommendations that discipline arrangements should remain under the control of Parliament to ensure national consistency and citizen focus, but that they should be brought into line with modern management practice.

1.23 The report recommended that regulations should follow the good practice laid down by the Advisory, Conciliation and Arbitration Service (ACAS) code of practice on disciplinary and grievance procedures, and stated that:

> **"This will bring modern management practice into police discipline and is supported by stakeholders."**

1.24 Home Office Minister Hazel Blears said:

> **"The Government agrees with the recommendations and [that] an effective, accountable Police Service which commands public confidence needs a more professional approach to disciplinary procedures."**

1.25 The report made six recommendations[6] aimed at modernising the discipline system and bringing it more into line with the private sector while retaining a statutory framework. The aim was to encourage a cultural and actual change in the police complaint and discipline environment that would offer benefits to all parties (see Appendix A).

**The changing role of key stakeholders**

1.26 In considering the impact of changes in assessment regimes and public scrutiny, it is also important to reflect on the increasing degree of stakeholder scrutiny and activity. Professional standards are a crucial element of policing service delivery, and so, unsurprisingly, all major stakeholders have a keen and active interest in their monitoring and oversight. On the positive side, this interest provides a high profile for the issue, but, conversely, with so many groups showing an interest there is considerable potential for duplication and excess scrutiny.

1.27 Organisations such as the Information Commissioner's Office, the Audit Commission and the Surveillance Commissioner's Office all display some interest in professional standards work, but, in addition to HMIC, there are three key stakeholder groups that are involved in direct control or oversight:

- **chief officers**, who lead and manage not only staff who are the subject of allegations or suspicion, but also those who carry out most investigations;
- **police authorities**, who, like HMIC, have a statutory obligation to provide oversight to the whole professional standards function; and
- **the IPCC**, which is responsible for ensuring that suitable arrangements are in place for dealing with complaints or allegations of misconduct.

The full responsibilities of each of these groups are set out in more detail in Chapter 9 of this report, but, in brief, their respective responsibilities are as follows.

[6] One had a number of sub-recommendations.

*Chief officers*

1.28 Supervisors and managers at all levels within the Police Service are expected to provide both leadership by example and a robust measure of quality assurance and challenge. In addition, the responsibilities of chief police officers are to:

- keep themselves informed about complaints and conduct matters within their force;
- ensure a timely response to complaints;
- ensure that complaints and conduct matters are properly handled and recorded; and
- ensure that complainants, officers and staff are regularly informed of progress.

1.29 The regulations concerning public complaints apply to police officers, police staff and members of the Special Constabulary. Although the police authority is the 'employer' of police staff, in practice day-to-day responsibility for the management, supervision and discipline of police staff is delegated to a chief officer.

*Police authorities*

1.30 Police authorities provide strategic oversight of their respective forces and accountability to local communities. Each authority has an overarching responsibility to maintain an efficient and effective police force in its area. The police authority sets the annual budget and, together with the Chief Constable, it also sets the strategic priorities for the force in the annual policing plan.

1.31 As far as professional standards are concerned, police authorities have a duty to keep themselves informed of matters relating to complaints about the conduct of police officers. They are also the 'appropriate authority' for recording and, with the IPCC, for dealing with complaints against chief officers. Together with chief officers, they are also responsible for dealing with complaints relating to the direction and control of the police force (see Chapter 2).

*The Independent Police Complaints Commission*

1.32 The IPCC was set up in April 2004 to replace the Police Complaints Authority. Its key purpose is to increase public confidence in the system for dealing with police misconduct and complaints by acting independently and improving the efficiency and effectiveness of that system and of the Police Service as a whole.

1.33 The IPCC may choose to investigate the most serious incidents independently, or to manage or supervise a police investigation. The majority of complaints and allegations of misconduct continue

to be handled by the police; however, the new system has safeguards built in which allow complainants to appeal to the IPCC at various stages of the complaints process.

1.34 Under the Police Reform Act 2002, the IPCC has been given a 'guardianship' role to increase confidence in the police complaints system and, in so doing, to contribute to increasing confidence in policing as a whole. It has identified four key elements to the guardianship role:

- setting, monitoring, inspecting and reviewing standards for the operation of the police complaints system;
- promoting confidence in the complaints system among the public and the police;
- ensuring the accessibility of the complaints system; and
- promoting policing excellence by drawing out and feeding back learning.

**The programme of professional standards inspections**

1.35 Conscious of the significant changes ongoing within the professional standards environment, in January 2005 HMIs agreed that full inspections of all force PSDs, including their handling of complaints and misconduct, would take place as a coordinated programme during the final quarter of 2005. It was also agreed that there would be a standard approach to such inspections, to provide the opportunity to extract comparative performance information and to allow nationally relevant issues to be identified.

1.36 HMIs were also keen that the programme should serve the respective requirements of all the key stakeholders, both for mutual information purposes and, importantly, to avoid repetitive work by individual organisations.

1.37 Stakeholder involvement took two forms:

- participation as interviewees; and
- membership of the inspection reference group that advised the inspection team.

1.38 Within the inspection programme, the team interviewed chief officers and police authority members as key interviewees during each of the force visits. Representatives from ACPO and the Association of Police Authorities (APA) were also interviewed at the national level, to identify cross-cutting issues of concern. The IPCC was regarded as outside the remit of the team as far as an actual inspection was concerned, but the opportunity was taken to encourage the involvement of commissioners in fieldwork and in

commenting on forces' performance. The four IPCC regional directors were also interviewed about trends or generic issues of concern in their work.

1.39 HMIC formed an inspection reference group, with members from ACPO, the APA, the Home Office and the IPCC. Key objectives for the group were to help design the inspections to target the areas of greatest interest or risk, and to ensure that the programme itself addressed as many of the stakeholders' needs as was practicable. To achieve this, the reference group contributed to the statement of stakeholders' responsibilities and to the objectives and terms of reference for the inspection (see Appendix B).

**The structure of this report**

1.40 The following chapters set out the key elements that were the focus of the inspection and the findings of what was HMIC's largest ever thematic inspection of the Police Service of England and Wales.

1.41 Chapter 2 examines the strategic picture and discusses what a professional standards structure should look like based on ACPO guidance.[7] It then reports the inspection findings, and recommends a new and improved model that takes into account contemporary issues and the emergence of the IPCC.

1.42 Chapter 3 concentrates on complaints and misconduct. It examines the impact of the IPCC, the accessibility of the system, local resolutions and the proportionality of investigations, as well as the need to use an intelligence-led approach and proactive measures to reduce complaints and increase public confidence.

1.43 Chapter 4 focuses on anti-corruption and the advances in this area since the last HMIC thematic inspection in 1999.[8] It highlights the importance of the National Intelligence Model, strategic threat assessments, strategic forces, and major prevention measures such as vetting, drugs screening and the audit of IT systems.

1.44 While Chapters 3 and 4 cover the vast majority of professional standards issues, at least in terms of volume of work for PSDs, they do not represent the full picture. Chapters 5 and 6 feature unsatisfactory performance and grievance procedures, civil actions and employment tribunals, as well as focusing on the very different processes in place for police staff, as opposed to police officers.

[7] *A Professional Standards Department: Guidance on Philosophy, Structure and Resource Implications*, ACPO, 2003.

[8] *Police Integrity: Securing and Maintaining Public Confidence*, HMIC, 1999.

1.45 Chapter 7 looks at the important issue of providing support to, and ensuring the welfare of, those staff members who are affected by the complaints system, whether as a result of being accused of misconduct, being called as a witness to misconduct, or working within the department that deals with these cases.

1.46 Chapter 8 emphasises the importance of learning lessons from events, good practice and the analysis of performance and management information. Chapter 9 explores in greater detail the respective oversight and corporate governance roles of chief officers, police authorities and the IPCC. And, finally, Chapter 10 considers the way forward for implementing the findings of the inspection.

**The attached CD-ROM**

1.47 In addition to the printed versions of this report, the full text is also available electronically on a CD-ROM and on HMIC's website at www.inspectorates.homeoffice.gov.uk/hmic

1.48 Included on the CD-ROM is a significant portion of the evidence gathered during the programme of inspections, relating specifically to potential good practice. Normally, to qualify as 'good practice' initiatives would need to have national relevance and to have been subject to evaluation. For the purposes of this inspection, the Reference Group asked that **all** practices and initiatives flagged as potential good practice should be circulated regardless of national relevance or evaluation. Members felt it was an opportunity to stimulate free exchange of ideas and allow individual forces to make their own judgement on their colleagues' initiatives.

1.49 In view of this, HMIC has included all potential good practice on the CD-ROM but would emphasise that initiatives described may not have been subject to evaluation and hence should not be considered as endorsed or promoted by HMIC for wider implementation.

# 2. The structure of police professional standards

# 2: The structure of police professional standards

**Introduction**

2.1 The last significant change in the structure of police force departments dealing with complaints and misconduct was in 1999, following the production of the HMIC thematic report *Police Integrity: Securing and Maintaining Public Confidence*. The report followed a catalogue of high-profile cases of police corruption and was a catalyst for the subsequent change. Prior to 1999, most police forces had departments known predominantly as 'complaints and discipline departments', and these worked in a mostly reactive way. After 1999, forces began to establish a more proactive capability to counter corruption, and these departments usually became known as 'professional standards departments' (PSDs).

2.2 HMIC's thematic report looked beyond corruption, taking in issues of integrity, probity, fairness, behaviour, equal treatment and a range of allied operational and managerial issues. Overall, the main findings were positive:

> **"The public has a right to expect a high standard of behaviour from its Police Service, and generally speaking the Inspection confirmed the vast majority of men and women – police officers, civilian support staff and special constables – working within the 44 police forces in England, Wales and Northern Ireland are honest, industrious and dedicated."**

2.3 However, it was not all good news:

> **"Regrettably, the Inspection found failings in the Service, some minor and others quite serious, all of which need to be addressed so that public confidence can be re-established and the good reputation of the Service restored."**

2.4 The report made 11 recommendations in total, and resulted in the Association of Chief Police Officers (ACPO) establishing the presidential task force on corruption. Through the work of the presidential task force (later carried on by the ACPO Professional Standards Committee (PSC)), proactive capabilities were established in all forces; however, the degree to which this happened varied across the Police Service.

2.5 The move towards a greater proactive capability saw the 43 forces in England and Wales taking different approaches. Some of the differences were cosmetic, with different forces using different department names – internal affairs instead of professional standards, for example. However, some of the differences were more significant, with different approaches being taken to departmental structures and, in particular, to the scope of their responsibilities.

**The structure of professional standards departments**

2.6 In 2003, the ACPO PSC published *A Professional Standards Department: Guidance on Philosophy, Structure and Resource Implications.* This guidance document was produced primarily to help forces that were trying to develop their proactive capability for dealing with corruption.

2.7 This was the first time that comprehensive guidance had been given to the Service, and its stated purpose was:

> **"To provide guidance in setting up and maintaining a dedicated capacity for combating breaches of professional standards of all kinds."**

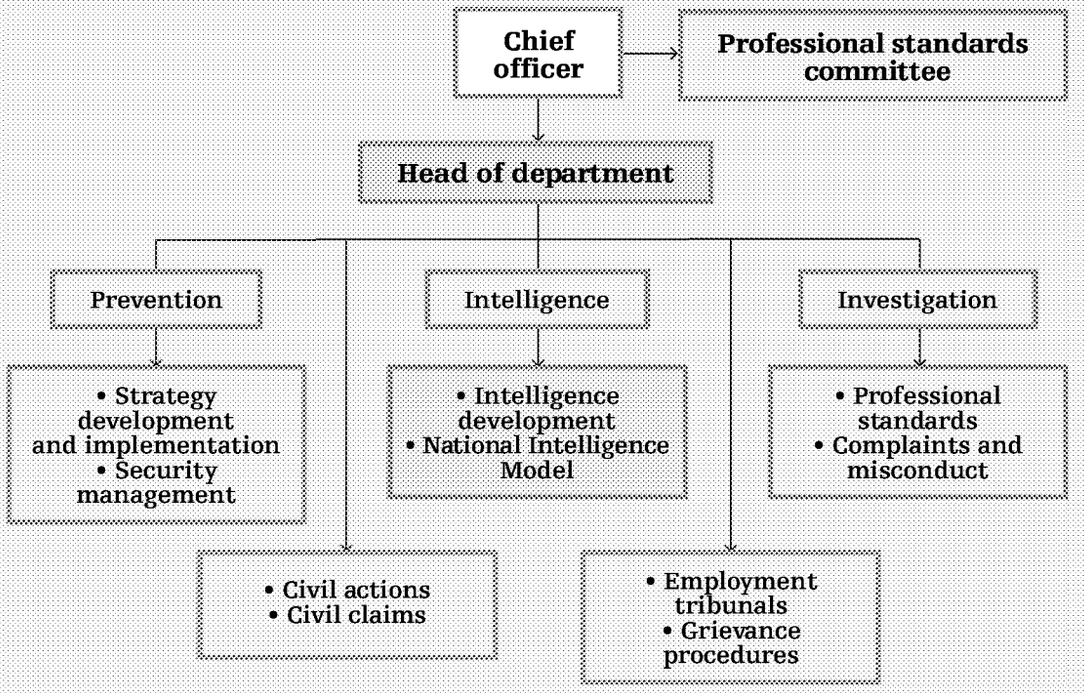
2.8 The guidance's main audiences were ACPO, heads of PSDs, staff setting up or reviewing PSDs, and members of staff within PSDs. The document was intended to be a benchmark for how a PSD should be structured, and it described the role of a PSD as:

> **"... to provide a deterrent to those who would act illegally, unethically or unprofessionally; to manage the risks inherent in such acts; and to facilitate prevention activities."**

2.9 The document included a model of the recommended structure of a PSD (see Figure 1).

2.10 The guidance did not stipulate that all the elements shown should be incorporated into all PSDs, but it set an expectation that all these issues should be considered within the overall force approach to professional standards.

**Figure 1: Functional model of a PSD from the ACPO professional standards guidance, 2003**




2.11 Since 2003, these issues have been further expanded with the emergence of 'direction and control' complaints, which relate to strategic or policy decision making; greater controls over information security, such as data protection and freedom of information legislation; and a stronger focus on staff vetting. For clarity, therefore, 'professional standards' in its widest sense has grown to include:

- public misconduct complaints;
- internal discipline or misconduct enquiries;
- direction and control complaints;
- intelligence development (the National Intelligence Model (NIM));
- anti-corruption investigations;
- information security;
- data protection;
- freedom of information;
- staff vetting;
- unsatisfactory performance procedures;
- grievance procedures;
- employment tribunals; and
- civil claims.

2.12 While at first sight these appear to be very disparate issues, all have one thing in common: over and above their individual aims, they all involve either threats to, or systems to deal with threats to, the professionalism and integrity of the Police Service. They can each lead to criticism of the Service and serious damage to its reputation, with a corresponding decline in public confidence. They may also involve the unnecessary endangerment of staff or members of the public, or the loss of, or damage to, property (which in itself may detract from crime-fighting work elsewhere). For these reasons, they are all critical to the effective operation of the organisation.

2.13 As the individual issues are linked in this way, there is a logical argument for them all to come under one professional standards structure. This is not to say that they necessarily need to be co-located, or even part of a single department, but they should be considered as a whole, with one overarching strategy to combat them.

*What is a 'good' professional standards structure?*

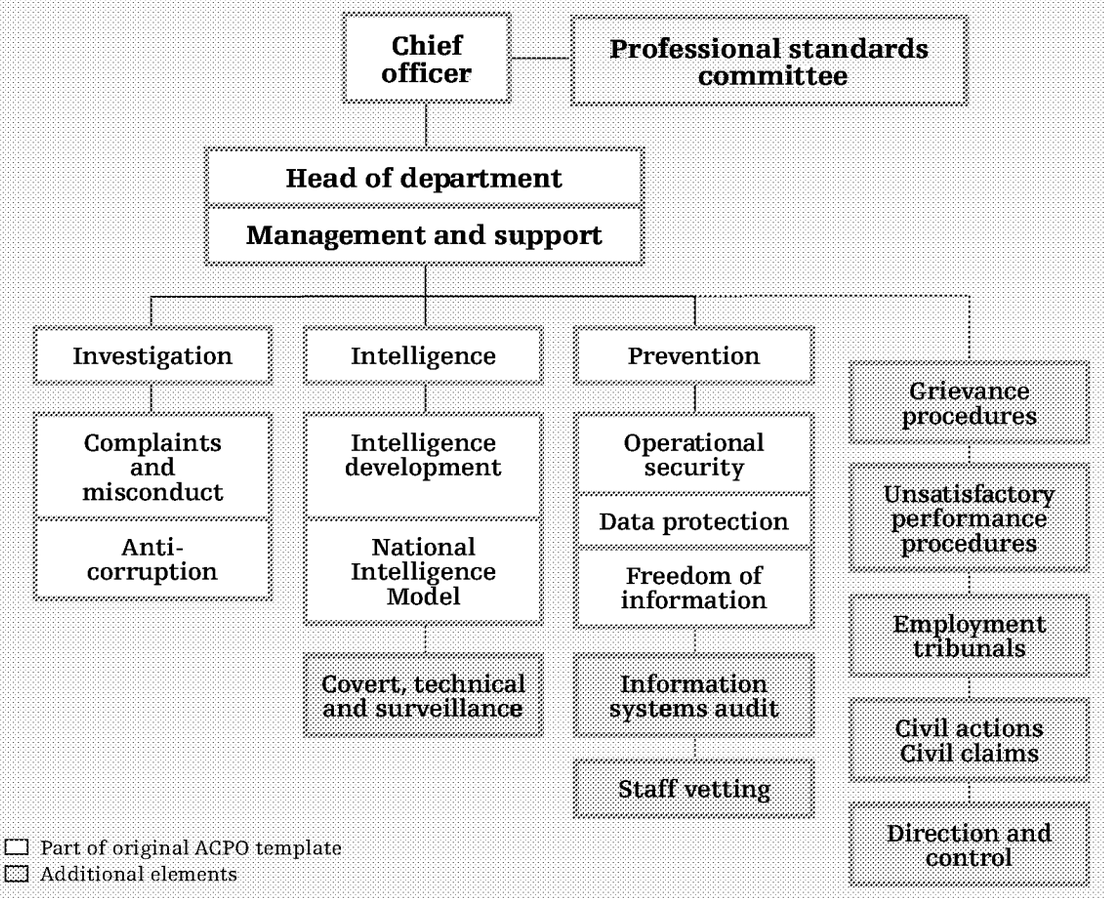
2.14 Increasingly, policing functions within forces are assessed against a model or template and graded as *Excellent*, *Good*, *Fair* or *Poor*.[9] Although forces should aspire to achieving an *Excellent* grade for their performance, it is perhaps more useful to examine what is needed within professional standards to achieve a Good grade.

2.15 A 'good' structure incorporates and takes full account of all the previously listed elements as the best way to ensure that all vulnerabilities are considered together. By consolidating these issues, forces can ensure that strategy and policy decisions benefit from shared corporate knowledge and relevant organisational learning.

2.16 Taking into account the 2003 ACPO template and the subsequent expansion of policing functions, Figure 2 below is a suggested model for what a good professional standards structure should look like at force level.

[9] As used in HMIC's annual baseline assessment process.

**Figure 2: Proposed revised functional model of a PSD**




2.17 Although grievance procedures, civil claims and employment tribunals appeared in the original ACPO model, virtually without exception, these were dealt with elsewhere than in forces' PSDs, and hence they are designated 'additional elements' in Figure 2. The relationship between the eight 'additional elements' and the PSD management has been purposely marked in Figure 2 as dotted lines, to leave open the options of a single departmental identity or management of the elements through more than one department – for example having elements such as grievance and employment tribunals managed through the human resources (HR) department. While there is clear evidence that a strong link is important for effective professional standards in their widest definition, having all elements under a single departmental management is a good option but not the only one.

2.18 The core elements in Figure 2 are dealt with individually and in much greater detail in Chapters 3 and 4. In each case, the aspects that attract a *Good* grading are highlighted and contrasted with the

findings from the inspections. One element worthy of comment at this stage, however, is the use of professional standards committees.

*Professional standards committees*

2.19 Both Figures 1 and 2 highlight the case for a professional standards committee. A dedicated strategic body of this type is essential to achieving force-wide consistency in response and in addressing the overarching issues that emerge from the individual elements. Effective committees enable chief officer leads to ensure that they have a corporate view of matters that have an impact on the PSD, and also a view of how PSD operations, policies, procedures and strategy may be impacting on other departments.

2.20 These committees are dedicated to raising and maintaining professional standards in the organisation, and they have the following objectives in order to ensure good practice:

- updating and steering the force's professional standards strategy;
- commissioning, reviewing, agreeing and implementing relevant professional standards policies;
- overseeing the integration of professional standards issues into other departmental strategies, policies and procedures, as appropriate;
- monitoring areas for improvement in professional standards, agreeing changes and tracking progress;
- reviewing the effectiveness of operational structures and systems; and
- using NIM principles to apply risk management and organisational learning.

2.21 Such a committee comprises the chief officer lead for professional standards (chair), the head of the PSD, and senior managers from each of the main functions within the subject area – whether working within the PSD or outside. Other specialist personnel join the committee on an ad hoc basis as necessary.

2.22 A good structure also includes a committee subgroup for each basic command unit (BCU). This is especially important in light of the Taylor report and the drive for BCUs to handle more low-level complaints. This enables individual BCUs to consider the local environment with regard to professional standards and to improve communication between themselves and PSDs.

### The reality of forces' professional standards

2.23 Having set out what might be expected of a good professional standards structure, it is interesting to compare this with the findings from the programme of inspections.

2.24 While every force is aware of the 2003 ACPO guidance document, PSD structures vary considerably across the country, although they all incorporate complaints, anti-corruption investigation and intelligence wings.

**Elements of activity included in force PSDs**

| Status of inclusion in PSDs | Complaints and misconduct | Anti-corruption investigation | Intelligence | Data protection and security | Staff vetting | Grievance and unsatisfactory performance procedures | Civil actions and employment tribunals |
|---|---|---|---|---|---|---|---|
| Included | 45 | 45 | 45 | 29 | 28 | 2 | 19 |
| Not included | 0 | 0 | 0 | 14 | 15 | 42 | 13 |
| Unknown or partial | 0 | 0 | 0 | 2 | 2 | 1 | 13 |
| Total | 45 | 45 | 45 | 45 | 45 | 45 | 45 |

2.25 In general terms, the larger metropolitan forces are able to comply more fully with the guidance and have all or most of the additional functions within their PSDs, but smaller forces generally struggle to meet the ACPO model, mainly through a lack of resources and the need for operational resilience elsewhere. It is particularly evident that smaller forces are unable to dedicate resources to proactive working or to prevention initiatives across the different elements.

2.26 Other examples of structural and functional differences between smaller and larger forces include the following:

- Smaller forces tend not to employ full-time solicitors, and legal work such as civil claims is contracted out to private law firms.
- In many smaller forces, data protection and freedom of information work is located within IT departments.

2.27 In some cases, deviations from the single department model are justified by their operational rationale.

**Case study: Functions remaining outside the PSD**
In one force, the vetting officer and the force legal adviser sit outside the PSD structure.

The majority of the vetting officer's interactions are with the HR department and the officer conducts vetting interviews with staff in order to clarify certain matters. It is felt that to conduct such interviews under the badge of a PSD would lead to suspicion and reticence on behalf of the interviewee.

The work of the force legal department has recently become more diverse. Now, rather than simply handling civil claims, it has a responsibility in respect of court orders such as anti-social behaviour orders and forfeiture orders under the Proceeds of Crime Act 2002.

To ensure a coordinated approach, despite the dispersal of their functions, both the legal adviser and the vetting officer have direct line reporting to the deputy chief constable (DCC).

2.28 It is clear that such structures are not necessarily incompatible with that suggested in Figure 2 above. The direct reporting line to the DCC appears to keep the two elements within the professional standards structure despite being outside the PSD itself.

2.29 While it may not be essential to include all the elements within the single departmental structure, nevertheless there is a strong rationale for doing so. From a Service-wide perspective, 'good' performance would also see standardisation of individual PSD structures across the country and of the different functions and titles within them. The terminology used within PSDs varies as widely as their various remits and titles. An 'anti-corruption unit' within one force would be called an 'integrity unit' in another, and in another the 'internal investigation branch'. This lack of a standard approach is often confusing, and this confusion is felt not only by external organisations, such as the Independent Police Complaints Commission (IPCC), but also by internal staff, particularly when communicating with other forces.

2.30 As well as providing the best business delivery, it would thus help prevent confusion, enable easier comparison between different PSDs, and aid organisational learning at both local and national levels if the structures, functions and terminology of professional standards were to be fully standardised. At a time of major restructuring of police forces, there is a clear opportunity for the Service to carry out

a review of structures and nomenclature, and to make proposals for a standard template for the new, larger forces to implement.

**Recommendation 1**

The Association of Chief Police Officers (ACPO) should lead a project to establish and promulgate a standard template for the structure, functions and terminology used within professional standards, having regard to, and in anticipation of, the restructuring of the Service into strategic police forces.

2.31 It is pleasing to note that such work had actually commenced before the findings of this programme of inspections were published, and HMIC, the Association of Police Authorities (APA) and the IPCC are all willing contributors to the work being carried out by ACPO. As a contribution to this process, Appendix C presents a model adopted in Kent that has all the necessary component parts of a PSD structure. It also shows a NIM-based model used in Devon and Cornwall by the special cases unit.

*Professional standards committees*

2.32 Only five forces report having a dedicated professional standards committee of the sort described above and in the ACPO guidance. Typical of such committees is the one operating within Greater Manchester Police (GMP), which is a dedicated senior-level committee chaired by the DCC and attended by most of the chief officer team. This committee holds six-monthly consultative committee meetings with representatives from staff and support associations. In addition, GMP has a dedicated security committee chaired at chief officer level (assistant chief constable).

2.33 The strength of a high-level dedicated forum for professional standards issues is that it can examine strategic direction within the force and achieve buy-in at a senior level. While the majority of forces have not adopted the ACPO guidance model in convening specific strategic committees, most have other, more generic strategic forums where professional standards topics are addressed.

2.34 An example of one of these generic forums is the 'Suffolk First for You' committee, which takes responsibility for improving the quality of service across the county. One example of professional standards work by this group followed a recent spontaneous firearms incident. Firearms officers who had contained a suspect in a building heard the sound of a firearm discharge, but waited for over an hour before making an entry. Concerns about firearms tactics were raised at the

committee and the issue was passed to the training department for further examination.

2.35 More important than the insistence on a dedicated professional standards committee is the suggestion that forces should have a strategic group which meets regularly and has the capacity to address professional standards issues throughout the organisation. One size and model does not fit all, but forces need to be able to demonstrate that they have an appropriate structure in place to learn from complaints and misconduct and, as a result, to improve service.

**Suggestion A**

It is suggested that, in the revised ACPO PSD guidance, the role of a professional standards committee is defined to enable forces to ensure that their own strategic groups address professional standards issues appropriately. It is further suggested that all forces develop professional standards subgroups at basic command unit (BCU) level to improve communication between BCUs and PSDs.

**Key strategic themes in professional standards**

2.36 Once core structures and terminology have been established, there are a number of key strategic themes that impact directly on how effectively the services associated with the work of PSDs are delivered. These themes are flagged within the thematic inspection:

- strong and active leadership in professional standards;
- respect for diversity;
- timeliness and proportionality of investigations;
- an embedded NIM process delivering an analytical intelligence capability;
- transparency of direction and control issues; and
- the cost of full service provision.

*Strong and active leadership in professional standards*

2.37 There is consistent evidence that in any area of policing where there is strong and active chief officer leadership, performance is greatly improved. Departments and staff benefit from clear direction from a high level and from knowing exactly what is expected of them. If high-level staff send and regularly reinforce these messages, it promotes a positive culture and empowers staff to carry out their roles in a positive way. This is certainly the case in PSDs.

2.38 In most forces, there is a designated chief officer lead for professional standards, usually the DCC, which in itself indicates a high level of force commitment to the issue. Heads of PSDs are generally of the rank of chief superintendent or superintendent (depending on the size of the force) and are routinely highly experienced investigators.

2.39 With the exception of two forces, the levels of performance relating to professional standards are acceptable (*Fair* or *Good*),[10] and in most cases a strategic plan is in place, endorsed by the chief officer lead and well communicated. Generally, chief officers and heads of PSDs are passionate about standards within the organisation and feel that an improvement in professional standards increases the quality of the core policing service. A typical example of this was found in Lancashire:

> **"Keen to raise standards, lessons learnt are disseminated at every opportunity, including: through the use of groups such as the custody users' group and the strategic tasking group; via team-specific briefings given by the PSD; by publication on the intranet 'Get it Right' page; through anonymised inclusion on published weekly orders; through the use of reports to BCU command teams; and within the training arena."**
>
> **Head of the PSD**

2.40 There is a need, however, for all forces to ensure that senior leaders are not simply nominated figureheads but actively engage in all aspects of the PSD's work, providing both the energy and resources to drive reactive performance and, equally importantly, the necessary degree of challenge and strategic foresight to encourage proactivity and preventive work.

*Respect for diversity*

2.41 With the volatility of the professional standards landscape, as described in Chapter 1, the importance of respect for diversity has rarely had such a high profile. Concerns about the current performance of the Service in this regard have particularly highlighted perceived disproportionality in the way staff from minority groups are dealt with by PSDs. The Commission for Racial Equality (CRE) report into the Police Service of England and Wales states:

[10] Baseline assessment grades for 2004/05; full reports available at www.inspectorates.homeoffice.gov.uk/hmic/inspect_reports1/baseline-assessments.html

> **"... we noted growing evidence that ethnic minority officers are subjected to formal investigation and the disciplinary procedure more often than their white colleagues..."**[11]

2.42 The CRE report also states:

> **"The stakeholders all accepted that there was a perception that ethnic minority police officers suffered disproportionate treatment..."**[12]

2.43 Due to the lack of credible Service-wide data and analysis, the extent of and reasons for any disproportionality in the area of professional standards are not known. It is a positive sign that at least five forces – the Metropolitan Police Service, GMP, Northumbria, Leicestershire and Lancashire – have commissioned research work into the reasons for this disproportionality with regard to black and minority ethnic staff. This shows a commitment and willingness to try and understand any underlying diversity issues. It is important for the Service as a whole that the results of these individual pieces of research are consolidated and that emerging lessons are made available across the Service. The collation of ethnicity data is discussed in detail in Chapter 8.

2.44 There is already significant work being undertaken in other business areas in respect of the race equality scheme (RES) for policing, including substantial inspection activity by HMIC diversity specialists. Undoubtedly, the disproportionality work may eventually be incorporated into the wider RES activity, but, at this early stage, it is felt that an ACPO PSC lead would be appropriate to ensure that the particular professional standards implications are identified and addressed.

2.45 The CRE report, the Morris report and the Taylor report all make recommendations that impact on professional standards. The recommendations in relation to diversity from these three reports are being progressed by the police national diversity team, which will produce a clear statement of expectations, and forces will need to be able to demonstrate that they are actively engaged in this process.

2.46 The use of independent advisory groups (IAGs) is seen as a positive step to ensure that investigations are dealt with sensitively with regard to diversity. Forces wishing to demonstrate a commitment to respecting diversity would be advised to consider the use of IAGs in appropriate cases.

[11] Commission for Racial Equality formal investigation into the Police Service of England and Wales, March 2005, paragraph 6.49.

[12] CRE report, paragraph 6.51.

2.47 Having concentrated primarily on the race elements of diversity, it is also important for forces to reflect on issues from the other five strands of diversity: age, disability, religion, sexual orientation and gender.

*Timeliness and proportionality of investigations*

2.48 The Police Reform Act 2002 provided a statutory framework for the new police complaints system, established the IPCC, and changed the way that complaints were recorded from April 2004 onwards. Complaints statistics are now collated (and will subsequently be published annually) by the IPCC.[13]

2.49 Proportionality of investigations has been a core element of the work of the IPCC and, together with the Taylor Review and subsequent report in January 2005, this work represents a watershed in the way the police handles complaints. It is now recommended that all police forces should ensure that they use a proportionality test when handling complaints:

> **"Investigations and (where appropriate) hearings should be less formal and managed in a manner proportionate to the context and nature of the issue(s) at stake and in accordance with the ACAS [Advisory, Conciliation and Arbitration Service] code."**[14]

2.50 The benefits of forces moving towards a proportionate response to individual complaints include improving the way that complainants and staff feel they are dealt with and managing complainants' expectations honestly at an early stage. There is also a corresponding saving in staff time, which can then be diverted into dealing with more serious cases, thus making PSDs more effective.

2.51 HMIC found that many forces have embraced the Taylor report and have put systems in place to ensure that responses to complaints are proportionate and timely. HMIC found areas of good practice, such as those illustrated in the following case study.

[13] At the time of writing, the annual statistics for 2004/05 were still awaiting publication.

[14] Taylor report, recommendation 2(viii).

**Case study: A proportionate approach to investigations**

In **Cambridgeshire Constabulary**, there is an established assessment, screening and allocation process within the PSD, based on both the Lancet principles[15] and recommendations from the Morris Inquiry. When a public complaint is received, the head of investigations or head of the PSD assesses the matter. It is then either returned to the BCU for local resolution or, if deemed appropriate, allocated to a member of the PSD team for formal investigation. The assessment includes consideration of the most suitable staff member to deal with the matter, taking into account their experience, training and background. The head of investigations confirms the terms of reference, together with any additional specialist staff or support required. The investigation is then tracked on the database, with ongoing assessments of both proportionality and timeliness completed by both the staff member and the head of investigations. Where an allegation is of serious misconduct or potential criminality, a formal investigation plan is completed by the designated investigator and a decision log is issued to them for use in the inquiry.

2.52 HMIC found individual cases where there appears to have been a disproportionate response in the handling of complaints, and several Police Federation representatives raised their concerns about the way in which individual cases have been dealt with. Reports include apparently heavy-handed and over-lengthy investigations in respect of relatively minor allegations. There is currently an absence of consolidated data that would allow any detailed analysis of this perceived problem, although there is some new work under way to examine particular issues of disproportionality on racial grounds (see details in Chapter 8). Heads of PSDs need to ensure that all cases are dealt with proportionately and that they have mechanisms in place to ensure that cases are monitored throughout their life. Once the IPCC statutory guidance has had time to become embedded, it will be important for chief officers to satisfy themselves that every force has an effective proportionality testing procedure.

2.53 Timeliness is a separate but equally important issue. There are several areas of potential delay, not least the periods during Crown Prosecution Service and IPCC considerations. This issue is the subject of a separate dedicated piece of joint inspection activity and is discussed further in Chapter 3.

[15] The principles published in *Operation Lancet: A Case Study Review Report*, Home Office, July 2002.

*An embedded National Intelligence Model process delivering an analytical intelligence capability*

2.54 As set out in Chapter 4 of this report, the importance of adopting an intelligence-led approach to addressing corruption cannot be overemphasised; however, it is equally important that robust processes are adopted in respect of complaints and misconduct. This requires sophisticated and systematic approaches to be taken to ensure the continual flow of quality intelligence that is needed to drive all professional standards activity. It is for this reason that the investigation of professional standards matters, including complaints, must be based on intelligence-led policing and must be consistent with NIM.

2.55 NIM is now the system adopted by the police throughout England and Wales to manage intelligence, prioritise resources, identify threats and develop control measures aimed at addressing them. As NIM is now embedded in forces for the handling of crime, it was an objective of the inspection to ascertain whether it is equally established for professional standards.

2.56 When applying NIM across PSDs, generic strategic intelligence assessments of all professional standards matters should be included, and these should drive proactivity not only in anti-corruption work but throughout the business. This process would benefit from a clear definition of the main tasks and roles within the intelligence function and the availability of an appropriate intelligence database. The advantages of NIM are that the process allows managers to prioritise workloads against resources in a cyclical and sustainable manner.

2.57 NIM is deployed quite extensively in anti-corruption units in virtually every force. However, many forces are still not proactive or intelligence-led across all the individual elements of professional standards, particularly those relating to complaints and misconduct.

2.58 A typical finding is that of a large northern force where the departmental business plan and NIM processes are evident; however, the work of the reactive complaints investigation unit is not intelligence-led. The force has identified this gap and, at the time of the inspection, was working to remedy it. An example of a force that has identified the importance of establishing NIM throughout the entire PSD is West Yorkshire, where NIM has been adapted to accommodate all aspects of the PSD's performance management. NIM is being used to generate preventive activity as well as supporting and encouraging organisational learning and development.

**Good practice: Integration of NIM**

In **Lancashire**, the PSD is gradually introducing all aspects of NIM to its business and is well advanced in this process.

In **Thames Valley**, NIM is being used to drive all resources within the PSD, both reactive and proactive. Based on an up-to-date comprehensive strategic assessment and control strategy, fortnightly tactical assessments identify critical cases and support a tasking and coordination process, which ensures that investigations are proportionate and timely.

> **"This is one of the biggest strategic issues we face; we need to ensure we embed NIM not just in anti-corruption but throughout the entire business of professional standards."**
>
> A chief officer in a metropolitan force, when asked about adopting a NIM process for all aspects of the PSD

2.59 The degree of genuine NIM compliance, its use within PSDs and the degree of integration of professional standards activity into the core business processes of the force as a whole were major factors that informed the baseline assessment gradings of forces in 2005. The issues of NIM compliance and the scope of its use are highlighted several times within this report, emphasising the importance with which HMIC regards the issue.

**Recommendation 2**

All forces should embed the National Intelligence Model across every aspect of professional standards and have direct and robust links between professional standards departments and the core business processes of the force.

2.60 Essential to NIM compliance is the use of strategic threat assessments. The National Criminal Intelligence Service (NCIS) published a strategic assessment in April 2003 entitled *Ethical Standards within the Police Service: Corruption Involving Collusion with Criminals*. A principal recommendation was that police forces should produce their own assessments annually, from which the NCIS assessment could be updated and a revised national assessment produced. NCIS noted in its report of May 2005, *Ethical Standards within the Police Service: An Update on Corruption Issues*, that "there was limited response to this recommendation and NCIS did not work on a national assessment in 2004".

2.61 A good PSD will therefore have produced a strategic assessment of vulnerabilities to corruption and a control strategy within the NIM process. Locally, these documents are used to inform strategic decision making regarding the size of units within the PSD and the allocation of resources to particular initiatives. For example, where information leakage is identified as the number one threat to the force, it may be that the head of the PSD decides to invest resources and time in an IT audit.

2.62 At a national level, the PSD's strategic assessment contributes to the national threat assessment, compiled by NCIS. Disappointingly, in 2004/05 only 29 forces completed a strategic assessment and forwarded it to NCIS. This is discouraging because it prevents NCIS from obtaining a fully accurate national picture in relation to major threats facing the Service.

2.63 This also suggests that some forces are still failing to base strategic policy decisions about resourcing on valid intelligence and threat assessments. This strikes at the core of NIM and is a real vulnerability for forces who may otherwise find it difficult to justify the decisions they take in relation to efficiency and effectiveness.

2.64 There needs to be a high-level commitment in every force to developing strategic assessments and a robust control strategy to combat any potential threats. The steps in the decision-making

process should be clear and auditable, leading from assessments and strategies to the final decisions taken.

*Transparency of direction and control issues*

2.65 Complaints against the police are usually in respect of specific acts or omissions by staff which amount to misconduct. A direction and control complaint is about "any matter to do with the delivery of the policing service in a police area",[16] and within a police force such complaints can relate to:

- operational policing policies;
- organisational decisions;
- general policing standards in the force; and
- operational management decisions.[17]

2.66 Direction and control does not include matters to do with:

- the conduct of a member of staff;
- internal management and organisational support; or
- the general functions of a police authority.

2.67 There is a difference between complaints about the conduct of police personnel and non-conduct complaints relating to the direction and control of a police force. An example of a non-conduct complaint is where a member of the public complains about the fact that their community beat officer has been redeployed to other duties. This is not a complaint against the officer but against the decision to redeploy him or her, ie against a policy decision by a senior officer in relation to an aspect of the direction and control of the force.

2.68 The definition of direction and control complaints has been the subject of much heated debate between stakeholders at the national level: chief officers are concerned to ensure that any definition does not adversely affect their statutory duty to exercise the direction and control of operational policing; police authorities are keen to ensure that the public has an avenue through which to challenge policy and organisational decisions which affect local service delivery; and all involved want to ensure that the opportunities for organisational learning are not lost. After considerable consultation with ACPO, the APA, the IPCC and HMIC in April 2005, the Secretary of State issued guidance to chief officers and police authorities under section 14 of the Police Reform Act 2002 as to the handling of direction and control complaints.[18]

2.69 Dealing with direction and control complaints effectively helps address community concerns and supports a citizen-focused approach. A major advantage of recording direction and control

[16] Home Office Circular 19/2005.

[17] Home Office Circular 19/2005.

[18] Home Office Circular 19/2005.

complaints is that the force can capture any organisational learning that they may contain. Any lessons learnt should then be taken into consideration when developing force policy and/or making strategic decisions. A good PSD will therefore have robust mechanisms in place to record direction and control complaints and to analyse them in order to identify organisational learning. From a service-wide perspective, there should be mechanisms in place to ensure that any lessons learnt are shared at regional and national levels.

2.70 The way that direction and control complaints are dealt with across the Service varies widely. In one force, the police authority is responsible for capturing any lessons learnt from direction and control complaints, in another there is a performance review department that has this responsibility, and in a third it is the task of a corporate development department.

2.71 This is another area where the standardisation of structures, functions and approaches would be beneficial. At present, forces appear to be struggling with the same problem in different ways, and with a greater or lesser degree of success. It seems sensible for the Service to determine the best way of managing direction and control complaints and then for all forces to adopt a national model.

2.72 ACPO should ensure that the issue of direction and control complaints is included in its work to devise standard structures and terminology (see recommendation 1 on page 42), having due regard to the guidance circulated in 2005.

2.73 It was also disappointing to find that many forces do not have robust mechanisms in place for ensuring that organisational learning from direction and control complaints is captured and shared:

> **"Organisational learning is compiled from cases investigated by professional standards staff. However, there is no process in place to examine cases resolved locally for 'lessons learnt', and these represent the majority of complaints. Similarly, there is no clear route for the force to learn from complaints made against the direction and control of the force."**
>
> **HMIC lead staff officer with regard to a small rural force**

2.74 Other barriers to capturing organisational learning include the many different types of recording system used by forces and the fact that different departments assume this responsibility in different forces. Many forces have not embedded NIM across PSDs, and this is particularly evident in the area of direction and control complaints.

2.75 Areas of good practice exist, and there are many good examples of organisational learning at force level; however, these are not always replicated at Service level:

> **"The chief inspector (complaints) acts as the gatekeeper for direction and control complaints and assesses all letters received by the PSD to determine if direction and control issues are evident. Furthermore, he dip-samples letters received by areas and departments to establish if direction and control matters have been properly identified and dealt with. The PSD website provides advice to staff on how to deal with these complaints and all complainants are contacted and advised of outcomes."**
>
> Head of professional standards in a small rural force

2.76 Organisational learning is explored in more depth in Chapter 8.

*The cost of full service provision*

2.77 Increasingly, in a cost-centred and cash-limited policing environment, it is difficult to bid for additional resources without a clear understanding of how much is being spent already and on what aspects of policing. Assessment of the value of spending also requires an ability to identify and, if possible, quantify outcomes and compare these against potential rivals for funding.

2.78 Research conducted in 2004 by CRG Research Ltd of Cardiff on behalf of the Home Office found that forces spend around 0.55% of their budgets on complaints and discipline issues through their PSDs – around £34.3 million per year in England and Wales in total. This does not include costs borne at a divisional or force leadership level, or the cost of external investigations.

2.79 Inspection teams found no evidence of any current method within the Service to assess what the budget for a PSD should be, or indeed whether the 0.55% currently spent represents value for money. One reason given for the lack of any set formula to dictate budgets was that expenditure on professional standards should be based on the threats to the organisation. Another was that there are such diverse structures of PSDs throughout England and Wales that any comparative costing would be invalid. For example, some PSDs manage claims in respect of road traffic accidents as well as other risks to the integrity of the organisation.

2.80 One school of thought is that there is no logical way to arrive at a business case for funding because the required outcomes are impossible to measure accurately.

> **"Business cases go out of the window here. What price do you put on your reputation, being sued for wrongful arrest, the security of your intelligence, your ability to present solid cases to court without having them overturned later, and the knowledge that the public has confidence in you? How do you cost all of that? Forces cannot afford to have teams of detectives fully committed to dealing with elements of corruption, but they can't afford not to have them. You would never do it if you waited for a business case."**
>
> Senior police officer

2.81 As each individual element of a PSD is standardised, and definitions of purpose and objectives are agreed at a national level, it should be possible to apply a greater degree of financial analysis to the inputs and outputs of the work of PSDs.

**Suggestion 8**

ACPO should include consideration of appropriate levels of resourcing for PSDs in the work it has already started on structures and terminology (see recommendation 1).

**Conclusion**

2.82 Professional standards are a complex but highly important area of policing. Individual forces have developed their PSDs and associated functions in very different ways, which is not necessarily a bad thing. However, it is clear that PSDs have evolved very different structures, functional definitions and terminology, and this presents a threat to their effectiveness – in particular in the light of the impending restructuring into strategic police forces, which will mean that different cultures and systems will need to merge efficiently.

2.83 It is pleasing that ACPO has already started the process of updating its 2003 guidance to forces and is devising standard templates for functions, definitions and terminology. However, it is important that the opportunity is taken to look at these elements in depth and design something that will be fit for purpose in the new policing structures as early as possible.

2.84 It is also vital that the standard template demands that the NIM-based, intelligence-led approach is embedded across all functions. This will require dedicated and skilled resources to provide intelligence handling, analysis and appropriate evaluation. It is also important that the work of PSDs is fully integrated into the core business processes of forces and that contacts with BCUs and other departments are strong and sustained.

2.85 The importance of strong and active leadership in terms of personal engagement together with effective oversight and support cannot be overstated. This can be enhanced through such bodies as a force's professional standards committee, and, perhaps above all, through the identification and sharing of lessons learnt, at both local and national levels.

# 3. Complaints and misconduct

# 3. Complaints and misconduct

## Introduction

> **"Maintaining confidence in the accountability and integrity of the police is vital not only to successful policing but also to increasing public confidence in our policing service. Part of that challenge is ensuring the public are able to raise legitimate concerns with their Police Service and have a clear understanding of how they will be pursued."**
>
> **Rt Hon. Hazel Blears, MP – Minister for Policing, Security and Community Safety**[19]

3.1 The Police Service depends on the confidence of the public it serves in order to operate effectively. This confidence can only be reinforced by the conviction that the Service is willing to listen to feedback in terms of complaints, deal effectively with these issues in a timely and efficient manner, accept that mistakes can be made and address these in the spirit of learning. It must make effective reparations without lengthy and expensive judicial processes and deal swiftly and positively with officers and staff who transgress.

3.2 The Police Service, the Government and outside agencies have been wrestling with how best to achieve this level of confidence for many years. In recent times, following the Police Reform Act 2002 (which, among other things, gave the Independent Police Complaints Commission (IPCC) its *raison d'être* and its statutory powers, including publication of statutory guidance), work has moved apace to deliver more effective systems. Other significant work includes the Taylor Review and progress towards implementing its recommendations. The Association of Chief Police Officers (ACPO) contributed significantly to this review.

3.3 While high-profile cases attract media attention and can tarnish the national reputation of the police, much can be achieved at a local level to ensure public confidence by dealing speedily and effectively with complaints which may not attract the gaze and hype of media speculation.

## Independence in the complaints system

3.4 Since April 2004, the IPCC has taken centre stage in the arena of public complaints. Progress towards the introduction of an independent police complaints body can be charted back to 1929, when the Royal Commission on Police Powers considered a proposal that the Director of Public Prosecutions (DPP) should be given

[19] *Making the New Complaints System Work Better*, IPCC statutory guidance, August 2005.

personnel, independent of the police, to carry out the investigation of allegations of criminal conduct committed by police officers. The issue was revisited during the 1960s, following a series of highly publicised complaints, and again during the 1970s, fuelled by widespread allegations of misconduct, particularly within the Metropolitan Police Service. In response to this, the Government set up the Police Complaints Board (PCB) under the 1976 Police Act.

3.5 The PCB was a civilian oversight body with the power to review the final reports of investigating officers (IOs) in complaints cases. If it disagreed with the findings of the IO, it could recommend, and ultimately direct, that disciplinary proceedings be brought. The PCB was judged to be ineffective and bureaucratic, and this led to mounting criticism. However, the events that occurred in 1981, in Brixton and then shortly afterwards in Toxteth and Moss Side, put the complaints procedure back under the spotlight.

3.6 Lord Scarman, in his report on the Brixton riots, stated that there was "...a widespread and dangerous lack of public confidence in the existing system for handling complaints against the police". He went on to state that the introduction of an independent element into the investigation of complaints was vital.

3.7 He further expressed the view that "any solution falling short of a system of independent investigation for all complaints" was unlikely to be successful in achieving public confidence. He therefore decided that it was a question of weighing up whether the costs of such a system would be balanced by the gains in public confidence that resulted.

3.8 A compromise was reached under the Police and Criminal Evidence Act 1984 (PACE), whereby the Police Complaints Authority (PCA), the precursor to the IPCC, was established. The PCA supervised the most serious complaints investigations, including all incidents of death or serious injury involving police officers, and inherited the role of the PCB to review all completed investigations, with additional directive powers regarding disciplinary action.

3.9 Unfortunate events in the 1990s, which gave rise to high-profile inquiries such as those into the murder of Stephen Lawrence and the findings of the Home Affairs Committee on police complaints and discipline, called into question changes made to the police complaints system and concluded that neither complainants nor the public as a whole had been reassured that complaints were dealt with in an independent and impartial manner.

3.10 The Government therefore commissioned a study by the pressure group Liberty into the feasibility of independent investigations into police complaints, and, in April 2000, Liberty issued its report, *An Independent Police Complaints Commission*. The Government started a consultation process, and in December of that year published the emerging findings in *Complaints against the Police – Framework for a New System*. This process culminated in the Police Reform Act 2002.

3.11 The Police Reform Act 2002 sets out the statutory powers and responsibilities of the IPCC, chief police officers and police authorities for the new complaints system. This guarantees the independence of the Commission, outlines its role as guardian of the police complaints system as a whole, and gives the IPCC a duty to raise public confidence. Further detail on the role and responsibilities of the IPCC can be found at www.ipcc.gov.uk.

3.12 The IPCC has the power to investigate independently allegations of misconduct by people under the direction and control of the Chief Constable and any serious incidents referred to it according to the Police Reform Act or the Serious Organised Crime and Police Act 2005. It can also supervise or manage police investigations or call in for review any complaint or conduct matter that gives cause for concern. The Commission is also charged with increasing the efficiency of complaints handling and improving timeliness in investigations. The statutory guidance encourages the formulation of clear terms of reference for each case, regular review, adopting a flexible approach, and, above all, remaining totally independent, being at all times fair and proportionate, and having due regard for all the parties concerned.

3.13 The Police Reform Act also gave the Commission other general guardianship powers, including inspection, monitoring, review and reporting functions, together with the power to issue statutory guidance. One of the key changes in the new system is the right of appeal to the IPCC at various stages of the complaints process.

3.14 The IPCC published its first statutory guidance in August 2005. This guidance applies to all police forces in England and Wales and to all police officers, police staff and Special Constabulary members within those forces. Key principles endorsed by the statutory guidance include the need for:

- police forces to improve access for those who have a complaint to make;

- early and ongoing assessment, so that appropriate decisions are made in a timely and efficient manner and investigations are reviewed to ensure that proportionate steps are being taken; and
- a move from the current adversarial approach to investigation and quasi-judicial hearings to a position where complaints are seen as a means by which the organisation can learn and develop.

**Accessibility**

*Accessing the complaints system*

3.15 The current complaints and misconduct system can be described as mirroring traditional police work in that it closely resembles the process used to deal with a reported crime. In both cases, details of an alleged incident are recorded, evidence is preserved and initial statements are taken. An IO (or team, depending on the severity or complexity of the case) is appointed to investigate the allegation. Further interviews may follow before the alleged 'offender' is interviewed and a decision is made as to whether a hearing is appropriate. A guilty verdict will lead to an imposed sanction, and there are avenues of appeal against either the verdict or the sanction, or both.

3.16 The police complaints and misconduct process follows these basic principles, and the procedure, as it applies to police officers, is carried out under the Police (Conduct) Regulations 2004. The regulations and accompanying guidance describe the process for investigation and proceeding against police officers for discipline matters. They also include a code of conduct for police officers which sets out the prescribed standards of behaviour. Special constables are also covered in these regulations, although sanctions and appeals mechanisms differ slightly.

3.17 The Police Reform Act 2002 introduced a system that applies to everyone who comes under the direction and control of the Chief Constable,[20] including police officers, special constables and police staff. As a result, many force professional standards departments (PSDs) now investigate both police staff and police officers. Misconduct procedures for police staff are currently drawn up by individual police authorities, and, while they are based on the Advisory, Conciliation and Arbitration Service (ACAS) code of practice, there is variation between forces. However, following the Taylor Review in January 2005, the Police Staff Council is exploring the development of a code of professional standards for police staff, although this work is still at an early stage.

[20] Or commissioner in respect of the Metropolitan Police Service (MPS) and the City of London Police.

**What is a complaint?**

3.18 Under the Police Reform Act, a 'complaint' is any allegation from a member of the public about the 'conduct' of a person serving with the police. It may be about, for example, behaviour, inappropriate language, acts or omissions. At its most serious, it may be about an allegation of criminal behaviour.

**Who can make a complaint?**

3.19 Complaints against the police can only be made by members of the public under the circumstances described below. Internal disciplinary measures also exist, however, and internal misconduct issues can be reported through normal management channels to the PSD or through indirect methods such as confidential reporting lines (as described at paragraph(s) 3.43 to 3.46).

3.20 Under the Police Reform Act 2002, any of the following categories of complainant are entitled to make a complaint:

- any member of the public who alleges that police misconduct was directed at them;
- any member of the public who alleges that they have been adversely affected by police misconduct, even if it was not directed at them;
- any member of the public who claims that they witnessed misconduct by the police; or
- a person acting on behalf of someone who falls within any of the three categories above.

**How can complaints be made?**

3.21 In the past, complaints could only be made in person at a police station, where, following an interview with a supervisor or manager, the complaint would be formally recorded. The reforms brought about by the Police Reform Act 2002 and reinforced in the IPCC statutory guidance are about increasing everyone's access to the police complaints system. This includes not putting practical obstacles in the way of people complaining.

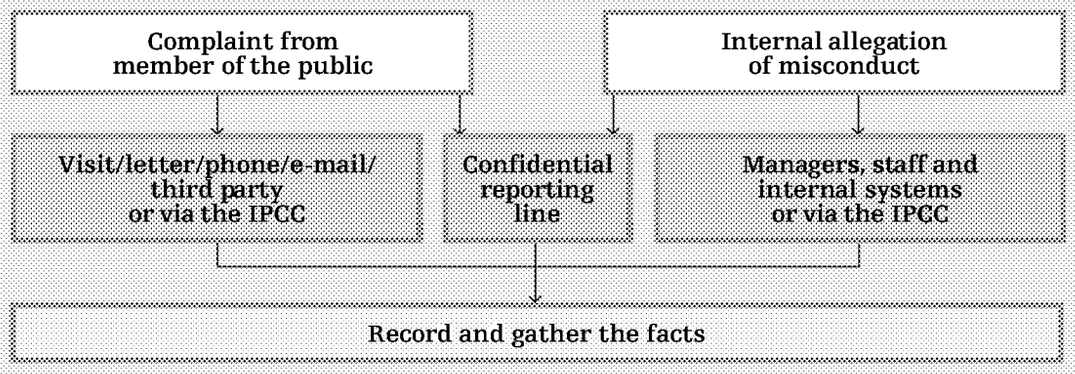
3.22 People can now make a complaint:

- at any police station, in person, by phone or in writing, by e-mail or fax;
- by phoning, emailing, writing to or faxing the IPCC, who will pass it on, with the complainant's consent, to the relevant force for action. The force that is the subject of the complaint is responsible for recording the complaint; or

- by a third party, provided the complainant gives written permission for the third party to make the complaint on their behalf.

3.23 Misconduct can also come to light via confidential reporting lines, which can be accessed either by members of the public or by staff colleagues. It should be noted, however, that where the allegation of misconduct originates from within the Service, from a fellow officer or member of staff, this is not a recordable 'complaint' but is dealt with as misconduct through separate internal processes.

**Figure 3: Accessing the complaints and misconduct system**




*Accessibility issues*

3.24 There are a number of key issues that can act as either enablers or indeed barriers to the complainant managing to access the system, and thereby make their complaint known. This inspection highlighted five significant issues:

- the degree of trust and confidence in the system (felt by those making the allegation);
- the attitude of staff receiving the complaint or allegation;
- differing availability of third-party access routes;
- variations in methods of capturing information; and
- confidential reporting lines.

**The degree of trust and confidence in the system**

3.25 While the Police Service wishes to be seen as an approachable and helpful agency, it remains a symbol of authority in the community, and for many people the prospect of contacting the police under any circumstance is not a step to be taken lightly. Imagine then how much greater the step for a member of the public who has reason to complain against a police officer or about the service received at the hands of the police. For some people, this is not a step but a leap of

faith. Take, for example, members of minority groups who may not have a sound grasp of the English language, or those who come from other minority groups with perhaps historical but nevertheless good reason to mistrust the police. This has been borne out by recent research conducted by the IPCC.[21]

**When asked for possible reasons for not complaining, complainants gave the following responses:**

- **36% of respondents agreed that they didn't think complaining would make a difference.**
- **31% agreed that they didn't think they'd be taken seriously.**
- **28% agreed that they didn't know how to make a complaint.**
- **23% agreed that they thought it would take too much time.**
- **19% agreed that they would worry about police harassment or other consequences.**
- **17% agreed that they didn't want to make trouble for the police by complaining.**

3.26 The Police Service acknowledges the perceived difficulties some groups have in terms of trust and confidence, and over the years it has attempted to build bridges with hard-to-reach or hard-to-hear minority communities through measures such as the introduction of independent advisory groups (IAGs) and other outreach work, such as the creation of lesbian and gay, bisexual and transgender (LGBT) liaison groups. These communities are invaluable, as is the wider community, in terms of the information and intelligence they can give to the police, and so it is important to continue the hard work already undertaken in this area.

3.27 Some forces are already taking forward initiatives specifically aimed at promoting trust and confidence in the complaints system.

[21] *Confidence in the Police Complaints System: A Survey of the General Population*, Maria Docking and Tom Buck, January 2006. Independent Police Complaints Commission (IPCC).

**Good practice: Promoting trust and confidence**
In **Devon and Cornwall**, the head of the PSD personally contacted a number of gay and lesbian support groups with the intention of developing third-party reporting for complaints against the police. This is good practice and shows a police commitment to engage with minority communities. It has the potential for further development once greater trust has been established.

In **Humberside**, the force has introduced an investigation contract, which is drawn up between the complainant and the IO at the outset of a complaint investigation. This contract sets out the agreed actions that the IO will pursue as well as providing an indicative timeframe for the provision and method of updates and for the conclusion of enquiries. This process has reduced adverse comments by complainants about timeliness and proportionality of investigations. This demonstrates concern for the needs of the complainant and, if administered in a compassionate yet constructive way, allows for concerns or apprehensions to be met and addressed.

3.28 While many would consider it the duty of an employee to report misconduct or corruption issues involving colleagues, others would say it requires considerable moral courage and the support of the organisation's leadership to do so. There is a need to ensure that those who take this step receive the necessary encouragement, value and support from the organisation they seek to protect.

**Good practice: 'Contract of trust'**
In **Devon and Cornwall**, a document entitled a 'contract of trust' is used, especially in relation to members of both the public and the police force who report misconduct through the proactive unit of the PSD. This contract sets out how, when and to what level complainants/informants wish to be updated in relation to investigations. It is possible that this good practice may be widened to cover all aspects of complaints against the police.

3.29 Many forces have found that customer satisfaction has increased by improving the communication flows between the organisation and complainants and witnesses. Good practice was identified within the MPS at Norbury, where the complaints and misconduct unit had used an external company specialising in plain English to develop a suite of customer-focused letters to complainants. These have been evaluated and have been given the Chartermark seal of approval. These templates have now been disseminated to other forces around

the country, which have either adopted them or, if they are already using similar approaches, adapted them to suit their needs.

3.30 It is a well documented fact that individuals from minority groups may have significant concerns about contacting the police for a number of reasons, some cultural and some born out of experience, either personal or vicarious. During the thematic inspection, it was clear that, although forces are attempting to build bridges with minority communities, there is no room for complacency, and in some cases there is scope for greater proactivity in this regard.

> **"There is a great reluctance [on the part of the LGBT community] to engage with the police on any matter, particularly in respect of police wrongdoing."**
>
> A member of a gay police support group

3.31 In his view, this was a direct reflection of the organisational approach to LGBT issues. He went on to quote an example where a probationary officer asked a police constable (PC) with five years' experience for advice. The probationary officer was dealing with an assault that he felt may have been homophobic; the PC told him it was best not to mention it, as it only complicated the issue.

**The attitude of staff receiving the complaint or allegation**

> **"The Independent Police Complaints Commission wants to see good customer service right at the heart of the police complaints system and confident handling of complaints by police at a local level, where we can make a real difference to community confidence."**
>
> Nick Hardwick, Chair of the IPCC[22]

3.32 In its statutory guidance, the IPCC suggests that the Police Service should move to a complaint-centred approach, where complaints are seen as opportunities for organisational and individual learning and for service improvement. Police forces should be ensuring that the public has information about the complaints system and how to use it. This information should be disseminated in a positive way, which instils confidence, and any obstacles to making a complaint should be removed.

3.33 The IPCC urges police officers and staff to start from a position of belief in the complainant and to treat the issue as a complaint against the police if there is any element of doubt. Historically, it is fair to say that the vast majority of people coming into stations to

[22] *Making the New Complaints System Work Better*, IPCC statutory guidance, August 2005.

complain about the police or about action taken by them would have been confronted with a number of hurdles to overcome.

3.34 First, they would speak to the station desk officer, who would listen to them and try to deal effectively with their complaint but probably would not record it. In many cases, it would be the intention of desk staff not to cause their supervisors unnecessary work, and they would attempt to diffuse the complaint. If this failed, a supervisor would be called, if available, who would probably take the complainant into an office and discuss their issues over 'a proverbial cup of tea'. If this failed, as a last resort the details of the complaint would be recorded and submitted to headquarters for investigation.

**Differing availability of third-party access routes**

3.35 One important feature of the complaints system as revised under the Police Reform Act 2002 is for third-party reporting through gateway or signposting organisations, provided they have been given written permission to act on the complainant's behalf.

3.36 Agencies such as Citizens Advice Bureaux, the Youth Justice Board, the National Probation Service, the Neighbourhood Renewal Unit and the Commission for Racial Equality (CRE) were among the first to be used as 'signposting points' into the complaints system, and the IPCC is keen to work with other organisations in the statutory, voluntary and wider community that have the trust and engagement of visible and non-visible minority groups. There is evidence to suggest that these initiatives are also being embraced by the Police Service. There are opportunities available to market this important development more effectively – one might be to use the same format as the high-profile launch of third-party reporting in relation to hate crime.

3.37 In May 2004, True Vision was launched, an initiative aimed at improving the service the police provides to minority communities. Twenty-three different police forces worked together to provide a single self-reporting and information pack, together with an online facility that allows victims to report hate crime directly to the police.


**Welcome to True Vision**

The Police Service recognises that hate crime comes in many different forms, including homophobic and transphobic hate crime.

**WE WILL TAKE YOUR COMPLAINT SERIOUSLY**

3.38 There is an opportunity to widen the scope of the True Vision principles and publicity, promoting public confidence in reporting complaints against the police through trusted agencies, as has happened for allegations of homophobic crime. Cumbria Police PSD has taken the initiative by developing a guide to complaints, which has been included in the True Vision pack that is sent out to hard-to-reach groups, as part of the pilot to make the complaints process more accessible in Cumbria.

**Variations in methods of capturing information**

3.39 While there is no question that recording practices have improved, there is still evidence that differing practices exist in different force areas and, indeed, within the same policing areas. A number of forces are seeking to address the difficulties that can be experienced in making initial complaints, especially out of office hours.

> **Good practice: Use of reserve desks as points of contact**
> In both the **MPS** and **Greater Manchester Police**, reserve desks have been introduced to handle complaints against the police. These desks are a valuable point of reference for operational staff with queries and problems and provide an interface that is available throughout the day (and night, in the case of the MPS).

3.40 Some forces have been proactive in market testing the efficiency of their own complaints systems. A notable example is within the MPS, where its Operation Anarchises used trained 'mystery shoppers'. These individuals, properly briefed and following a tightly prescribed methodology, attempted to make complaints by various means; the complaints that were successfully made were then tracked through the system to ensure that appropriate and timely actions were taken.

3.41 The MPS identified a number of issues, not least the difficulty experienced by some mystery shoppers in making simple complaints. The force was, however, able to learn from the outcomes of the mystery shopping exercise, and other similar exercises are planned for the future to ensure that procedures have been made more efficient and that lessons have been learnt.

3.42 This example has been used as a learning exercise by forces that have used this type of process testing. Forces that intend to establish such a process must ensure that all interested parties are consulted and that it is clearly understood that any breaches will be viewed in the light of organisational development and learning

rather than in any negative light. In the case mentioned, the interested parties included staff associations, which were fully consulted and supported the operation.

**Recommendation 3**

Chief officers should establish methods of testing processes, systems and staff, for example by using mystery shoppers, to ensure that they are able to record and process complaints against the police in a timely and efficient manner.

**Confidential reporting lines**

3.43 One method by which members of the public, police officers and police staff may prefer to report misconduct, criminal or corrupt practice is by using a confidential reporting line. This matter, among other things, was reviewed in the CRE's report in March 2005.[23] The CRE recommended that:

> **"Chief officers should review their own confidential reporting policies and fully independent arrangements should be made available by 1 September 2005. Chief officers should encourage the use of confidential reporting for racism and provide full protection for the service user. The facility should have a mechanism for onward reporting to the Independent Police Complaints Commission (IPCC) in compliance with the Public Interest Disclosure Act 1998. The IPCC should report to police forces, police authorities and the Home Office on the use of the system and the nature and location of such reports. The IPCC should monitor the systems' use and accessibility, taking appropriate action in response to any findings."[24]**

3.44 The joint ACPO, Association of Police Authorities (APA) and Home Office response set out in the race equality programme for the Police Service in July 2005 accepted this recommendation and stated:

> **"A majority of forces have either implemented or are currently evaluating options regarding the provision of externally provided independent reporting mechanisms for staff. ACPO Professional Standards Committee will review forces' experiences with the different service providers currently being used by October 2005, with a view to engaging all stakeholders in a project to introduce a national facility. The IPCC will monitor use of its system for PIDA-protected[25] disclosures. The IPCC is not keen to take**

[23] *The Police Service in England and Wales: Final Report of a Formal Investigation*, CRE, March 2005.

[24] CRE report, recommendation 89, paragraph 6.267.

[25] Public Interest Disclosure Act 1998.

**responsibility for monitoring all individual force-based confidential reporting systems."**

3.45 Police forces have begun to address this issue, but problems such as low uptake have been experienced in some forces where, for example, officers and staff have expressed a reluctance to leave messages on answer phones or speak to personnel they do not know. Encouragement to use such lines appears in ACPO's race equality scheme, and a survey prepared on behalf of ACPO has produced options for forces to consider.

3.46 There are a number of forces that have introduced external confidential reporting lines, while others are currently researching the cost of this exercise in a bid to comply with the CRE's recommendations using the most cost-effective solution. There are a number of potential suppliers, but costs differ. Key to the process is effective marketing; forces with a greater uptake tend to be those that have marketed the service effectively. This matter is discussed further in Chapter 4.

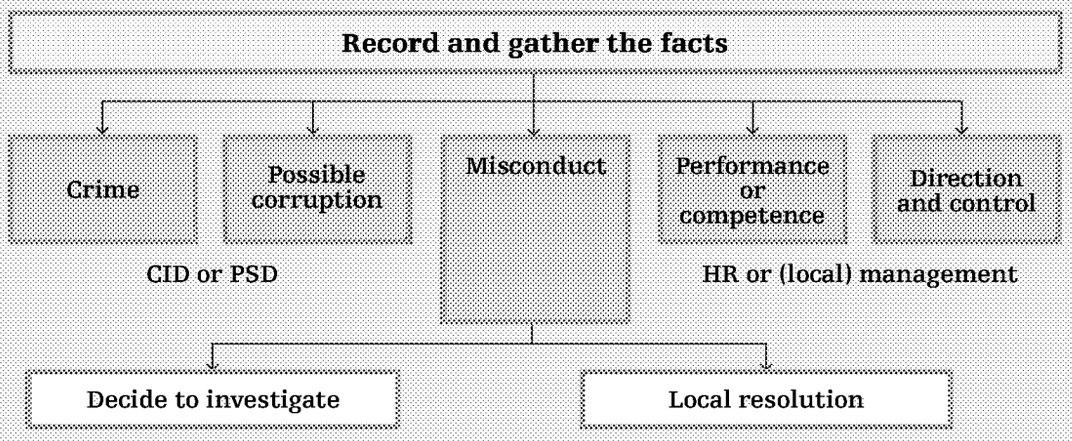
**Early assessment**

3.47 The action taken at the outset of a complaint against the police or report of misconduct has a big impact on later stages. It could be said that this 'golden hour' of investigation sets the tone and plays an important part in managing the expectations of the complainant. The Taylor report, more recently followed by the IPCC statutory guidance, acknowledged that early assessment plays a vital part in encouraging openness on the part of officers and in achieving proportionality for the organisation. The report recognised that this would also allow the member of the public (if it were a public complaint) to be immediately aware of how the process would be managed and what the outcomes might be. The review also cited the fact that most complainants were reported as seeing this as important.

3.48 Figure 4 below indicates the need to form an accurate picture of the allegation at the earliest stage, as this will have a major influence on which path the case will take. It is also important that supervisors responsible for taking the initial complaint are trained and confident in the handling and management of the process.

3.49 Once it has been recorded, the complaint may follow one of a number of paths. At one extreme there is the criminal allegation, for example theft, or an allegation of corruption, such as taking a bribe, in which case the report and associated evidence will be passed

**Figure 4: Assessing the complaint**




directly to the criminal investigation department (CID) or the anti-corruption unit of the PSD.

3.50 The IPCC, as part of its role to increase public confidence in the complaints system, will take referrals from the Police Service. The onus is on forces to refer cases that they deem might damage public confidence in policing. This definition is deliberately vague, and the expectation is that forces will use appropriate discretion and also refer other cases where there is any element of doubt. In addition, there are also categories of complaint where there is a statutory referral mechanism: these include incidents involving the police where there has been a death or serious injury, allegations of serious assault or sexual assault by a member of the police, allegations of serious corruption, any criminal offence or behaviour aggravated by discriminatory behaviour, or any serious arrestable offence.

3.51 The middle course, if a case for misconduct is made, affords some discretion. If the misconduct is minor, for example an allegation of incivility, then there is the option to resolve the complaint locally (discussed later in this chapter). If it is more serious, such as abuse of authority or excessive use of force, then it is likely to be referred to the PSD for investigation. Currently, most cases go directly to the PSD for investigation, but in the future more misconduct offences will be managed locally by line supervisors and only serious or gross misconduct cases will find their way to PSDs. Again, training of and confidence in line supervisors will be of paramount importance.

3.52 It may be decided that it is appropriate to dispense with a complaint at an early stage in the process, or at some other stage in the process it may become appropriate to discontinue the complaint. This may be

in the light of, for example, non-cooperation by the complainant, or it may be deemed appropriate to resolve the complaint locally after all. For this reason, it is important that the investigative process remains under review and that decisions are made that are appropriate to the needs of the case and the complainant.

3.53 There may be allegations of a lack of competence or capability to perform a duty to the appropriate standard, rather than of a crime or misconduct. These may be dealt with by a management intervention or by invoking procedures known as unsatisfactory performance procedures (UPPs), discussed in Chapter 5. These procedures are also being re-examined at the time of writing in the light of the Taylor Review.

3.54 The final avenue is that of a 'direction and control' complaint. This is a complaint that relates to the direction and control of a force, and is one that relates to operational policing policies (where there is no issue of misconduct) or organisational decisions, for example regarding the deployment of staff, the general policing standards in the force or operational management decisions (again, where there is no issue of conduct). They include direction and control by any officer serving under the delegated authority of the chief officer, either directly or indirectly. This form of complaint is not recordable as a complaint against the police under Regulation 12 of the Act, but is recordable under Regulation 14.

3.55 Once the early assessment is completed and the decision made that there appears to be a case of misconduct to progress, and that dispensation or discontinuance are not immediate options, either a full investigation takes place or a local resolution is pursued.

**Local resolution**

> **"I use common sense in deciding whether or not to record a complaint and I only ever put pen to paper if there's no sergeant available."**
>
> Police staff member in the South West

3.56 The comment above is perhaps typical of the traditional way in which police officers and staff handled complaints at front counters. It is of concern, but possibly not surprising, that these attitudes still exist despite the efforts of police forces and the IPCC to ensure that complainants are taken seriously.

3.57 It is fair to say that the Police Service might have been seen as 'complaint averse' in the past, with much effort at station enquiry desks devoted to avoiding having to record complaints formally. Relatively few complaints were formally recorded compared with the number of potential complainants who came into a station. There is, however, no substitute for early complaint resolution as it boosts confidence in the police from the perspective of the complainant, who feels that they have been listened to and that action has been taken to deal with their grievance.

> **"I would regard it as a personal failure if after having spent time with a member of the public they still insisted on making a complaint."**
>
> **Police inspector**

3.58 The unfortunate result of these historical, and often well intentioned, efforts to resolve complaints in the quickest and least bureaucratic manner was the potential to make some complainants feel frustrated. It also encouraged a culture of avoidance in terms of recording those complaints which might indeed merit further investigation. Other unintended outcomes were that information was being lost that might help to improve policing services through organisational learning; staff evaded sanctions when they may well have breached the disciplinary codes; and the lack of recording cast doubt on the validity of statistics.

3.59 In a bid to improve this situation, in the 1980s a process known as informal resolution was introduced whereby a complaint form could be completed but, if the complainant agreed and the alleged conduct was not deemed serious, the incident could be resolved at the point of first contact. This expedient and legitimate course of action was intended to formalise the unofficial process adopted previously by recording the complaint and maximising opportunities to give the complainant a sense of being valued and that action was being taken.

3.60 This process has been revised under the Police Reform Act 2002 and is now known as local resolution. The process is being actively promoted by the IPCC, which is also encouraging forces to be more innovative in their methods of resolving local issues locally. The IPCC advocates such methods as:

- providing information;
- an apology on behalf of the force;
- concluding the matter through correspondence that explains the circumstances of the case and the action taken;

- communication between the complainant and the person complained about via the manager who is handling the complaint;
- an apology made by the manager or the PSD on behalf of an individual (who has to agree); and
- a face-to-face meeting between the complainant and the person complained about, mediated by the manager handling the complaint or by another person agreed by all parties.

3.61 The IPCC also encourages forces to introduce imaginative and original methods of responding to complaints, including arranging visits for complainants to see the police in action, or sending a bouquet of flowers with an apology.

3.62 In its guidance, the Commission also encourages forces to work with local branches of staff associations and trade unions to develop inventive ways of settling complaints. As long as such approaches cannot be misconstrued as avoiding the issue or failing to take appropriate action, and if they are used to develop and improve relationships with complainants or communities, the IPCC supports them.

3.63 Several forces are experimenting with the use of restorative justice techniques in the local resolution of complaints.

**Good practice: Restorative justice in local resolution**
In **Thames Valley**, there is a well established restorative justice regime that is being extended to local resolution, in recognition of the fact that the most effective method of resolving conflict is one that is informal and as fast as possible. The force has pioneered the use of restorative conferencing and has a number of trained facilitators with the skills to mediate in any dispute. There is also a belief in the use of facilitators to resolve the personal issues surrounding full complaints made by members of the public against staff, and their use is encouraged wherever possible within the complaints process. This mediation provides the opportunity for complainants to address their concerns and expectations from the process and may indeed assist in bringing closure to issues that, despite the disciplinary process, remain painful to the aggrieved party.

3.64 The process of local resolution has proved successful in many forces, but there remain some where reluctance to resort to this speedy means of resolving the complaint persists. It is accepted that some staff are more adept than others at resolving this type of issue, and that on occasion complainants are more receptive to informal resolution once the heat of the moment has passed and they have reflected on the incident more objectively. However, it is also the case that supervisors and those who should conduct this process lack the training and therefore the confidence to use the tool effectively.

**Case study: Variable use of local resolution**
In one metropolitan force, basic command unit (BCU) commanders reported variable use and uptake of the local resolution policy. They reported that supervisors were applying a subjective test as to whether these (lower-level) complaints should be recorded in the first place; they agreed that this was likely to result in lower recording rates. They also commented that there was evidence of enquiry staff not acting swiftly enough to record complaints unless they were deemed serious.

3.65 The Taylor report discusses the issues around ownership of the complaints process. It is suggested that the current process is seen as being 'complainant-driven' – the complainant makes the decision as to whether they will accept a local resolution or whether they will insist on a full disciplinary enquiry. This insistence is sometimes unrealistic because it is motivated by the desire to reach an outcome that is unlikely in reality, for example the sacking of an officer.

3.66 The complainant-driven approach was intended to instil public confidence in the system but it can result in inappropriately harsh or long-winded procedures for relatively minor incidents. The intention is that the system should remain 'complainant-focused' but be more actively managed by the police. It is suggested that local police might be able to make the decision as to whether a complaint should be resolved locally. This was suggested following the Taylor Review but is currently subject to debate. An acceptable compromise may be to allow police forces discretion to manage the system but to guarantee an avenue of appeal through the IPCC.

3.67 Another barrier to adopting local resolution is the litigious culture now common in today's society. Officers and organisations are wary of apologising or accepting responsibility for wrongful acts or omissions for fear of being the subject of legal action on behalf of

the complainant. A further barrier is the distrust of the complaints and misconduct system by police officers. For many staff, apologising unreservedly and accepting the shortcomings of their actions presents an understandable fear that it could result in formal disciplinary action.

> **"If you think I'm going to apologise to anyone and run the risk of the 9 o'clock inquest or no win no fee solicitors then you must be joking. Anyway, how do I know what I say won't be used against me later?"**
>
> Police constable

3.68 This fear is often the result of a lack of understanding of the process and is exacerbated by regulations that stipulate that, if evidence supporting formal disciplinary proceedings should surface at any time during a local resolution process, then the formal process will commence. This is a major influence on officers declining to meet complainants as part of the healing process, or accepting or apologising for their actions.

3.69 Officers and staff need to be reminded that local resolution is a protected process and that anything said during local resolution of a complaint may not be used later in formal disciplinary proceedings. Furthermore, officers and staff actually have more protection than previously, as once a complainant has signed up to a local resolution they cannot revert to a formal investigation, whereas previously, under informal resolution processes, the complainant could withdraw from the informal resolution at any time and revert to formal investigation.

3.70 There is a need to develop a greater sense of a learning culture where individuals do not feel threatened; instead, they accept their mistakes safe in the knowledge that they will not be subject to draconian sanctions but they will be given the opportunity to learn and develop as a result of the experience. In the future, this may be achieved through a proposed early assessment of the likely outcome and a mutual agreement to admission and resolution, for example through a written warning and a plan to develop the individual's appropriate skills.

3.71 If officers are not in fear of either litigation or job loss, it is likely that they will be more inclined to engage in the process and meet the complainant. This will permit the facilitated exchange of views and possibly a restorative justice outcome, where both the officer

and the member of the public making the complaint will emerge feeling that they have reached a positive outcome.

**Good practice: Restorative justice training**
In **Dorset**, significant effort in training is under way in restorative justice techniques, which will provide staff at BCU level with the knowledge and ability to deal with more complaints at a local level. The force has been quick to pick up on the benefits of local resolution using restorative techniques, citing cases of increased community engagement and intelligence flow that have resulted from interactions with the public which were initially negative.

3.72 The Institute for Criminal Policy Research at King's College London has been funded by the National Lottery Community Fund and the IPCC to examine the new arrangements for local resolution of police complaints and has been charged with quantifying the extent of this change and the variation in the use of local resolution across forces in England and Wales.

3.73 The first phase of the research involved an in-depth examination of local resolution's predecessor, informal resolution, in six forces, and a more general survey across all 43 forces of England and Wales. The second phase involved interviewing a large number of complainants and officers about their experience of informal resolution. The third and final phase of the research started after the IPCC had been in place for a year and was designed to assess any changes to the organisational arrangements to deal with complaints suitable for local resolution and to develop and monitor new ideas for resolving complaints locally.

3.74 At the time of writing, analysis is still under way and it is anticipated that the final report from this detailed study should be in the public domain in summer 2006. Early findings from the research, which assess the organisational arrangements for local resolution, include the following:

- There is widespread agreement in PSDs that changes brought in by the Police Reform Act 2002 have resulted in a simpler, more transparent system and are perceived to have improved complainant satisfaction.
- Few forces felt that officer understanding or satisfaction with the process had improved since April 2004.
- Few forces reported any difficulties with the transition from the PCA to the IPCC.

- Some forces noted that they would like further guidance from the IPCC on the suitability of local resolution for 'borderline' complaints, best practice across forces, and the practicalities of conducting local resolutions.
- The practice of 'desktop resolution', where complaints are dealt with immediately and not recorded, has continued.
- Divisional officers who provide support and advice to those conducting local resolutions were used in half the forces.
- A number of forces stated that they would support mandatory local resolution for suitable complaints, thus removing the right of the complainant to opt for a full investigation.

3.75 Findings from interviews with complainants and officers who have had a complaint resolved locally will be reported in greater detail later in 2006.

3.76 It is perhaps no coincidence that the forces that have achieved the greatest results and improvements in local complaints management issues, such as local resolution, have senior and readily identifiable BCU champions. Their responsibilities include training and developing supervisors and staff, and monitoring and promotional work within BCUs and among external stakeholders, in addition to their normal duties. These champions are able to explain and demystify the issues surrounding complaints and professional standards and prove a valuable conduit between senior management and both the workforce and the community.

3.77 This approach to improving standards and professionalism at a local level could also prove pivotal in the light of the ongoing work that has resulted from the Taylor Review and which will result in greater ownership at BCU level of misconduct issues. There may also be capacity for BCU champions to advise on other related issues, such as the management of UPPs, fairness in the workplace, and direction and control complaints.

**Good practice: PSD champions**

Each police area in **Thames Valley Police** has a BCU champion, usually a chief inspector or inspector. These individuals have been very influential in helping to raise awareness of and confidence in local resolution. The force now resolves over 50% of complaints locally and has very low appeal rates. The champions are trained by the PSD. Now that the new IPCC guidance on dealing with complaints has been published, there is a further opportunity to use the champions to publicise the new guidance and spread the message about proportionate investigations.

3.78 It is vital that data relating to all these issues is held centrally, as there are often common strands of evidence or intelligence regarding staff who may require higher levels of support or monitoring for a variety of reasons, not least professional standards. Forces such as Kent Police, which is mentioned later, have spent time and energy on further developing systems such as Centurion in order to facilitate improved data collection and the provision of National Intelligence Model (NIM) packages and problem profiles relating to BCUs, teams and individuals.

**Proportionate investigation**

3.79 A guiding principle that is increasingly agreed by all stakeholders is that any investigation into a complaint or alleged misconduct should be proportionate. This may result in a lengthy and complex investigation in serious cases, but it can also mean a much 'lighter touch' approach that produces a more speedy resolution. Avoiding unnecessarily long-winded or heavy-handed investigations has benefits in terms of financial cost, but also, perhaps more importantly, in terms of reputational cost. Clearly it is in everyone's interest, not least the complainant's, to have early closure, provided the examination is sufficiently thorough to achieve a fair and just resolution.

3.80 The Taylor Review and guidance from the IPCC highlight the need to adopt a consistent and proportionate approach to complaint and misconduct management. The Taylor Review cited a propensity born out by experience within forces for staff taking receipt of complaints to 'push matters up the management chain for fear of getting it wrong'. Another reason often put forward is that supervisors simply do not have the necessary time to take other, more proportionate action to resolve the complaint or to simply apologise for the events leading to the complaint. The review cited the fact that:

**"It is this aspect (possibly more than any other issue) that leads to claims of a lack of consistency or proportionality of treatment."**

3.81 The Taylor Review made two recommendations relating to proportionality. The first was that conduct matters should be dealt with at the lowest possible line-management level, referral to PSDs being made only in really serious cases (ie gross misconduct[26]). The second recommendation was that investigations and, where appropriate, hearings should be less formal and managed in a manner proportionate to the context and nature of the issues at stake and in accordance with the ACAS code.

3.82 Since its inception, the IPCC has also been encouraging PSDs to adopt a proportional approach to the investigation of complaints, largely for similar reasons but with particular reference to the need to adopt a complainant-focused approach and to speedily resolve complaints at the point of first contact wherever possible. This approach is intended to allow PSDs to focus and prioritise resources on cases that are more serious or complex, and thus require perhaps a greater depth and length of investigation.

3.83 Despite these exhortations, the inspection uncovered regular examples of lengthy investigations into relatively minor infringements, sometimes lasting years and resulting in little or no action being taken against the officers concerned.

**Case studies: Delays and disproportionality**

In one southern force, four police officers were suspended for a total of six years between them for alleged breaches of data protection. All the cases were returned from the Crown Prosecution Service (CPS) marked 'no further action'. In a further complication, the staff could not be disciplined because, during the crime investigation, some of the IOs had written comments in the margins of the files that would have prejudiced the disciplinary enquiry.

[26] It should be noted that the work of Taylor technical group B is providing definitions of what will be deemed misconduct and what will be gross misconduct. This work should be complete by July 2006.

In another case, an 18-month investigation followed allegations of bullying by an acting sergeant and constable, the circumstances being that an officer on light duties working at a small rural station was allegedly sworn at and spoken to in a manner that breached the code of general conduct. The Police Federation protested that this was a minor matter that should have been resolved locally by competent management. However, the two officers were transferred to new stations and, after 18 months, were placed before a panel and charged with two offences against the code of conduct. The final verdicts were 'not guilty' and 'no case to answer'. This case was compounded by the personal circumstances of the accused officers: one had a promotion put on hold and the other was suffering from a serious illness.

> **"The PSD handle far too many low-level complaints. In my view, as much as 75% of investigations currently being dealt with by PSD could be more appropriately handled at a local level."**
>
> Police Federation representative

3.84 This practice not only absorbs inordinate amounts of time and effort on the part of the PSD staff, but also results in officers, witnesses and complainants being left in a state of 'suspended animation', as, on occasion, officers are suspended from duty for months or even years as a result. This hiatus can have extremely debilitating effects on individuals and teams and, ultimately, on the service provided, whereas speedy resolution, even if not in favour of the complainant because there is insufficient evidence to prove the complaint, allows all concerned to draw a line under the events and achieve a sense of closure.

**Case study: Delays**

In another example, a sergeant in a rural force was accused of neglect of duty. Three years later a hearing date was set and a decision taken that it would be a non-legal representation case, which means that the likely sanction would be minor, ie less than a reduction in rank.

> **"In my opinion, PSD leave people suspended for far too long and seem happy to await CPS decision, when we could have dismissed the member of staff quite rightly well before. The PSD appear to have a 'mind set' which quite often compromises the ACAS code. If we had a better relationship with PSD these problems could be overcome; in fact the Deputy has already identified that the culture must change."**
>
> Police human resources (HR) professional

3.85 The terms 'fishing expeditions' or 'mission creep' have been used to characterise the methods adopted in some PSDs. Typically, this is where investigators go above and beyond the remit of the initial investigation; while ostensibly looking for evidence to prove the original complaint, in effect they are picking up evidence to support other, less serious infringements that might not in themselves merit formal disciplinary investigation. This can lead to these additional issues being progressed through the disciplinary process, while, on occasion, the original complaint receives no further action or is disproved at tribunal.

3.86 Professional standards investigations have the potential to be even more sensitive when they involve black and minority ethnic staff or staff from other minority groups. As previously stated, members of minority communities outside the police force sometimes have reason to mistrust the Service. It follows that officers and staff inside the Police Service who are from either visible or non-visible minority groups may have the same deep-rooted concerns.

> **"Sanctions following investigations into officers' homophobic behaviour rarely fit the crime and are poorly reported in force orders. It would provide greater reassurance to staff if the nature of the allegation proved was disclosed and it was made clear that the sanction given was as a result of homophobic behaviour. What is often the case is that gay officers are seen to be disproportionately treated, and then to compound the matter homophobic officers get off lightly. Chief officers could easily show that they support their own diversity statements by this very simple act.**

> **"Gay staff watch very closely the outcome of either investigations against gay staff or where gay staff have been victims. Disproportionality at either end reinforces the belief that they are treated badly and do not get a fair trial. This may have implications in the longer term, particularly around ETs [employment tribunals]."**
>
> Gay police officer

3.87 It is therefore important that forces ensure that actions and investigations cannot be misinterpreted by staff within the organisation, or by minority groups in the community who may get to hear of the case or its outcome. This can be achieved through transparent processes and by including, where appropriate, guidance from minority groups. In some forces, IAG members have been included on Gold groups that decide the strategy in relation to investigation and other issues, such as media handling in serious cases. This approach is welcome and should perhaps be the norm rather than the exception.

*Risk-based decision making*

3.88 While it is acknowledged that investigations will occasionally identify other offences against criminal law or the discipline code that cannot be ignored, a proportionate approach will ensure that trivial or minor issues are dealt with at the appropriate level.

**Case study: Disproportionate approach**

An officer in a medium-sized northern police force was in the habit of using a CID car to go to the gym at lunchtime every day and then returning to eat his sandwiches at his work station. This practice was widely known in the office and by his supervisors, but, rather than take a management intervention, the PSD became involved and covert observations were used to catch the officer in the act.

3.89 To avoid disproportionality, it is important to apply NIM principles to the process of investigating complaints and, by using the PSD control strategy, identify cases that require extra effort, allocate resources and set terms of reference for the investigation. Effective supervision must then ensure that mission creep does not occur and that investigators stick to the investigation plan.

3.90 Early 'triage'[27] of cases identifies the steps that are likely to be necessary and affords a risk-based approach. This should identify early on the likely outcome of any investigation, even as far as sanction, and should measure this against the cost to the organisation in terms of the time and resources needed to gather the evidence to bring a case to closure. This process should be documented to provide an audit trail for future use, and, as a matter of course, should be complainant-focused. The following case studies provide examples of where this process is working well.

3.91 One of the issues said by some to be hampering the introduction of NIM-based principles in complaints departments is that there are problems with Centurion, the database used to hold information. Practitioners report it as unreliable and therefore hampering the introduction of NIM into complaints processes. There is capacity to make use of existing blank data files but this would need national attention. A number of force representatives find Centurion unwieldy and difficult to operate in support of intelligence-led methods. Other forces, however, have found the product useful.

> **"All police support staff discipline cases are now included, monitored and tracked on the central Centurion database and all cases involving staff are now dealt with by the PSD, who are now the true guardians of all PSD matters."**
>
> **Detective superintendent**

[27] Triage is the process akin to that adopted in A&E departments in hospitals where early assessment is made to assess seriousness, resourcing, the best method of resolution, and whether there are opportunities for early resolution.

**Good practice: Early assessment**

In **Leicestershire**, all complaints received by the PSD are reviewed at chief inspector level and graded A, B or C according to the seriousness of the allegation. Complaints graded C (minor in nature) are dealt with by a limited investigation. This, together with a suitable report template, ensures a proportionate response and allows resources to be focused appropriately on more serious allegations.

The force has also introduced a standard letter, which is sent by the head of complaints to complainants who have declined to have their complaint dealt with by means of local resolution. The letter explains that local resolution is still assessed as being the most suitable means of dealing with their complaint and encourages the complainant to re-engage with the process. The letter is aimed at ensuring that, where appropriate, complaints are dealt with in as proportionate and timely a manner as possible.

In the **MPS**, the post of early intervention officer (EIO) has been created at Norbury, an operational command unit (OCU) in south London. The EIO has responsibility for triaging cases and identifying those that appear able to be resolved quickly through early intervention. The EIO then fast-tracks these cases and has had considerable success in reducing the burden on other IOs, as well as in ensuring that these cases are not delayed by joining the already high workload of investigators.

In **Surrey**, to ensure the proportionality and focus of investigations, an early assessment is conducted by the head of complaints and misconduct when the complaint is received. A comprehensive investigation plan is then completed by all IOs when the complaint has been allocated. These plans are reviewed and endorsed by the department head and then remain on file, where they are reviewed and updated as additional intelligence or information is received. There are also regular and comprehensive weekly reviews between the head of complaints and misconduct and IOs to address workloads and individual case progress. All investigations are monitored and tracked for their timeliness on a spreadsheet, on which regular weekly updates are entered and, if necessary, actions are prioritised towards the end of the 120-day deadline. BCU commanders are given simplified versions of these spreadsheets and are able to update staff who are the subject of an investigation of its progress.

3.92 The examples shown below demonstrate that, with foresight and investment, Centurion can become a useful tool, providing data covering more aspects of PSD work than were previously available.

**Case study: Links between professional standards elements**
In **Sussex**, there are very strong links and early communication between all those involved in the handling of civil claims, complaints and misconduct, grievances and employment tribunals. The co-location of the PSD, civil claims and legal services provides a sound basis for a coordinated approach. In addition, civil claims are recorded on the Centurion database, and the employee relations unit is considering the compatibility and suitability of recording employment tribunal cases and grievances on the same system.

**Case study: Development of Centurion**
In **Kent**, the PSD has developed the Centurion facility and has incorporated it in 'I-2', an intelligence database created from I-base that also houses secure intelligence and feeds the covert policing aspects of the PSD. These developments will allow much greater use of the systems and increased interoperability. The analytical capacity is being expanded. The PSD monitors all direction and control issues within the Centurion database. A member of staff has been appointed to drive direction and control monitoring and collection, together with the development of the Kent Policing Standard (KPS). Although the system has only recently been introduced, it is already making trend monitoring possible and has the potential to allow analysis at area, sector and individual levels. There is a clear link between KPS development and the need for good oversight of direction and control issues, which will provide the force with information on how it is delivering against the KPS. This link is improving interoperability and is being used in the production of monthly tactical assessments, which help make the reactive aspects of misconduct and complaints investigations more proactive and NIM-based. The longer-term intention is to use this system in areas such as grievance, police staff employee discipline, force telephony, computer misuse and data protection.

3.93 Investment and expertise are key to these developments – both have been instrumental in making systems better and more user-friendly. This good practice has been replicated around the country, notably in forces where PSDs are regarded as a mainstream part of the

organisation and where senior stakeholders are prepared to ensure that departments are properly resourced and supported.

### Delays in the process

> **"We look to make decisions as quickly as possible, but time taken increases greatly when other parties such as the CPS are involved."**
>
> Senior police officer in a metropolitan PSD

3.94 The inspection revealed that relations were generally healthy with agencies such as the CPS and the IPCC. However, some specific concerns were raised by managers and practitioners; a consistent theme was unnecessary delays in dealing with police cases, often through having to obtain further supporting statements.

3.95 At a strategic level, forces expressed general satisfaction with relationships with IPCC regional commissioners, but some concerns were expressed over advice from caseworkers. At a strategic level, the IPCC supports and encourages a minimalist approach to compiling files seeking a dispensation[28] of cases, as long as the right information is provided and the response is proportionate in the circumstances. However, at practitioner level, there are many reports of caseworkers returning files for further statements when the police officers thought that they had met the IPCC criteria. This results in PSD staff being less likely to take a risk-based approach if they believe they will still end up having to conduct enquiries later on. (See also Chapter 9 on oversight.)

3.96 Delays in progressing case files was a consistent feature of the PCA, which preceded the IPCC, and it is disappointing that such delays appear to have become the norm again. The IPCC acknowledges that there is still much to do internally to deal effectively with the current throughput of cases, but highlighted that improvements have already been achieved in some areas, such as investigations following police use of firearms.

3.97 A chief officer reflected this concern, and quoted the example below:

> **"A complaint was received at the IPCC call centre in October 2005 but was not passed on to the force until January 2006. Such delays are not uncommon and I have raised this formally with the IPCC. It rather rubs when in this case the IPCC regional office was complaining in February [2006] that the force was taking too long to deal with the complaint!"**

[28] A dispensation is an exemption, granted by the IPCC to a force, from the need to take further action or any action at all about a complaint.

3.98 Concerns were also raised by practitioners in a number of areas of the country in relation to the time spent by the CPS, especially when looking at more serious conduct allegations. This work is normally undertaken by special caseworkers within the special crime division. The division is split between two bases, located strategically in London and York. In addition to handling cases relating to corruption and deaths following police contact, they are also charged with handling any allegation against a person serving with the Police Service where the deputy chief constable considers that issues of exceptional complexity or sensitivity are involved. Turnaround times vary, but in some cases there have been significant delays which give rise for concern.

**Case studies: The impact of delays**

IOs in a Welsh force raised concerns about the length of time that cases are with the CPS and the IPCC before a decision is made, for example a death in custody case had been with the CPS for 12 months. Similar concerns were raised by a force in the South West, again following a death in custody; it looked likely that there would now be no further action, but the case had been running for more than two years.

In a force in the South West, a man died in police custody in October 2004 after having been arrested for drunkenness. Following a six-month police investigation, a file was submitted to the CPS, where it remained pending a decision for a further 10 months. The case resulted in three police officers and staff being suspended on full pay throughout that time and a further three staff being placed on non-operational duties. The outcomes of this delay had a significant impact on the police force and also on the wife of the deceased, who, although she had buried her husband, could not move on as the threat of having to appear as a witness in a subsequent court case was ever present. The eventual decision, some 18 months after the event, was that there was insufficient evidence to proceed and therefore no criminal proceedings were instituted.

> **"I have no complaints with the service delivered by the CPS office dealing with 95% of the force's cases. However, another CPS team, dealing with 5% of special casework, is taking months to turn round cases."**
>
> **Head of the PSD in a Midlands force**

> **"There is a good relationship with the CPS in relation to lower-level cases and a protocol has been drawn up for the turnaround of cases within 28 days. However, there is a long wait for advice in relation to cases that go to the special casework directorate in [...], eg a death in custody case with a number of suspended officers is expected to take six months plus."**
>
> **Head of the PSD in another Midlands force**

3.99 Where there were problems, a common theme seemed to be a lack of communication or the lack of any protocols regarding timeliness. Examples found in two forces exemplify this.

**Case studies: Poor collaboration**

In one Midlands force, there was a lack of formal protocol with the CPS and there were several examples of timeliness issues where complaint files or evidence had been mislaid by the CPS. The head of the PSD stated: "Perhaps they are not on top of their caseload."

In another force in the south of England, where it was acknowledged that the force did not have regular meetings with the CPS, there were examples where advice files had been forwarded to the CPS, which had overturned recommendations to take no further action and had returned files for further review and investigation. A PSD manager said: "Perhaps if we had better communication things would improve."

3.100 In areas of good working performance, it is evident that forces take the time and effort to build meaningful face-to-face relations with CPS caseworkers and staff and thereby develop a better mutual understanding of each other's needs and limitations.

**Good practice: Good liaison and collaboration**

The head of a PSD in **Norfolk** has met the Chief Crown Prosecutor from the CPS in Cambridgeshire and has agreed protocols for the submission of files for advice. This process has developed positively, with the Chief Crown Prosecutor visiting the head of the PSD and key staff to discuss the protocols. There is a good working relationship with the CPS and regular opportunities to raise any concerns about corruption.

In **South Yorkshire**, the force has in place a performance framework, which includes administrative standards for areas such as receipt and recording of complaints, files sent to the CPS, and investigative standards (for example 120 days, local resolutions, proportionate investigations and tribunals). Each standard follows the SMART[29] principles, timeliness being a key factor. Performance information is produced on a monthly basis and is addressed at meetings of complaints and discipline IOs and at PSD management meetings, both of which are held every six weeks. Effective protocols have been established between the complaints and discipline department and the CPS in relation to the submission of files and pre-charge advice. Advice is provided in a timely manner, avoiding unnecessary delays to the complainant and other interested parties. To support this process there is regular liaison between the heads of the CPS and the PSD to review protocols.

3.101 The issue of CPS delays was so consistently raised that HMIC has agreed to carry out a joint inspection with HM Crown Prosecution Service Inspectorate (HMCPSI). This will look at police forces and the CPS at a number of sites across the country, in order to establish the facts behind these assertions, and will have the intention of seeking out and spreading good practice.

### Resolution, hearings and sanctions

*Weighing the evidence*

3.102 At the conclusion of an investigation, the IO should provide a report to the force (if it is a local or supervised investigation) or to the IPCC (in the case of a managed investigation). In a local or supervised investigation, the decision on what follows lies with the force. However, in a managed or independent investigation, the IPCC proposes the course of action. There may then be a discussion, but the IPCC has the power to order a disciplinary hearing. There is also a responsibility for the police or the IPCC in a managed or supervised enquiry to establish whether there is evidence to support

[29] SMART is an acronym used in planning which means that any plan should be specific, measurable, achievable, relevant and time-bound. These criteria help measure whether plans have been achieved or where deficiencies lie.

possible criminal proceedings against the officer or staff under investigation. If there is a belief that grounds exist for criminal proceedings, then the force should submit the file to the CPS for consideration. The IPCC statutory guidance that lays out this process clearly states that the matter will be referred only if this criterion is met and not as a matter of course.

3.103 There is evidence to suggest that some forces are continuing to submit more files than necessary to the CPS for decision, but the thematic inspection did not investigate this area in any depth. The weighing of evidence and referral to the CPS will be investigated further in the planned joint inspection between HMIC and HMCPSI.

3.104 The responsibility for assessing the evidence varies around the country and is largely dependent on the size of the force and the throughput of complaints. For example, in one medium-sized force in the South West, the responsibility falls to the head of the PSD or their deputy, who have responsibilities delegated from the chief officer. In an adjacent force, however, the responsibility falls to an appointed detective chief inspector, who, having assessed the file, presents it to an assistant chief constable (ACC) who makes the final decision. There are no national guidelines to assist in the assessment of evidence, nor is there any national training package, and the responsibility for assessing the quality of evidence is based on professional experience. There is therefore an inevitable tendency for variance in decision making.

3.105 The same is true for participation in tribunals: there is no nationally approved training and the emphasis placed on this aspect of police procedure varies from force to force. Again, there are inevitable differences in terms of adjudication and sanctions.

3.106 A number of forces around the country have sought training from a member of Queen's Counsel who provides the benefit of personal experience and professional guidance in a modular training package designed to meet the needs of the police. Feedback from staff who have attended these training events is invariably positive.

**Suggestion 6**

There is the potential for ACPO to identify a national standard package, or perhaps for Centrex[30] or the National Policing Improvement Agency (NPIA) to fill this void, or to use the experience of the training provider to develop a national programme delivered regionally to professional standards practitioners, superintendents and ACPO. The case for training is even more imperative in the light of potential changes to the discipline code, which are likely to be implemented in 2007.

*The case for a regionalised tribunal panel system*

3.107 Smaller forces experience problems in relation to securing the availability of senior officers and counsel at suitable times to hold hearings. In some cases this means breaking up tribunal hearings so they are held over a number of separate days rather than in one session. For example, in a small force there may be just one chief officer available to chair a panel, and an example cited by the Police Federation related to a panel that had been requested to sit on several days spread out over several weeks.

3.108 In other cases there is a lack of formal qualifications among chief officers; in one force only one out of the four had received any training for the role. There is therefore a case for forces to set up regional training events to enable training, general awareness and networking to take place both informally and formally.

3.109 Indeed, to counter the problems outlined above, there may well be a case for setting up a regional cadre of qualified panel members who could be called on as required to sit on panels within their region.

3.110 Across the country, a number of lay people, appointed and trained by relevant police authorities, exist to assist as panel members. Experience is that these lay people, who have the appropriate skills and training, are in fact seldom used to sit as panel members in disciplinary hearings. There are strong arguments for making greater use of this resource, not only as it would free up other panel members, who are invariably operational senior police officers. A second, and perhaps stronger, argument is that the use of independent people in tribunal panels would demonstrate greater impartiality and, if marketed properly, send out important messages that would reassure the public and complainants.

[30] Centrex – the Central Police Training and Development Authority.

*Sanctions*

3.111 In one recent regional training event there were five mock panels hearing the same facts regarding a hypothetical case. It was interesting to note that four of the five panels found the case proven and one did not, and the sanctions imposed varied from a reprimand to fining the officer between three and ten days' pay, significant differences in outcome.

3.112 Some would argue that this variation is prejudicial to officers in different parts of the country. Alternatively, others would say that this level of discretion is healthy and reflects local variations found in magistrates' court decisions. It is argued that local forces, like local magistrates, have a grasp of local issues and threats – for example, a problem with licensing in a certain town – and therefore decide to weight sanctions accordingly. The same approach may be appropriate for breaches of data protection or other identified problems in a local force area, but such local variations can cause anomalies.

**Case study**
In the South West, a case of information leakage in an enquiry spanned two forces and implicated staff in both. When staff went before separate panel hearings, the sanctions imposed for identical misconduct were lighter in one force than in the other, which then led to a successful appeal.

3.113 In August 2004, recognising the need for corporacy, the MPS issued a policy statement on sanctions, which has subsequently been distributed through ACPO to all forces. The guidance is currently in booklet form and is made available to all superintending ranks in the MPS.

**Good practice: Standard advice**
In the **MPS**, OCU commanders, who manage all local misconduct and gross misconduct cases for police staff, voiced considerable support for the central police staff discipline advice unit at Empress State Building. The advice and guidance provided by the unit is invariably accurate, well informed and appropriate, ensuring corporacy in sanctions and preventing possible subsequent employment tribunal issues. There is a clear policy that OCU commanders must contact the advice unit in every case where there is a possibility that staff may be dismissed. The unit reviews all completed police staff files to ensure that the case for gross misconduct is made before hearings take place.

In **South Yorkshire Police**, they have made use of the MPS guidance in relation to sanctions, but in an informative rather than a prescriptive manner. South Yorkshire has in place a team that supports the disciplinary panels, providing guidance on previous sanctions to ensure some level of consistency, although each case is always judged on its own merits. This team has provided training to all panel members to ensure consistency of approach, an example of good practice that has been identified by other forces.

3.114 Some believe that this guidance is necessary, but others hold a strong view that each case needs to be judged on its own merits. It should be possible to apply both approaches simultaneously, with the guidance informing decision making without being considered prescriptive.

**Good practice: Consistency in sanctions**
Avon and Somerset has managed to maintain consistency of findings and sanctions by ensuring that the same ACPO officer sits on all panel hearings, supported by two experienced superintendents from a small cadre of staff often used for hearings. The force is satisfied that it is able to routinely address cases in an appropriate and consistent manner.

3.115 Even where sanctions appear to be standard and transparent, there can be hidden additional penalties. In one large metropolitan force, officers who are subject to low-level disciplinary measures, for example a caution, stand to lose significantly – as much as £3,000 – as the policy is that an officer should lose their competency-related threshold payments (CRTPs), which are paid to high-performing officers at the top of their pay scale, and their special priority

payments (SPPs), which are paid to officers in certain jobs that are either onerous or hard to fill.

3.116 In other forces, the policy is that CRTPs and SPPs should be reviewed for officers who receive a disciplinary sanction (a written warning or a more severe sanction). Some would argue that this reflects a greater level of discretion to be used on the part of local management, which would not wish to demotivate an otherwise high-performing officer for having committed one relatively minor oversight or other misconduct. However, these sentiments are not those expressed in the Taylor Review, which also highlighted the problem and made the case that 'disciplinary sanctions' are matters of conduct and not competency and this distinction needs to be made clear. The review report went further, reminding the reader that:

> **"Indeed, the Police Negotiating Board document on competence-related threshold payments[31] states: 'However, the threat of the removal of this payment must not be used by managers as an alternative to normal management support or appropriate action under attendance management policies or the conduct regulations.'"**

**Recommendation 4**

Chief officers should review policy in relation to disciplinary sanctions and subsequent payment of competency-related threshold payments (CRTPs) and special priority payments (SPPs). They should ensure that the principles espoused in the Taylor Review are reflected in this policy and that disciplinary sanctions and the payment of CRTPs and SPPs are kept entirely separate.

3.117 Currently, there are widely differing standards applied to the administration of discipline to police officers and police staff. This is discussed in more detail in Chapter 6, but the inspection confirmed that the differences are becoming even more pronounced and visible as police staff are increasingly deployed in operational areas and the 'police family' is extended.

[31] *Competence-related Threshold Payment Scheme*, paragraph 28, Police Negotiating Board Federated Ranks Committee, 30 September 2002.

> **"Investigating complaints and misconduct involving police staff members is a grey area. Depending on whether or not the situation involves a police officer, the investigation can be carried out by the personnel department or the PSD. Not only do the procedures and potential sanctions differ widely, but also there is often a different interpretation of the same set of circumstances."**
>
> Member of a PSD focus group in a northern force

*Keeping staff and complainants informed*

3.118 Throughout the life of the complaint, it is vitally important that staff are updated on the progress of the case and eventually the result of the investigation. This is normally by letter, but many forces have adopted other approaches. The following approach was not unusual in terms of maintaining contact with both complainants and staff involved.

**Good practice**

In **Thames Valley Police**, the initial letter sent to complainants provides details of the nominated IO. Complainants are encouraged to make contact with the IO, whose telephone number and address are supplied. On receipt of a complaint, the IO ensures that a letter of introduction is sent, asking the complainant to make contact within seven days. Should the complainant fail to make contact, a further letter is sent to them. The officer who is the subject of the complaint is also made aware of the nominated IO, and the regulation 9[32] notice is amended to encourage the officer or support staff to make contact with the IO should they have any concerns. The IO is encouraged to maintain contact with both the complainant and the subject of the complaint.

In **Surrey**, PSD staff are also urged to keep in touch with both complainants and staff involved in complaints and misconduct processes. In the past, some complainants who received letters informing them of the result of their complaint perceived (wrongly) that more could have been done on their behalf. Policy was changed in order to reduce the frustration felt by these complainants, and now, as well as a letter, the IO completes an MG 5 form at the end of an enquiry, setting out the steps taken in the investigation. This correspondence is sent to the complainant and reports suggest that this meets their needs, as complainants now have a better idea of the steps taken in their case.

[32] A regulation 9 notice is a formal notification to a police officer that a complaint or allegation has been made against them which is being investigated.

3.119 It will be important that the principles of the Victim's Charter[33] are taken into account in the complaints process and implemented where appropriate.

**Prevention and proactivity**

> **"We have moved to a management by punishment regime. Many say there is a need for the PSD to market what they do, including disciplinary sanctions. The department needs to tell people what staff have done wrong... People will then understand what is being done and why... This will put an end to the gossip."**
>
> Member of a staff focus group in the south of England

3.120 A key message emphasised by the IPCC and by examinations such as the Taylor Review is the need to move to a more developmental model of discipline. The stated aim is to highlight opportunities for organisational learning and to move away from the traditional adversarial positions where both sides may lose sight of the overall goal, which must be to improve and learn from the experience.

3.121 One of the best ways of moving to this more mature approach to dealing with complaints is to ensure that every opportunity is taken to make certain that staff are fully aware of, and understand the reason for, changes to policy and procedures. There is also a need to ensure that staff know what has happened, and why, when there are transgressions that lead to disciplinary processes. They do not need to know the details of the case, but they do need to know where the line is drawn in terms of discipline and understand that, if necessary, the organisation will act robustly to address serious breaches of discipline.

3.122 If forces fail to undertake internal marketing to raise awareness, experience suggests that staff will lack the confidence to take positive action during the important early stages of a complaint. An ineffectual response by staff may exacerbate the original problem or lead to further cause for complaint. Many chief officers have recognised the need to explain policies to staff, and some have engaged personally with their staff through road shows. The benefit and impact of personal interface with staff cannot be overestimated, but this needs to be reinforced by other organisational messages in relation to professional standards.

[33] The 1996 Victim's Charter sets out the standards of service that you or your family can expect from the criminal justice agencies if you have been a victim of crime. In April 2006, the Charter was replaced by the Victims' Code of Practice. The statutory code builds on the commitments laid out in the Charter, to set minimum standards of service that victims and witnesses can expect from criminal justice agencies.

3.123 Many forces have developed PSD newsletters, which are circulated as hard copy or on the force intranet, but it is believed that these have mixed success in attracting a wide or sustained readership. Others have developed approaches that are perhaps more useful.

**Good practice: Communication and awareness**

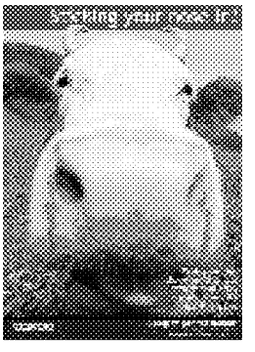
In **Wiltshire**, a departmental newsletter is regularly produced and published on the force intranet. Force general orders, published monthly, contain an outline of breaches of discipline that have resulted in written warnings from the superintendent or where sanctions have been imposed at misconduct hearings. The officers involved are not identified. Standards expected of staff are also reinforced through the staff handbook and codes of conduct. The PSD has a website that all staff can access and that gives current updates, a profile of staff on the PSD, advice and FAQs.

In **West Mercia**, the PSD has developed an FAQ site as a useful point of reference for staff or supervisors who have queries or concerns. The site is dynamic and allows staff to pose new questions, which are then answered on a 'bulletin board'.

3.124 In terms of moving the agenda from one of punishment and sanction to one of learning and development, progress is evident in forces such as Greater Manchester, where the ACC is continuing to preside over what is described as a 'sea change' in the way the force deals with misconduct issues. All officers receiving sanctions from misconduct hearings that fall short of dismissal are subject to development plans. This strategic move towards individual and organisational learning is emphasised in all the force's complaint guides and in the force newspaper.

3.125 Internal marketing can also take the form of high-impact poster campaigns. Devon and Cornwall Constabulary has used this approach, with posters addressing the key strategic threats to the organisation that were identified in the threat assessment undertaken in 2004/05.

3.126 These posters clearly convey the message, but, interestingly, they have caused some resentment among the workforce, who feel they are all being treated as if they were guilty. Despite this resentment, it is clear that the message has been disseminated effectively, because all staff interviewed had seen them. Initiatives such as this could be supported by statistical information; this would allow staff to understand more clearly the reason behind the campaign and the precise nature of the conduct it is seeking to combat.



*Proactive engagement with the community*

> **"Although the force uses independent advisory groups on a critical-incident basis, there is a need to have consistent and informed input from an IAG which aids the development of the philosophy of standards and quality across the organisation."**
>
> Comment by the HMIC inspection team on a large northern force

3.127 The issue of community engagement by PSDs has proved something of a challenge for most police forces, but it is very important to ensure that community groups, especially those with minority backgrounds, are included in consultation.

3.128 Many forces have experimented with customer satisfaction surveys, but feedback tends to be variable. For example, one force in the west of England received only a 10% response rate to the survey sent out to complainants. To the credit of the force, however, it means to learn from the experience and consider better marketing for future surveys. The issue of marketing is crucial, and the forces that have experienced success are those that have been able to engage with their target community. The following examples demonstrate how this can be achieved.

**Good practice: Engaging with communities**

In **West Mercia**, the force has established a police authority-led working group to deal with complaints and surveys. This is specifically intended to bring a more proactive approach to citizen focus. The group comprises members of the police authority, an HR panel, the head of strategy (who reports on satisfaction surveys) and the head of the PSD (who reports on trends in complaints). The work of the group has been enhanced by the appointment of the PSD performance researcher, which has enabled more sophisticated analysis of complaints. The PSD engages the support of two IAG members on a consultative basis when dealing with relevant complaint cases.

In **Wiltshire**, the diversity excellence model (DEM)* has recently been applied to the PSD. The review process, consisting of a series of interviews with unit staff, has assessed the quality of inputs, outputs and outcomes within the PSD in terms of diversity. Twenty people, including external stakeholders and members of the race equality advisory group, have undergone external training in the DEM assessment process. This community interaction has been well received and has led to a greater understanding of professional standards matters, improved communication links and increased trust and confidence in both the PSD and the force.

*The DEM is a European Foundation for Quality Management (EFQM) assessment tool.

In **Dorset**, a programme of perceptual training, run at the Streetwise safety centre, makes full use of members of the community from a wide range of backgrounds. Students receive practical training on how to deal with issues such as stop and search, and receive feedback on how they are perceived by the public. This training provides a useful vehicle for the development of skills to deal effectively with members of the public, thereby reducing the potential for complaints.

**Conclusion**

*Quis custodiet ipsos custodes? – Who guards the guards?*

3.129 The reputation of the police depends on many factors. One of the crucial factors is the manner in which the Service is seen to address complaints and misconduct, both by the general public and by the workforce. The importance of this aspect of police work has perhaps been neglected in the past, but recently it has come to the forefront, in particular since the inception of the IPCC and the publication of the Taylor Review.

3.130 There is a clear need to improve accessibility to the system and to re-emphasise the importance of learning lessons to achieve service improvement. Marketing and publicity remain key to promote the work of these departments, both within forces and externally, to build trust and confidence among the public, particularly among minority or difficult-to-reach and difficult-to-hear groups.

3.131 There is evidence that PSDs are now, rightly, mainstream in the majority of police forces, but there is no room for complacency. There is still work to do in relation to greater NIM compliance within professional standards, and a need for more robust adherence to national standards and guidelines as laid down by the IPCC. There is also scope to improve recording practices generally and in terms of statutory recording of the ethnicity of complainants. The challenges regarding accessibility must continue to be met. Complaints and misconduct training for PSD staff, and indeed for line management, should also be improved, and, with the likely changes to the discipline codes resulting from the Taylor Review, the need for a nationally accredited training package is growing.

3.132 This inspection has highlighted much good practice, and, among other things, the passion and professionalism of staff at all levels within PSDs has been a recurring theme.


4. Anti-corruption
POLICE

# 4. Anti-corruption

**Introduction**

4.1 Maintaining public confidence is essential to a service that prides itself in policing by consent, and confidence can be all too easily undermined both by the corrupt actions of a small minority of officers and, more widely, if the Service as a whole is not seen to reflect the highest standards of integrity. During the 1990s, a succession of scandals established a genuine and widespread concern about corruption within the Police Service, and since that time the Service has been subject to significant scrutiny.

4.2 In 2002, the Home Office published research on corruption within policing[34] and identified the scale of corruption at the time in the following terms:

> **"... while limited to a small minority of police staff, corruption can be found across a range of forces. This includes both large and small forces, and those covering both urban and rural environments. It also finds corruption across a range of police roles, including detective, uniformed and support staff, and in both lower and higher ranks of officers."**

4.3 It also challenged the increasingly widely held image of corruption being practised primarily among groups of colleagues, in particular detectives. While such corruption still existed, the predominant perpetrators were lone staff members, and the main target was sensitive information. In view of the range of individual activities, reasons for their actions and desired outcomes, the research struggled to settle on a single definition of police corruption.

4.4 The full findings of the research were considered in the work carried out by the Association of Chief Police Officers (ACPO) in 2003 in formulating guidance to professional standards departments (PSDs), *A Professional Standards Department: Philosophy, Structure and Resource Implications*. The authors settled on the following working definitions:

- **Corruption** "is the abuse of one's role or position held in the Service for personal gain or gain for others".
- **Unethical behaviour** "is behaviour that does not conform to the Statement of Common Purpose and Standards and/or the code of conduct for police and contractual standards set for civil staff".

[34] *Police Corruption in England and Wales: An Assessment of Current Evidence*, Police Research Paper 154, Joel Miller, 2003. Produced by Research Development and Statistics Directorate, Home Office.

**Threats to the Service**

4.5 The Home Office research of 2002 spent a considerable time examining the causes and origins of police corruption. Often, casual factors create a serious threat to the organisation. Informal contacts are made through working in the local area, social acquaintances or membership of clubs, and staff joining the Service bring with them a significant number of contacts. These are usually benign, but, without good management supervision, they have the potential to provide criminals with opportunities to corrupt force employees.

4.6 To the unguarded or unsuspecting member of staff, a request for information during a social conversation with an acquaintance at a local club may seem innocent, but unwittingly disclosing sensitive information may compromise a major covert operation or put the safety of staff at risk.

**Case study: Information leakage**

In one force an officer was asked by a family friend to obtain the home address of his estranged wife from the Police National Computer (PNC), on the pretence that he wished to make contact with her again. The officer acquiesced and passed on the details of the estranged wife's new home. The husband knew that a finance company wished to trace her and notified the company, which subsequently made contact with her. The estranged wife was concerned and curious as to how the finance company had discovered her new address, a location she wished to keep anonymous, as she had started a new life with another man.

The woman reported the matter to the police and an enquiry followed. The officer who leaked the information was traced by an audit and subsequently disciplined. The outcome of this case was relatively innocuous, but, had the separation been a result of violence, the consequences could have been far reaching.

What this demonstrates is that once information is leaked there is no longer any control over how it is used. The case shows how seemingly casual and harmless requests can have serious consequences for the police and the public, not to mention the loss of confidence in the Service.

*National strategic threat assessment*

4.7 The first ever national strategic intelligence assessment of corruption within the Police Service was conducted by the National Crime Intelligence Service (NCIS) in 2003: *Ethical Standards within the Police Service: Corruption Involving Collusion*

*with Criminals*. A principal recommendation of the report was that police forces should produce their own threat assessment annually, from which NCIS could compile the national assessment. In 2003, there was a limited response to this recommendation. However, in December 2004, NCIS produced the *Summary Report on 12 Police Force Corruption Assessments* for ACPO's Counter-Corruption Advisory Group (ACCAG).

4.8 The importance of compiling annual force threat assessments cannot be overestimated. These assessments inform not only the local and regional response to the threat of corruption, but also the regional and national threat to the Service. The inspection revealed that, while all forces reported having compiled threat assessments of their vulnerability to corruption, the standard and timeliness of submissions varied significantly. This led to NCIS compiling their 2005 threat assessment[35] from submissions from 29 out of the 43 police forces. Consequently, this shortfall in the national picture meant that judgements and conclusions were formed on the basis of incomplete information.

4.9 NCIS identified three primary findings that largely reinforced the earlier Home Office research, namely:

- Corrupt behaviour is practised by a small minority of employees.
- It is predominantly haphazard, opportunistic and solitary in nature, though there is evidence that organised crime groups (OCGs) are targeting police employees to obtain intelligence in relation to themselves, informants and police operations.
- The most common and damaging type of corrupt action is the unauthorised disclosure of police information. The recipients of such disclosure range from the criminal to the curious.

4.10 In May 2005, the annual conference of ACPO's Professional Standards Committee (PSC) considered the national threat assessment in more detail and highlighted three primary areas of focus for the Service:

- information leakage;
- infiltration of the Police Service, exacerbated by the ever-expanding 'extended police family'; and
- substance misuse, with all its criminal conduct connotations and the additional risk of targeting, coercion or blackmail of staff.

4.11 The inspection found that, with a small number of exceptions, local trends reflect the national picture, and control strategies are developed to address the risks identified by the national assessment and the PSC discussions.

[35] *Ethical Standards within the Police Service: An Update on Corruption Issues*, NCIS 2005.

*The threat from organised crime*

4.12 While at the local force level the threats from information leakage and individual staff misuse of substances are predominant, the identified threat from OCGs targeting vulnerable staff is an absolutely crucial aspect at the national level. Organised criminals will always find the weakest link, and forces that do not use robust measures to address corruption are the weak link in the national armoury. As a national problem, this requires a holistic approach, and one that needs to span the entire professional standards spectrum, from minor unprofessional and unethical behaviour through to serious crime.

4.13 Nor should the importance of or danger posed by apparently isolated or minor corruption be underestimated. Previous research has shown that minor rule breaking can lead to more serious transgressions or may be symptomatic of an officer who already has a dubious degree of integrity. It is important that all staff, but in particular supervisors, remain vigilant. As one head of a PSD said:

> **"We need to be bold enough to challenge successful officers who often achieve their success through rule bending, and which sometimes reveals later that more serious corruption is involved."**

**Case study**

An experienced and well respected detective in a large metropolitan police force was renowned for achieving excellent results. His arrest and conviction rate was second to none. It was, however, well known that he had become largely disillusioned with senior officers, who he felt knew or cared little about investigating serious crime, and that he would often pay scant regard to the ethics and values of the organisation. Despite this, he was very much left to his own devices, with little intrusive supervision. Following information from a source, a covert investigation was mounted. It was established that, during unauthorised and unrecorded meetings with an informant, the detective was passing sensitive information about police operations to a major level 2 criminal. The relationship between the informant and the detective had become very close and wholly inappropriate. During the course of the investigation it transpired that the detective's level of rule breaking was extensive, for example he was using the police vehicle as his own, making regular shopping trips and social visits and even teaching a member of his family to drive in it. The investigation resulted in the detective's conviction and a term of imprisonment.

4.14 What this case study shows is that apparently isolated instances of minor rule breaking can lead to serious corruption when left unchecked. It was undoubtedly the case that a number of staff and supervisors were aware of at least some aspects of his rule breaking, but chose to ignore it.

4.15 It must be the responsibility of all staff, and in particular all supervisors, to remain alert to the dangers and to challenge even minor rule breaking. However, the implications of the case study are even wider, because it highlights the need for threat assessments to look beyond traditional corruption activities and for indicators of other breaches of professional standards or ethics to contribute to a strategic analysis. It may be that trends identifiable within grievances, civil cases or employment tribunals could help highlight more worrying threats. However, if these cases are not properly monitored and analysed, such intelligence will be missed.

**Recommendation 6**

Strategic threat assessments, at both local and national levels, should be completed by all forces in accordance with the timescales and reporting periods set by the National Criminal Intelligence Service (NCIS) or by NCIS's replacement, the Serious Organised Crime Agency. Assessments should draw on intelligence from, and subsequently inform, all the business areas within the professional standards environment, including complaints, civil actions, claims against the force, security issues and vetting.

**A strategic response**

*National leadership*

4.16 Following the high-profile scandals of the 1990s and the HMIC thematic report on police integrity (1999), ACPO established a presidential task force on corruption. By 2000, the task force had evolved into the ACPO PSC. Successive chairs of this committee, all chief officers, have helped the Service move from a position where only a very few forces possessed any dedicated capability to address corruption issues to the current situation where every force has a capability and, in virtually every case, this consists of highly trained, specialist and dedicated staff.

4.17 Within the work of the PSC, specialist practitioners have been commissioned to develop protocols, guidance and advice documents. These have drawn on the best available practice, mainly but not exclusively from the larger metropolitan forces, and have been both

well received and highly influential in raising the standard of anti-corruption capabilities across the Service.

4.18 The PSC annual professional standards conference has become one of the most valued, and consequently best attended, of the ACPO conferences and has provided an influential forum where critical issues can be raised and good practice shared. HMIC continues to support both the PSC and the conference in this work.

*Local leadership*

4.19 The importance of local senior leadership and commitment to anti-corruption cannot be overemphasised. Through its involvement in advising on and agreeing the specific grading criteria for the baseline assessment of professional standards, ACPO set the benchmark as:

> **"A chief officer effectively driving forward a strategy to set and sustain professional standards, to learn lessons from complaints and to ensure continuous improvement."**

4.20 In its inspection, HMIC therefore expected to find strong levels of leadership and commitment to professional standards from the very top of the organisation.

**Findings**

4.21 There is general evidence of strong and active leadership; for example, all forces have a dedicated chief officer lead on professional standards, and in most cases this is the deputy chief constable (DCC). Heads of PSDs are generally of the rank of chief superintendent or superintendent, depending on the size of the force, and report directly to the chief officer lead. In most forces, a strategic plan is in place, endorsed by the chief officer lead and well communicated.

4.22 Generally, chief officer leads and heads of PSDs are passionate about standards within the organisation and feel that an improvement in professional standards increases the quality of the core policing service. There are a number of examples where chief officers and heads of PSDs are striving to improve the quality of the core policing service.

**Good practice: Professional standards board**
In **Dorset**, there is a professional standards board chaired by the Chief Constable which considers standards across the whole organisation. The DCC, who holds the professional standards portfolio, also sits on the board. It has become a well established forum for setting the strategic direction and, through a work matrix, driving improvements in the investigation of public complaints, misconduct cases, direction and control issues and civil claims.

4.23 As with so many areas of policing, the success of a function can be closely related to the degree of commitment and leadership displayed by those in command. While a specific tenure of post is not suggested, it is important that such leaders do not become stale or complacent and that their continued commitment and interest is evident in their actions as well as in their words.

*Dedicated expertise: analysts, covert teams and training*

4.24 The evidence and intelligence-gathering operations that anti-corruption staff are required to undertake are often complex and protracted. To compound this complexity, the targets are invariably employed within the organisation and may be conscious of covert tactics. Add to this the provisions of the Regulation of Investigatory Powers Act 2000 (RIPA), the sensitivities and restrictions surrounding the handling of informants, the special skills required to carry out covert investigations, such as surveillance, and the fact that investigators are dealing not only with criminal law but also with discipline regulations and police staff employment contracts, and it should come as no surprise that the level of expertise required is extremely high.

4.25 This is an area of policing where standard procedures need to be followed in considerable detail; the consequences of failing to do this can lead to acquittals on technicalities, discredit to the department, and a waste of resources and money. This has been evidenced in a number of high-profile corruption enquiries.

**Findings**

4.26 Staff within anti-corruption units tend to be highly motivated and well trained in covert policing measures such as source handling and RIPA. They invariably have general covert investigative skills that have been obtained elsewhere within the organisation, for example in crime or drug squads or intelligence-gathering units. No force reports having developed or delivered a dedicated training

programme specifically for anti-corruption work. Generally, new recruits to the department shadow the more experienced members and learn from them, which can mean that they adopt habitual bad practice.

4.27 Levels of covert capacity vary according to the size of the force: the larger forces are able to demonstrate adequate levels of internal covert resources and do not need to routinely seek mutual aid by borrowing resources from other forces. In some cases, larger forces have dedicated surveillance teams. The smaller forces generally rely on a minimal number of covert staff (often just two or three), seek to gather evidence in other ways, and call in mutual aid when larger-scale operations are necessary.

4.28 Where skills gaps are identified, staff are sent on relevant courses, such as informant handling. There is evidence that officers within anti-corruption units have been on recent diversity courses, although no courses are totally specific to their role. However, it was noted that no nationally accredited training course exists in relation to anti-corruption or police misconduct investigations.

4.29 This absence of standard and specific training is a gap that should be addressed by ACPO in conjunction with the new National Policing Improvement Agency. The current work by ACCAG to run a pilot anti-corruption training course in 2006 is acknowledged and supported. The subsequent evaluation of this course could form the baseline for the development of future training programmes.

**Recommendation 6**

Subject to the findings from the pilot, Centrex, in agreement with the ACPO PSC (ACPO's Counter-Corruption Advisory Group), should develop a nationally accredited course for anti-corruption staff to cover the skills areas specific to the role.

*Sterile operations and accommodation*

4.30 Within operational PSDs, the anti-corruption unit needs to be kept away from identifiable police buildings. The reason for this is that targets will work within the organisation and will have routine access to police databases, buildings and, potentially, colleagues working within the unit.

4.31 In the early stages of their development, the majority of anti-corruption investigations will be covert in nature. The failure to maintain an appropriate level of security can lead to a risk of

compromise and, in some cases, a risk to the safety of anti-corruption staff and of exposing their identity.

4.32 The premises of anti-corruption units either can be totally covert, situated well away from any identifiable police premises, even adopting an assumed identity, or can be housed within a police building but kept separate from other offices. In the latter, 'sterile' model, the risk of compromise can be minimised by the use of quality access systems and databases with restricted access; however, the issue of compromise remains higher owing to the proximity of the operation and the risk of leaks through overheard conversations or papers left carelessly in communal areas, for example at a photocopying machine.

**Findings**

4.33 The inspection found that the locations of anti-corruption units are generally sterile, even when they are sited within police premises. At least four forces have either fully covert or private premises away from identifiable police buildings. One head of a large anti-corruption unit stated that the preferred location status for an anti-corruption unit is that of 'private premises' – not covert, but protected from the wider Police Service, and yet accessible to those wishing to report concerns about corruption.

4.34 There is a body of good practice and security and design advice available within the Service, and it would be sensible for the ACPO PSC to collate and disseminate this alongside the work now under way to update and expand the ACPO guidance on the structure of a PSD (see Chapter 2).

*The 'protective service' approach*

4.35 In 2005, HMI Denis O'Connor and his team conducted a review of forces' ability to address what have become known as the 'protective services' of policing. The work had a number of critical drivers, not least the emergence of a terrorist threat following 9/11 and the London bombings, but the main one was the long-standing concern about the ability of forces to cope adequately with cross-border (level 2) criminality. The concept of protective services is explained in full in the HMIC report.[36]

4.36 HMIC took as its starting point the discussion raised by the 2004 Home Office strategy unit report on the nature of policing services at different levels. At force, regional and national or international level, they suggested that the police **protect** the public, for example by dealing with serious organised crime and terrorism. This is in

[36] HMIC *Closing the Gap* thematic report, 2005.

contrast to local policing, where police work **with** the public at the neighbourhood level to tackle anti-social behaviour, or where the police work **for** the public in dealing with volume crime. By this definition, the policing services that fall under the headings 'working with' and 'working for' are delivered at beat, sector and basic command unit level and should be met almost entirely from local resources. This is not the case for the provision of protective services. In many respects, this is a force and/or regional function, which is often conducted without the knowledge of local people and requires an assessment of the twin issues of force **capability** and **capacity**.

4.37 The critical elements of protective services have been divided into **intelligence** (what we know about the matter), **prevention** (what we can do to reduce or prevent harm) and **enforcement** (how we can deal effectively with this crime in the criminal courts or achieve resolution through other means).

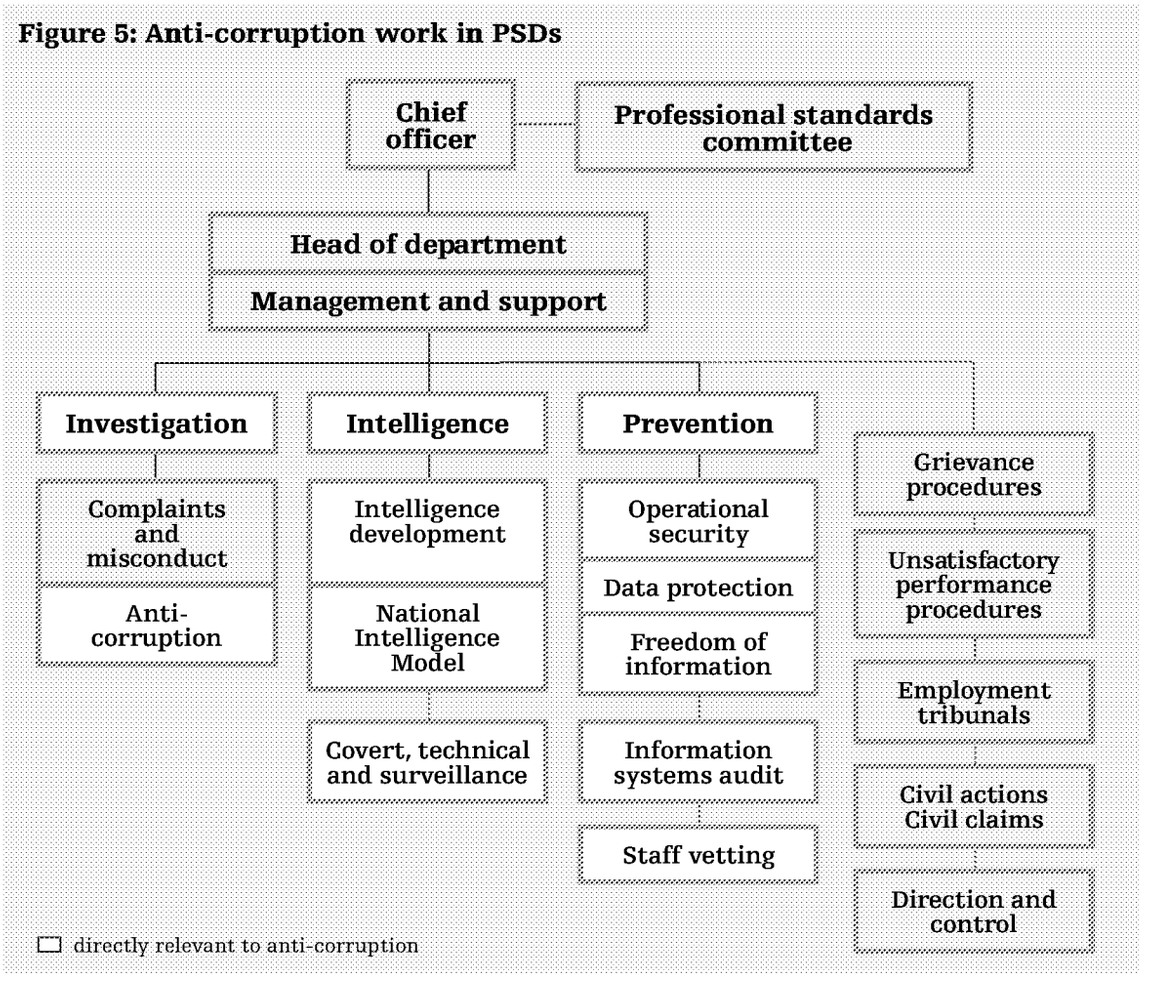
4.38 This language is increasingly common within the Police Service and, in particular, it is now closely associated with the National Intelligence Model (NIM).

4.39 The protective services that were the focus of HMI O'Connor's work and assessment were:
- major crime (homicide);
- serious organised crime and cross-border crime;
- civil contingencies and emergency planning;
- critical incidents;
- public order;
- strategic roads policing; and
- counter-terrorism and extremism.

4.40 There was serious discussion as to whether professional standards should have been included as the eighth protective service. Although it was decided not to include it, the issues relating to protective services were felt to be equally relevant to professional standards, and therefore they were adopted in the thematic inspection and within the parallel baseline assessment programme. This led to an emphasis on:
- enforcement and investigation;
- intelligence;
- prevention; and
- capacity and capability.

4.41 This approach is particularly relevant to the inspection of anti-corruption units, as shown in the figure below.

**Figure 5: Anti-corruption work in PSDs**




**Investigation**

4.42 The size and structure of anti-corruption investigation teams vary, depending almost entirely on the size of the force and the PSD. The smaller forces do not usually have dedicated, separate anti-corruption investigation teams, and the process adopted involves the intelligence team, often simply one detective sergeant and a detective constable. This team develops intelligence to the point where the operation becomes one of evidence gathering, and then passes it on to the complaints investigation team, which takes the enquiry forward to its conclusion. In the larger forces, there are invariably dedicated anti-corruption investigation teams, which means that the investigation remains within a single unit.

4.43 To illustrate this trend, in Cheshire the professional standards intelligence unit (PSIU) takes responsibility for anti-corruption measures and covert professional standards operations. The PSIU consists of three police officers and an analyst, who report directly to the deputy or head of the PSD. There are no dedicated anti-corruption intelligence teams. In contrast, the Greater Manchester Police (GMP) internal investigations unit (anti-corruption) comprises a chief inspector, two inspectors, five sergeants, fifteen constables, two analysts and a member of administrative staff.

4.44 The key issues in establishing anti-corruption investigation teams are:

- **resilience** – having the ability to take on anti-corruption investigations from the intelligence-gathering stage through to conclusion;
- **skills and training** – where resilience exists, having staff who are fully trained investigators, not just in traditional criminal investigations but with the added skills that are required in the field of misconduct; and
- **outside tasking** – where there are no dedicated investigators within the anti-corruption unit, then the investigation is passed from the intelligence team to the complaints investigation team.

4.45 Undoubtedly, the proposed restructuring of police forces will produce a situation where all strategic forces will have the capacity to establish appropriately resourced teams. It will be important, however, that the structures subgroup of the PSC produces clear guidance in its revised template on the requirements of anti-corruption investigation teams.

*Proportionality in investigation*

4.46 In some forces, particularly the larger ones, there is an increasing concern about perceived disproportionality in the degree of investigative effort directed towards staff from minority ethnic backgrounds. These concerns have been compounded by a number of high-profile investigations involving minority ethnic staff members that have been discontinued or where those under investigation have been exonerated. Notwithstanding these cases, there is evidence that minority ethnic staff are more likely to be convicted following criminal and misconduct investigations.

4.47 In the 2004 Morris Inquiry into the Metropolitan Police Service (MPS), the issue was addressed within a recommendation:

> **"That [forces] take urgent steps to eliminate the discriminatory management practice which has led to a disproportionate number of investigations of black and minority ethnic officers and that [forces] take immediate action to engage black, minority ethnic and white officers and staff at all levels in the important practical steps required to ensure that black and minority ethnic officers and staff are not discriminated against on grounds of race."**[37]

4.48 The issue was also subject to a recommendation in the 2004 Commission for Racial Equality (CRE) formal investigation into the Police Service, which stated that:

> **"The Home Office and/or Her Majesty's Inspectorate of Constabulary should urgently commission research across the Police Service on the nature and extent of any disproportionate impact on ethnic minority police officers that may exist in the operation of the police disciplinary procedure."**[38]

4.49 In the joint ACPO, Association of Police Authorities and Home Office response set out in the race equality programme for the Police Service in July 2005, it was agreed that this research should not be the responsibility of HMIC but that:

> **"The Home Office will liaise with the MPS regarding research commissioned and being undertaken [now extended beyond the MPS] which may prove helpful. The Home Office will consider the possibility of further research in developing the new disciplinary process."**

**Findings**

4.50 There is evidence that this important issue is being addressed. GMP has a member of their PSD staff researching disproportionality, while Lancashire, the MPS and Northumbria have commissioned or are considering commissioning independent academic research into the subject. The MPS research is being conducted by the University of Cambridge Criminology Department and was due to be reported in April 2006. Leicestershire has engaged the Government Office for the East Midlands to provide an independent review in this area.

[37] Morris Inquiry, recommendation 7a.

[38] CRE report, recommendation 69, paragraph 6.64.

**Recommendation 7**

ACPO and the Home Office should ensure that there is a coordinated approach to the ongoing research into the disproportionate number of investigations conducted into officers from black and ethnic minority backgrounds.

*Covert, technical and surveillance intelligence-gathering techniques*

4.51 Covert, technical and surveillance intelligence-gathering techniques are particularly important to anti-corruption activity as the target will work within the organisation and there is every chance that they will be on their guard to avoid being observed or detected. Even if the target is not particularly difficult to monitor, the risks of compromising the operation must be minimised in order to protect any sources of relevant intelligence, for example colleagues of the suspect who may have reported their suspicions.

4.52 A good anti-corruption unit should have access to all the tactics that any other covert unit would have; at its highest level, corruption is a very serious criminal offence that strikes at the very heart of policing and the integrity of the Service.

4.53 Resources such as surveillance teams, financial investigators, technical support teams and undercover operatives are increasingly necessary in anti-corruption investigations.

**Findings**

4.54 Yet again, as a rule of thumb, the larger forces have good levels of dedicated covert facilities and the smaller forces rely mainly on informal arrangements with neighbouring forces. To illustrate this, in West Midlands the anti-corruption unit consists of 22 members of staff, mainly police officers and experienced detectives with a range of proactive intelligence and covert policing investigative skills; in North Yorkshire, the anti-corruption unit consists of only three members of staff. The North Yorkshire team, small as it is, possesses excellent covert intelligence-gathering skills, and it is able to use surveillance teams from a neighbouring force when more extensive resources are needed.

4.55 These informal arrangements generally work well but they rely heavily on personal relationships and mutual goodwill between force representatives. Some good examples of more formal collaborations are evident, for instance in the Eastern Region a formal protocol exists between forces for the sharing of resources for covert operations. In the South West, at the time of the

inspection, a similar regional protocol between the PSDs was being drafted. In Lancashire, while the anti-corruption unit does not have its own dedicated surveillance team, it has demonstrated an imaginative use of external agencies.

*Executive authority and lawful business monitoring*

4.56 The concept of 'executive authority' was developed by ACPO to provide a formal framework for the valid authorisation and deployment of covert investigation techniques (including the interception and monitoring of telephone conversations both to and from forces) in the context of internal police disciplinary investigations involving potential misconduct of a serious nature.

4.57 **Executive authority** sits outside any legislative framework and the legitimacy of this tactic has been questioned. It is the view of some senior police officers that the legitimate use of the executive authority procedure is questionable in the light of Article 8 of the European Convention on Human Rights, the Human Rights Act 1998 and the Data Protection Act 1998 and this view is widely held in professional standards circles.

> **"How can a department that is there to ensure the integrity of policing adopt a tactic that is so questionable? It just doesn't make sense."**
>
> **Senior police officer, head of an anti-corruption unit**

4.58 If the use of executive authority is such a questionable tactic then there is a risk that individual authorising officers will be exposed to civil actions, and there remains a strong likelihood that material obtained through such covert investigations will be inadmissible in any subsequent disciplinary or civil proceedings. It may be for these reasons that staff associations, including the Police Federation and the Superintendents' Association, are opposed to its use.

4.59 The RIPA review in 2005 acknowledged the Home Office view that the use of covert tactics, such as those governed by RIPA, for non-criminal matters was disproportionate, and that the inclusion of misconduct as grounds for authorisation lowered the threshold too far. The Home Office currently contends that well-designed workplace monitoring (known as 'lawful business monitoring') and staff welfare policies should negate the need for executive authorisations.

4.60 **Lawful business monitoring** is the recording of transactions, conversations and other communications which take place within

the business environment on equipment owned by the particular police force in which the transaction takes place. It may be used to cover telephone calls made to and *from* an organisation and can be a useful tool to help secure consistency in the way that calls are handled and to improve public confidence.

4.61 Forces can lawfully record and retain such transactions, not only for quality assurance and policy compliance but also for breaches of conduct by staff. Ideally, any business monitoring policy should be formed in consultation with trade unions and staff associations, and must be communicated to staff as well as to external persons engaging with the force in accordance with the provisions set out below.

4.62 HMIC's call-handling thematic inspection, *First Contact*, published in 2005, found that a number of forces were recording individual telephone callers on non-emergency lines for policing purposes without alerting them to the fact. This is in breach of the fair processing principle of the Data Protection Act 1998, and the Information Commissioner recommends that callers to and from the organisation should be made aware that their call is being recorded for policing purposes. Ideally, this can be done by having a recorded message at the beginning of the call or having the police member of staff who answers the call inform the caller that calls are recorded and may be monitored. Police forces may also consider providing fair processing information by other means (eg placing a warning in the employment contract of staff joining the organisation and advertising the fact on websites, in the telephone directories, or by any other practicable means).

**Findings**

4.63 Despite the above widespread reservations, a number of forces are still using executive authority, while others, including the MPS, are strongly opposed to it. An example of its use is to gather evidence on ex-staff, who, having retired on enhanced ill-health pensions, subsequently engage in physically demanding activities, contrary to their declared illness.

4.64 It is the firm view of HMIC that forces should not be using executive authority under any circumstances.

**Recommendation 8**

Forces should cease to use executive authorities and – depending on the circumstances – either utilise the existing Regulation of Investigatory Powers Act 2000 (RIPA) legislation to authorise surveillance methods or use lawful business monitoring methods.

4.65 With regard to lawful business monitoring, there also remains a significant degree of inconsistency across the Service. For lawful interception to be allowed under the regulations there is a requirement that the interception must be intended solely for recording communications relevant to the business and the force must have made all reasonable efforts to inform every person who may use the system that communications may be intercepted. Forces also need to ensure that they are applying the principles of the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, and the supporting guidance issued by the Information Commissioner's office.[39]

**Recommendation 9**

Forces should apply the full effect of the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 to all monitoring or recording of transmissions on telecommunication systems used wholly or partly for Police Service business, unless authority for such action is granted by RIPA.

*Anti-corruption: the role of the Independent Police Complaints Commission*

4.66 The referral of serious police corruption offences from police forces to the Independent Police Complaints Commission (IPCC) is mandatory. Once an offence is referred, the IPCC decides whether to investigate it independently or supervise or manage the enquiry. The point at which referrals should be made to the IPCC has recently been set as the point in the operation when police resources start being used. This protocol was very new at the time of the inspection, and consequently there is no evidence to establish how it is working in practice. This is a new approach for PSDs, but early referral to the IPCC has many advantages. These include providing an early opportunity to comment on the proposed size and scale of the investigation, thereby enabling PSDs to deflect later criticism, particularly in cases that are likely to attract high levels of scrutiny. At the time of writing, no police corruption investigation has yet been independently investigated by the IPCC.

[39] The 'Lawful business practice regulations' are contained within the Employment Practices Data Protection Code published in June 2005, pages 58–62 refer.

**Good practice: MPS–IPCC referrals**
The **MPS** anti-corruption command holds meetings every two weeks with an IPCC commissioner, at which they review all current investigations of corruption. This ensures that the IPCC is fully informed of all cases under investigation at any time and can decide on the most appropriate mode of investigation. An advantage of this process is that it provides the force with an element of independence in anti-corruption investigations and a check on both the direction and proportionality of the investigation.

*Links with independent advisory groups*

4.67 Independent advisory groups (IAGs) provide a good sounding board and a quality check on police anti-corruption activity. Although such consultation is by no means mandatory, in certain circumstances, particularly when dealing with sensitive issues such as referrals, it is considered wise. What better assurance could the community have than that a PSD has not only carried out an early referral to the IPCC but has also consulted with the IAG to gauge community views?

**Findings**

4.68 The inspection found examples where considerable value has been added by IAGs when they have highlighted other methods of investigation that the police could consider in order to avoid undue criticism.

4.69 When consulting IAGs, there is no need to identify individuals and it is possible to anonymise the evidence in order to maintain the integrity of the investigation. The MPS regularly refers investigations to an IAG if the subject is a staff member from a minority ethnic background. The force is aware of the disproportionality issue mentioned earlier and uses such referrals to quality check their decision-making process.

## Intelligence

*The use of the National Intelligence Model and strategic threat assessments*

4.70 In *A Professional Standards Department: Guidance on the Philosophy, Structure and Resource Implications*, ACPO states:

> **"... when dealing with these threats from corruption, the intelligence function should be the starting point; the success of any investigations mounted will be governed by the quality of the intelligence available. This requires that a sophisticated and systematic approach be taken to ensure the continual flow of quality intelligence needed for driving the department's activity."**

4.71 It goes on to say that:

> **"... for these reasons, the investigation of professional standards matters must be based on intelligence-led policing and must be consistent with the National Intelligence Model."**

4.72 NIM is now the process adopted by the police throughout England and Wales to manage intelligence, prioritise resources, identify threats and develop control measures aimed at addressing them. As NIM is now embedded for the handling of crime, the expectation is that it should be equally well established in anti-corruption activity. This should include the preparation and use of strategic threat assessments, the definition of the main tasks and roles within the intelligence function, and the establishment of an appropriate intelligence database.

4.73 The expected NIM structures and flows of intelligence are set out in the ACPO guidance (see Figure 6 opposite).

**Findings**

*NIM processes*

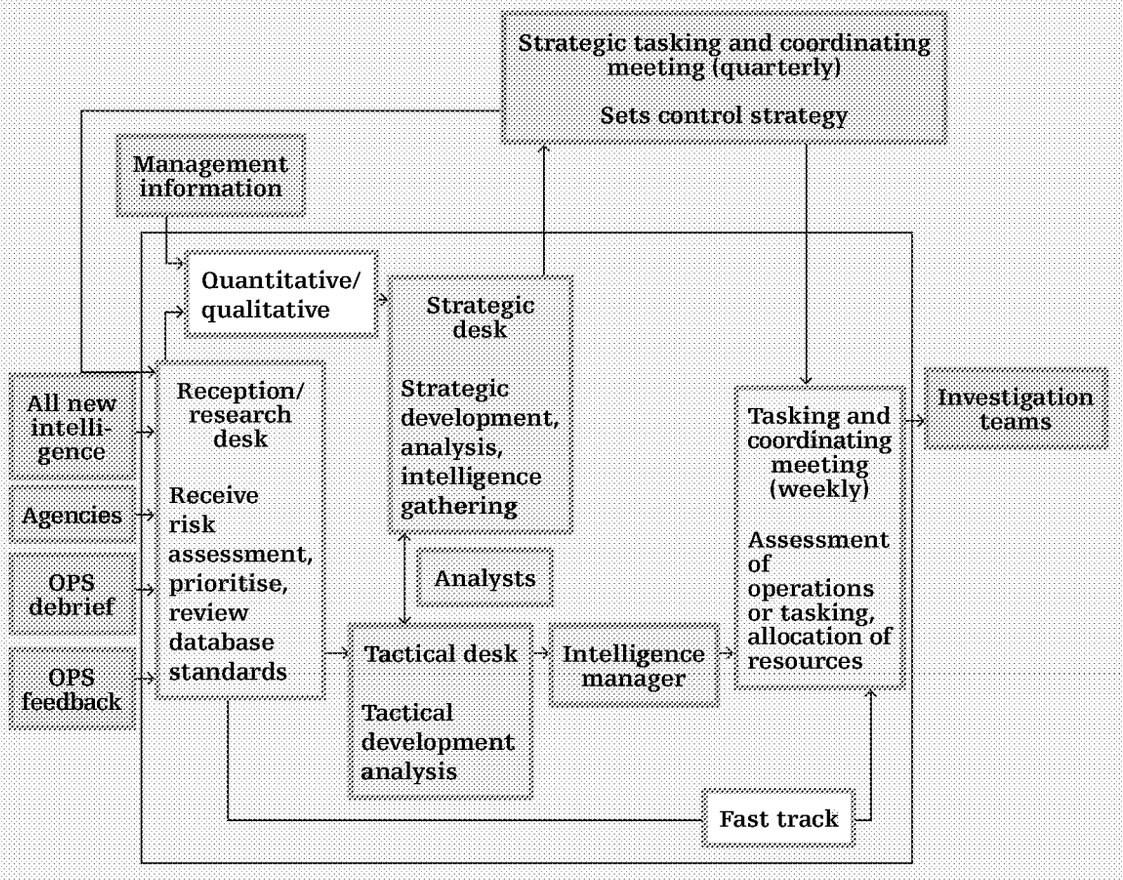
4.74 All forces should have compiled a strategic threat assessment; however, by May 2005 only 29 of the 43 forces had submitted these to NCIS. The implications of this are that judgements and conclusions have been made on the basis of incomplete information, both nationally and, potentially, locally. In view of the importance of intelligence at both local and national levels, this finding was a disappointment.

4.75 All forces claim to have applied the principles of NIM in their PSDs, but this is often only in relation to the anti-corruption or integrity elements of their operations. In small forces, although anti-corruption units are NIM-compliant, often the 'labels' used are not all the same as those in the national model. It is also not unusual

for the outcomes of tactical tasking and coordinating meetings to go unrecorded. As one head of a PSD in a small force said:

> **"NIM is the wholly appropriate model for intelligence handling but within a small force, where we may only be receiving two or three pieces of intelligence per week, it is almost impossible to be totally compliant."**

**Figure 6: Information flows and functions within NIM from the ACPO guidance on PSDs**




4.76 The quote above and general findings in relation to intelligence handling in small forces demonstrate the problems of using a model that was designed to handle large amounts of intelligence using high levels of resources. It is certainly the case that one size does not fit all.

**Case study**
In **West Yorkshire**, the application of NIM within the PSD has been adapted to accommodate performance management. The departmental performance manager is incorporated within the intelligence cell, and the force 'Task It' action management system is used to allocate work within the department and in divisions. Problems are identified relating to individuals, groups of individuals, events or circumstances. NIM is being used to create a preventive and organisational learning and development environment. The database used for intelligence gathering is Clue 2, which has the confidence of staff and is fit for purpose.

4.77 The availability of appropriate IT is another area where anti-corruption units would benefit from a standard regional or national approach. The restructuring of police forces should assist in driving such standardisation.

**Case study**
In **Norfolk**, activity within the PSD is wholly governed by NIM processes, an approach that is typical of Norfolk Constabulary as a whole. There is a strategic assessment and control strategy issued annually and revised every six months. In addition, there are monthly tactical assessments that drive the departmental level 1 activity. The detective chief inspector (DCI) and an analyst attend level 2 tasking and coordinating meetings, which, along with the source management unit, provide streams of work and intelligence for the PSD.

4.78 All PSDs in the Eastern Region have contributed to a regional strategic threat assessment.

4.79 Gaps in intelligence will often be identified that cannot be filled either by analysis or by the collation of existing material. It therefore falls to field intelligence officers (FIOs) to fill in the gaps. FIOs need to have the skills to be able to handle people who can provide information, some of which will be confidential, as well as a good understanding of the legislation governing the use of intrusive surveillance techniques. Part of their work will require them to have technical capabilities, even if resources dictate that this aspect of their work has to be of a limited nature. In particular, FIOs should be able to use available equipment and techniques to undertake lawful business monitoring.

*Staff skills*

4.80 All PSDs should have staff with diverse skills, including financial investigators. Financial investigation is an effective way of gathering intelligence and can be used proactively to dispel or confirm other concerns. It is not just applicable in a reactive way, as part of the response to a specific case. An increasing number of forces have recognised this and are appointing dedicated financial investigators within their anti-corruption intelligence units.

4.81 It was pleasing to note that the majority of forces have capability in this area and have appointed FIOs within anti-corruption units. The high standard of skills and experience shown by FIOs in anti-corruption units is an area of strength. Most FIOs have developed their skills in other areas of intelligence gathering and have undergone general training in intelligence-gathering methods.

4.82 Despite more widespread use of FIOs, there is still no national accredited course for anti-corruption for them. This is a gap that should be addressed by the PSC through ACCAG and the planned anti-corruption pilot course (see recommendation 6).

*Gathering intelligence*

4.83 A significant source of intelligence can be the structured use of confidential reporting lines, as previously discussed in Chapter 3 (paragraphs 3.43 to 3.46). Fewer than one-third of forces have fully independent arrangements in place. Many chief officers and heads of PSDs consider that the costs are quite high and they feel that their staff have sufficient confidence in their own internal arrangements. Some forces are simply not convinced of the value of commercially available reporting lines and want to see an independent evaluation before committing funds.

4.84 In January 2006, an officer in the MPS produced a research paper on confidential reporting lines. It was reported that, by early 2006, 14 forces will operate external confidential reporting systems and that there are several providers. At the time of writing, one provider dominated the market. There is a cost implication in appointing external providers, which varies depending on the provider and the service option.

4.85 According to the MPS research, 78% of forces reported receiving no more than 50 reports within a 12-month period. Four forces reported receiving between 100 and 150 reports, and one reported receiving between 200 and 300 reports per year. The researcher believed that

his research showed that the use of external reporting systems would increase the number of reports.

**Good practice: Setting up confidential reporting**
In **Leicestershire**, support networks were involved in the tendering process for the new confidential reporting line. The networks were included in an inspection visit to the call centre and were also involved in the interview process, and they were able to ask questions of company representatives during a presentation to the force. This helped increase confidence in the reporting line.

4.86 Some forces have developed confidential e-mail reporting to supplement other confidential arrangements. In general, the effectiveness of confidential reporting lines depends on how well marketed they are.

**Good practice: Marketing confidential reporting**
The confidential reporting facility in **GMP** is widely advertised through the use of posters, leaflets, the intranet and pocket book inserts, and it is even printed on staff wage slips. This has resulted in a significant increase (100%) in information received.

**Case study: External confidential reporting**
**Strathclyde Police** received a call reporting that a police officer spent a lot of time printing confidential police reports that had nothing to do with his role or department, adding that the officer removed a bag of documents from the office on a daily basis. Surveillance revealed that, after work, the target drove to a lay-by where he met a private investigator and handed over the bag of documents.

A subsequent investigation revealed that the paperwork was being supplied to assist in the preparation of defence cases by solicitors. Charges were laid of theft and contraventions of the Data Protection Act 1998.

**Prevention**

4.87 All too often, the Police Service, while excellent at reacting to crises, is less adept at preventive work, if only because it dedicates all available resources to fire-fighting. Preventive activity requires the capacity and capability to carry it out, and is a key factor in how the police approaches protective services. It is, therefore, an equally vital element in addressing professional standards.

4.88 There is a need to make the Service more resilient to the threat of breaches of professional standards, from both within and outside the Service. This can be achieved by adopting the highest standards of professionalism and creating a working environment in which all staff can report breaches of professional standards with confidence.

4.89 Organisationally, there are four key areas of preventive activity that relate specifically to the anti-corruption activities of PSDs:

- operational security;
- information security;
- data protection and freedom of information; and
- vetting.

*Operational security*

4.90 The role of the operational security manager (OPSY) is to implement and promulgate best practice in relation to intelligence handling and operational security; to provide advice and guidance to support operational managers; and to undertake independent reviews and audits of the operational use of intelligence and operational security arrangements. The desired outcome is to ensure the integrity and quality of intelligence use within the force.

**Findings**

4.91 Despite the importance of this role, very few forces have established a dedicated OPSY post.

**Good practice: Use of OPSYs**

In **Kent**, the inspection teams found that an OPSY has been appointed whose role it is to oversee security and intelligence obtained by covert means. Half of his time is spent advising and guiding the Kent teams, and half spent conducting intrusive supervision to protect source handlers and systems from corruption. Kent was one of the first forces in the country to adopt this approach.

At the time of the inspection, **Dorset** has just appointed an OPSY, and Humberside Police employs an OPSY within the force intelligence cell. The post-holder reports directly to the DCC.

**Hertfordshire**, **South Wales** and **Nottinghamshire** have also received funding for OPSYs.

4.92 An increasing number of forces have now recognised that the issue of operational security is vital within a Service where one of the greatest threats stems from information leakage. It is of concern that the introduction of OPSYs is somewhat ad hoc; there is clearly scope for a more formal audit and evaluation of any security threat that may be posed by the absence of the OPSY role in so many forces.

**Recommendation 10**

Chief officers should review their operational security arrangements to guarantee that measures are in place to ensure the integrity and confidentiality of sensitive information and that operational security is thoroughly maintained.

*Information security*

4.93 The proliferation of networked computer databases, accessible by large numbers of staff across force boundaries, has left forces increasingly vulnerable to the risks of unauthorised access and disclosure. So too has the growth in mobile computing. Disclosure of information can be used to alert criminals to methods of enforcement, allow them to identify investigating officers and informants, compromise surveillance (both human and technical) and identify criminal rivals. Force information security systems, policies and procedures must be developed to meet these vulnerabilities, and to keep pace with technological change.

4.94 An effective information systems security regime includes measures to address:

- security of mobile computing equipment;

- controls on the use of peripheral devices (eg disk drives and CD-ROMS);
- protection from viruses;
- radio and telephone security;
- secure internal and external e-mail systems;
- blocking unauthorised browsing of computer records;
- reporting security incidents;
- protective marking of computer assets;
- workstation security;
- data protection compliance; and
- systems audits.

4.95 Any programme of security management must be based on an assumption that the vast majority of staff are honest and loyal and need access to systems in order to enable the force to achieve its objectives. At the same time, the programme must send a clear message to the very small number of dishonest staff that their corrupt actions will be exposed and dealt with. In respect of security management within forces, the baseline assessment sets out the following criteria in order to achieve an *Excellent* grade:

> **"The force's information service is led by a suitably qualified professional chief information officer who is a member of the ACPO team and has responsibility for information management and information and communications technology, including data quality, information security, data protection and freedom of information."**

**Findings**

4.96 All forces have a security management policy in place, although few have systematic and structured IT auditing processes. Many forces employ full-time information security managers, some of whom are located within force PSDs.

**Good practice: Information security**

In **Cheshire**, the DCC, who has the professional standards portfolio, also chairs the force information security group, demonstrating a high level of commitment to the issue. The force also employs a full-time security information officer.

In **Dorset**, there is a clear security management regime with a compliance unit, which comprises an information security officer, a vetting officer, data protection and freedom of information officers and a civil litigation unit, all answerable to the head of the PSD.

In **Merseyside**, information security issues are a major focus for the PSD, which has a dedicated compliance manager who regularly audits and checks all IT systems for misuse or suspicious patterns of activity.

**Hampshire** has introduced 'chip and pin' technology (embedded in ID cards) for access to computer systems and to some buildings. This is a good example of security management.

4.97 As part of its intranet abuse investigation, one particular force offered an amnesty to all staff and urged them to delete any inappropriate material held on the system. To the surprise of the force, this resulted in the freeing up of some 40% of available space on the force hard drive. In another force, an audit was conducted of access to systems by checking the passwords of staff and comparing them with up-to-date details of posts and required access. It was discovered that some 30% of those with current access no longer had any legitimate reason to use the system.

4.98 In view of local assessments and the national strategic threat assessment, which highlight the risks to the Service from information leakage, the lack of adequate audit facilities should be addressed by each force as a matter of urgency.

*Police National Computer audits and monitoring*

4.99 The PNC is currently the only truly national IT database. HMIC audits police forces on their use and management of the PNC, carries out inspections using comprehensive inspection protocols, and interviews staff who have a responsibility for the PNC, input data, or use the PNC as part of their duties.

4.100 There are two main areas of the PNC inspection that involve force PSDs:

- how the force audits PNC reports as required by the 1998 ACPO *Data Protection Audit Manual* (DPAM);[40] and
- how the force monitors PNC usage to reduce the risk of system misuse.

**Audit of force Police National Computer reports**

4.101 The majority of forces inspected comply with the DPAM; however, some do not. Some forces carry out their own audits and produce a report with recommendations; however, there is limited take-up of these recommendations and many are not actioned, so the effectiveness of the audit is diluted and the risks remain.

4.102 Good practice is when the force complies with the DPAM and the PNC strategic group (or similar) creates an action plan. This plan should include the recommendations contained in the audit report and achievable timescales for achieving them.

**Transaction monitoring**

4.103 Transaction monitoring is a process outlined in the DPAM that forces should use to determine the legitimacy of PNC transactions carried out by operators. The DPAM states that a minimum of three checks per day should be carried out, and the sample size should be representative of the overall number of transactions completed by the force. Each force carries out transaction monitoring differently.

4.104 Good practice is when:

- the transaction monitoring is carried out by data protection staff or PSDs to ensure independence;
- a realistic number of transactions are checked each day, depending on the size of the force;
- a robust procedure is in place to complete the task, including a structure for reporting possible misuse;
- there is proactive monitoring of and research into PNC transactions;
- monitoring is intelligence-led; and
- all staff are fully aware of the reasons for transaction monitoring.

[40] The DPAM is currently being reviewed by the National Centre for Policing Excellence.

**Findings**

4.105 To illustrate the potential benefits of transaction monitoring, in Leicestershire a routine check was carried out which found that an enquirer was on annual leave on the day an enquiry was made. An investigation followed which revealed PNC misuse and resulted in the successful prosecution and imprisonment of an ex-inspector, an ex-sergeant and a serving sergeant.

> **Good practice**
> **West Yorkshire** conducted an audit of existing IT users against current postings and identified large numbers of individuals with access to systems that they no longer required. As a result, the IT department decided to provide enhanced user control through a new human resources (HR) system. The introduction of this system was aimed at managing the key strategic threats of disclosure of information and computer misuse.

*Data protection*

4.106 An effective information systems security regime must include full compliance with the provisions of the Data Protection Act and dedicated data protection staff, such as a force data protection officer, either within the PSD or with good lines of communication to it. The specific grading criteria for the 2005 PSD baseline assessment set out a requirement that:

> **"A security strategy should be in place, with clear responsibility for IT, data protection and personnel vetting – if not within PSD then sound structures and processes which link these functions."**

**Findings**

4.107 The inspection found that all forces have data protection measures and dedicated data protection officers in place. Some officers sit within PSDs, others are located elsewhere within the force. However, the management of data protection issues is by no means standard. Invariably, freedom of information is linked to data protection, with responsibilities for these two statutory requirements sitting together.

**Good practice: Coordinated data protection**

In **Avon and Somerset**, a corporate information management department (CIMD) brings together all aspects of information management, including vetting, information security, data protection, freedom of information, disclosure and compliance audits. It is well resourced with experienced, skilled and qualified staff. The CIMD structure and processes provide a model for the sort of arrangements all forces have to introduce in 2006 under the Management of Police Information code of practice.

In **GMP**, there is a force security committee chaired by the assistant chief constable and attended by the vetting officer and IT security and data protection staff, as well as a representative from the internal investigation unit (anti-corruption). This security committee feeds into the Profession Standards Committee. Interestingly, one UNISON representative said that in his experience data protection breaches represent the most prevalent breaches of discipline among his members.

4.108 Forces identified information leakage as a major threat to the integrity of the Service in their strategic threat assessments, yet IT audit is haphazard and inconsistent. This inconsistency is probably due to the piecemeal nature in which systems have been introduced over recent years, with primacy given to systems meeting user needs, and audit often only being considered as an afterthought.

4.109 In addition, for some time the Police Information Assurance Board, a subcommittee of the ACPO information management business area, has been trying to get forces to conduct central notification of ongoing security incidents. The board has consistently failed to achieve its goal, with forces often arguing that notification must wait until any legal proceedings have taken place.

**Suggestion D**

Chief officers should review audit arrangements currently in place in respect of IT systems and put in place measures to ensure that all internal systems are both capable of audit and audited in order to prevent unauthorised access and information leakage.

In addition, a member of the ACPO team should be a suitably qualified professional chief information officer, taking responsibility for information management and information and communications technology, which includes data quality, information security, data protection and freedom of information.

### Vetting and staff vulnerabilities

*Staff vetting*

4.110 Police officers are given extraordinary powers over citizens, and officers (and police staff) have access to highly sensitive information. The public quite rightly expects police officers and staff to be of good character, and the failure to properly vet staff will leave a force extremely vulnerable.

4.111 The 1999 HMIC thematic report on integrity highlighted that an enhanced vetting process should be introduced to consider lifestyle and financial vulnerabilities. The subsequent ACPO *National Vetting Policy for the Police Community* was duly produced and ratified by the Chief Constables' Council in April 2004.

4.112 The ACPO vetting policy is designed to establish uniformity in vetting procedures and to introduce a consistent approach to vetting, which will allow members of the police community to transfer to or operate in different forces with a minimum of duplication of vetting.

4.113 The purpose of vetting is to help maintain a level of protection for police assets. It forms part of a wider security programme, alongside functions such as information security, physical security and the Government Protective Marking Scheme. The ACPO policy sets out that forces should appoint a force vetting officer (FVO) to coordinate and control all vetting processes within their force area. The importance of this role is reinforced in ACPO's *A Professional Standards Department: Guidance on Philosophy, Structure and Resource Implications*, although it does not give guidance as to where this role should sit within the organisation.

4.114 Vetting is a complex process, and in this report we can give only a brief overview that sets out the national picture and our findings during the inspection. More details appear in the ACPO *National Vetting Policy for the Police Community* (albeit this is a restricted document). This is an area where the Service is vulnerable, and there have been a number of examples of inappropriate staff appointments that have emphasised that vulnerability.

*Levels of vetting*

4.115 There are various levels of vetting currently conducted by forces, including national security vetting, such as the basic check, counter-terrorist check (CTC), security check and developed vetting, and force-level vetting, such as recruitment vetting and non-police personnel vetting. These types of vetting vary depending on the level to which the candidate requires clearance.

4.116 Once successfully cleared, the candidate is provided with access up to and including the level to which they have been authorised. For example, CTC checks are carried out to prevent those who may have connections with terrorist organisations, or who may be vulnerable to pressure from such organisations, from gaining access to certain people, premises or information that could be exploited to further the aims of a terrorist organisation. CTCs should be carried out on all police officers, members of the Special Constabulary and police community support officers. It should also be carried out on police staff and non-police personnel whose work involves close proximity to public figures who have been assessed as being at particular risk from terrorist attack, or who have access to premises, information or material assessed as being of value to terrorists.

*Recruitment vetting issues*

4.117 The requirements for police officer recruitment are set out in Home Office Circular 54/2003. There are no national guidelines for police staff recruitment, although the national policy states that the criteria for police officers should be extended to police staff because of the diverse nature of the work they now undertake. This would, for example, involve the introduction of financial checks for police staff, which is a very simple procedure.

4.118 The ACPO PSC has a national vetting working group that formulates and advises on national policy. Members include senior police practitioners and representatives from the Police Federation, HMIC, the Cabinet Office, UNISON and the Home Office. The group is currently chaired by a detective chief superintendent from the MPS. A number of detailed vetting issues are currently being debated at a national level, and the summaries below give a flavour of the current topics.

**Residency**

4.119 Home Office circulars state that police forces can accept EU applicants as long as checks abroad are carried out, but in many EU countries this cannot be done. It sets out that national security checks can be carried out as long as someone has resided for three years out of the last five in countries where checks can be made. However, ACPO vetting policy introduced three years' residency in the United Kingdom as a minimum period. In effect, current policy means that forces can reject a United Kingdom applicant with a caution from three years and a day ago, but they can accept a war criminal from a country where checks are not possible.

**Advisory Group for National Recruiting Standards**

4.120 The first opportunity to sift out unsuitable applicants to the Service comes at the recruitment stage. The Home Office-run group that oversees recruitment standards is therefore in a critical position. It makes recommendations for ministerial approval for Home Office circulars and consists almost entirely of representatives from HR and staff associations. It is pleasing to note the recent addition to this group of a representative from the National Vetting Working Group (NVWG), which should provide a balance to the decision-making process.

4.121 Much progress has been made by the NVWG in relation to the development of vetting within the police community; however, there are many practical implementation issues that the advisory group will need to consider and advise on during the coming months and years if national consistency in vetting is to be achieved. It is important to note that the work of this group should be seen as ongoing and not as complete now that the national vetting policy has been published.

**Warrantor vetting database**

4.122 The MPS has commissioned a vetting database named Warrantor, which is owned by a company called Logsys. This database originated in the Defence Vetting Agency and, while it is not tailored to police vetting purposes, MPS staff speak highly of it as a suitable vetting data management tool. This is not the only vetting database available and other companies are offering alternatives. At least two forces have examined Warrantor and have chosen not to proceed with it, while other forces are considering adopting either Warrantor or one of the alternatives available on the market. This raises an issue that often occurs within the public sector: without national standards and guidance, forces go their own ways and purchase different systems that are incompatible with each other and with

existing systems. It is not clear at this stage if Warrantor offers a national solution that may be compatible with any future national police intelligence database.

**Suggestion E**

In view of the forthcoming force restructuring, before any further police funds are spent purchasing vetting databases that may prove to be incompatible, the ACPO PSC should carry out a review of vetting databases. Any review should take into account the feasibility of a national product.

*Association of Chief Police Officers' survey on national vetting policy for the police community*

4.123 In January 2005, following research into all forces in England and Wales, ACPO published a summary of forces' implementation plans in response to the *National Vetting Policy for the Police Community* which had been published in April 2004. The document gave an overview of vetting activity on a force-by-force basis, drawing out central themes, and was a valuable exercise. The findings were that, at that time, force vetting functions were at varying stages of development compared with national policy. A total of 12 issues were raised for the NVWG to consider.

4.124 There is a view among practitioners that ACPO should now consider repeating this survey to update the national picture in relation to this vital area of anti-corruption work.

**Findings**

4.125 HMIC's findings are similar to those of the ACPO vetting survey, in that forces are at differing stages of development in terms of compliance with ACPO guidance. A number of forces have yet to appoint an FVO whose role and job description meet the requirements set out in the guidance. Also, many have not restructured to centralise the vetting function.

4.126 Once again, the larger forces appear to be more advanced than the smaller ones. For example, in GMP the force has appointed an FVO who is well qualified and skilled. He is very active on the national scene and is a key member of ACPO's NVWG. Conversely, in one small force basic vetting and counter-terrorism checks are carried out by the HR department using local staff, while higher levels of vetting are referred to Special Branch. Because of the high costs involved, a decision has been taken not to extend vetting in the force or to establish a dedicated vetting post or team.

4.127 In 29 forces, the FVO is located within the PSD. However, not all of these officers, who have been appointed relatively recently, have developed a central vetting function. All FVOs interviewed acknowledge the importance of centralised vetting, but there are differences in opinion as to where this function should sit.

> **"The majority of my work now is with HR. I think there remains somewhat of a stigma being associated with PSD, which puts up barriers during vetting interviews. In my view, the solution lies with vetting units being independent of PSDs and HR and having direct line reporting to the chief officer lead of professional standards."**
>
> FVO in a force moving to centralised vetting

4.128 There are convincing arguments for vetting to be situated within PSDs as part of a broader security management strategy, as set out in the suggested model in Figure 2 in Chapter 2 of this report. However, more important than the location of vetting is that forces fully comply with ACPO guidance and, as a matter of some urgency, move towards a centralised vetting function under the leadership of a suitably qualified FVO.

**Case study: The need for a national database**

In one force, the DCC with the professional standards portfolio acknowledged the inability of forces to monitor, track and search for corrupt staff, transferees and recruits over force boundaries. He admitted that in recent years the thrust to recruit staff has overtaken the need for robust vetting procedures. He said:

*"The result is that there are now a number of individuals within this force and possibly other forces who are either corrupt or corruptible."*

He indicated the need for a regional or national vetting database where key data on applicants and staff can be stored and accessed by relevant stakeholders.

4.129 HMIC agrees with the proposal outlined in the case study above and suggests that it should be included in the national review.

4.130 There were some examples of good vetting arrangements, as shown in the examples opposite.

**Good practice: Vetting arrangements**

In **Devon and Cornwall**, as well as in a number of other forces, the practice has evolved of conducting vetting interviews with applicants if there are concerns over their history. Such interviews sit outside the Police and Criminal Evidence Act 1984 or standard job interviews, are conducted by a detective officer, are voluntary, and are aimed at satisfying the vetting officer that the applicant is a fit and proper person to join the force.

Within the **MPS** vetting unit, a dedicated force liaison unit has been established. This unit deals exclusively with officers applying to transfer in from other forces. Despite this, staff expressed concern that they experience difficulties with other forces that are reluctant to share information. This, coupled with a lack of prompt responses to other enquiries and previous employment details, is leading to delays in appointment. The legal transfer of such information between forces should be timely and thorough and HMIC can see no legitimate reason for the failure of forces to cooperate.

In **Sussex**, the force is some 95% compliant with ACPO's security and vetting policy. A detailed matrix exists for the identification of vulnerable staff, and a good and timely system of monitoring and aftercare arrangements is in place for these staff. This system of identification and monitoring is seen as an area of potential good practice.

4.131 The inspection also identified quite a number of disturbing examples where vetting processes have failed. Research commissioned by the NVWG revealed over 40 such vetting failures among police officers, police staff and non-police personnel with access to police premises. Of course, this must be put in the context of a total number of police employees throughout England and Wales in excess of 170,000. However, the potential damage that can be caused by just one failure should not be underestimated.

4.132 ACPO's *National Vetting Policy for the Police Community*, published in April 2004, provides forces with comprehensive guidance to enable them to set up sound vetting processes, and therefore establish robust systems to ensure that the risks posed by this area of vulnerability are kept to a minimum. However, progressing from the situation that existed in April 2004 will require extra resources and finance restructuring. Given that the areas of information leakage and criminal infiltration have been identified as key threats, forces should move to full compliance with ACPO's policy on vetting as a matter of urgency.

**Recommendation 11**

Chief officers should carry out an analysis of current vetting structures within their force and, where gaps exist, move towards being fully compliant with ACPO's vetting policy no later than April 2007.

*Substance misuse policies*

4.133 The threat to the Service from drug misuse has been highlighted in the NCIS national strategic threat assessment as one of the three major risks facing forces. Police recruits are appointed locally from the community. It ought not to come as a surprise that, as drug misuse becomes more widespread in our society, a proportion of police officers will have been exposed, or are exposed, to that risk.

4.134 On 7 November 2005, the Police (Amendment) Regulations 2005 came into force. The regulations enable forces to conduct drug testing on police officers on appointment, during their probationary period, and at other times when there is cause to suspect the use of controlled drugs. Before the introduction of this legislation, drug testing was mainly voluntary, with the exception of provisions set out in the Road Traffic Act 1988, the Misuse of Drugs Act 1971, or any other statutory provision relating to substance misuse. Guidance to forces was in place nationally through ACPO's *Substance Misuse by Police Personnel: Policy and Guidance*, which was ratified by the Chief Constables' Council in October 2000. That policy was put in place to ensure that all staff are made aware of their responsibilities regarding alcohol and drug-related problems, and makes it clear that staff suffering alcohol or drug-related problems are encouraged to seek help, in confidence, at an early stage, and staff who have an alcohol or drug-related problem that is affecting their work will be dealt with sympathetically, fairly and consistently.

4.135 Following the guidance issued in 2000, screening for drug misuse was permitted under certain circumstances: for pre-employment screening, internal appointments to high-risk posts and post-holders subject to regular medicals. The policy acknowledged the need for a change in legislation to clarify the position on random and 'with cause' screening. As set out above, the legislation regarding lawful screening came into force in November 2005, during the period of the inspection.

4.136 In view of the 2005 legislation, an updated guidance document from ACPO, *Substance Misuse and Testing: Policy and Guidance Document*, is currently out for consultation and aims to bring the existing policy up to date.

**Findings**

4.137 The inspection took place during a transitional period in the area of drug screening. Forces were caught between their existing policies, which, if they existed, were at varying stages of development, and the updated ACPO guidance, which had been prepared but was circulated only after the legislation came into force in November.

4.138 It was not uncommon to find no policies in place for drug testing. A number of forces state that they are actively working towards developing policies, possibly prompted by the new legislation. The issue of drug policies was discussed at the meeting of the Eastern Region anti-corruption heads in September 2005; as a result, policies from around the region have been circulated to help forces decide on their own stance.

**Good practice: Drug testing**

In **Devon and Cornwall**, much research has taken place into 'with cause' testing and policy was well developed in order to go live as soon as legislation was in place. A national drug testing company has been commissioned to conduct testing and analysis, and research has taken place with the Football Association, London Underground and the Armed Forces, as well as with other police forces. In addition, the anti-drugs message is marketed very well in the force, with posters and regular presentations to new and existing staff.

In **Nottinghamshire**, drug and alcohol misuse by police officers was identified as a risk in the 2004 strategic threat assessment. As a result, the force has put in place pre-employment drug testing for all newly recruited personnel as part of their medical examination.

**Suggestion F**

In view of the recent legislation and the threat posed to the Service by drug misuse, forces should now be treating the area of drug testing as a professional standards priority. They should have fully human-rights compliant and integrated policies in place no later than January 2007.

*Service confidence*

4.139 A useful anti-corruption measure is the 'service confidence' procedure. This procedure is designed to address the issue of the Police Service losing confidence in a particular individual to perform his or her current role or specific duties. It should only be used in circumstances where there is evidence to suspect corruption but the source is sensitive and cannot be used. There is a concern that some forces use service confidence inappropriately to deal with staff who are difficult to handle. The procedures should not be invoked on the basis of mere rumour or innuendo; they are intended for use where serious concerns are raised.

4.140 The procedure was first introduced by the MPS. The policy enables managers to restrict the duties of an individual who is believed to pose a threat to the integrity of the force when the available evidence falls short of that required for criminal or disciplinary proceedings. This shortage of evidence would usually involve uncorroborated or other sensitive information (for example from a source or technical information). Service confidence should be used only for this narrow remit of cases, where there is little doubt of guilt but the available evidence is so sensitive that it cannot be produced in criminal or misconduct proceedings.

4.141 ACPO guidance on service confidence procedures is set out within ACCAG guidance for investigators. The guidance warns of the consequences for forces that use the procedures inappropriately.

**Findings**

4.142 The inspection found that a number of forces, particularly the smaller ones, have no service confidence procedures in place; others are still in the process of developing procedures.

4.143 The MPS is well developed in the area of service confidence. Where supervisors no longer have absolute confidence in an individual's integrity, and there is a verifiable reason for this, the service confidence procedure is instigated and the officer can be monitored until confidence in them is restored. The process adopted is that,

where information or intelligence becomes available which raises concerns about an individual's integrity, the DCI from the MPS directorate of professional standards intelligence development group makes an assessment and, where appropriate, a recommendation that implementation of the procedure should be considered.

4.144 At the time of the inspection, the MPS was refining service confidence to make it more transparent and to involve all appropriate parties, including legal representatives, the HR department and the officer who is the subject of the process.

4.145 One DCI from an anti-corruption department said:

> **"Service confidence should only be used for the most serious cases and not used as a tactical option to replace management intervention, which is often the case."**

**Good practice: Service confidence**

**Gwent**, **North Wales** and **Cheshire** all use the service confidence procedure. In Cheshire, service confidence issues are addressed within the PSD. Vulnerability interviews are undertaken with officers and staff if intelligence suggests that they are personally at risk or potentially posing a threat to the organisation. Staff associations and unions are fully consulted during this process.

In **South Yorkshire**, the head of the PSD holds regular meetings with the head of HR to ensure that all staff are given appropriate levels of training in the purpose and use of the service confidence procedure. Through this arrangement, the head of the PSD has influenced the development of service confidence procedures produced and managed by the HR department.

4.146 Service confidence is a sensitive issue, and a number of forces experience reservations and objections from staff associations when attempting to introduce it.

4.147 The damage and reputation to the Service that can be caused by the small number of corrupt officers is extensive. This is an area of management where responsibility falls between PSDs, which manage the intelligence and evidence-gathering process that leads to service confidence procedures being triggered, and HR and local managers, who must administer the procedures. Therefore, identified good practice is for **all** stakeholders to be involved in arriving at a

successful outcome. In addition, regular reviews need to be undertaken of the subjects of service confidence procedures to satisfy both the subject and stakeholders that continued restrictions are necessary.

**Suggestion 6**

All forces should have a service confidence policy in place by January 2007.

**Capacity and capability**

4.148 In 2005, HMI Denis O'Connor carried out an inspection of forces' capacity and capability to address level 2 issues relating to the seven protective services. The findings were that forces with over 4,000 officers, or 6,000 staff in total, tend to achieve the required standard to address protective services. Unlike the smaller forces assessed, they demonstrate good reactive capability and a clear measure of proactive capability.

4.149 This work has now led to the present phase of restructuring the current 43-force model into what have become known as 'strategic forces'. Such forces will be larger in size but a smaller number of forces will exist. ACPO, police authorities and the Home Office are currently debating possible amalgamations, and, although the precise arrangements will not be known for some time, the desire for and momentum behind such a change means that it is likely to happen in the medium term (three to five years).

4.150 During the preparatory phase of this work, consideration was given to professional standards, which, at that time, fell just outside the definition of a protective service. Since then, and as a result of the inspection, professional standards has been labelled by some (including the ACPO PSC subgroup looking at the future of professional standards within strategic forces) as the eighth protective service.

*Findings*

4.151 In common with the work of Denis O'Connor, the professional standards inspection found that larger forces tend to have better anti-corruption capacity than smaller forces. To tackle level 2 criminality, smaller forces require effective collaboration, but this generally relies on informal contacts and occasional regional meetings. There is rarely any formal transfer of intelligence, or IT systems that are incapable of transferring data across force

boundaries. These issues may be addressed by the forthcoming force restructuring.

4.152 A few examples of strong inter-force and inter-regional collaboration were in evidence. For example, the Eastern Region has compiled a regional strategic threat assessment as well as conducting a feasibility study into the establishment of an Eastern Region anti-corruption command. Other examples of collaborative activity include a good practice conference hosted by Cambridgeshire Constabulary, regional agreement on substance misuse policies in the North West, and a regional joint investigation protocol in the South West.

4.153 Anti-corruption is an area of policing that lends itself to the concept of regionalisation, for example the new model of strategic forces. Not only is this due to links with HM Revenue and Customs, the Department for Work and Pensions, the security services, the National Crime Squad and NCIS, but it is also about collaboration between forces to share resources, intelligence and expertise. The inspection found that some forces have good links with neighbouring forces, as well as with partner law enforcement agencies, but this is not universal.

4.154 As can be seen, there are some good examples of level 2 collaboration taking place, and in many cases working well; however, these examples are mainly informal and rely on personal relationships and ACPO regional meetings. The future of collaboration probably lies with the new regional structures, which should see forces that are large enough to address these issues adequately. That said, it will not happen on its own, and HMIC welcomes the initiative taken by ACPO to establish a PSC subgroup to ensure that PSDs have structures and arrangements in place well before the new forces are created.

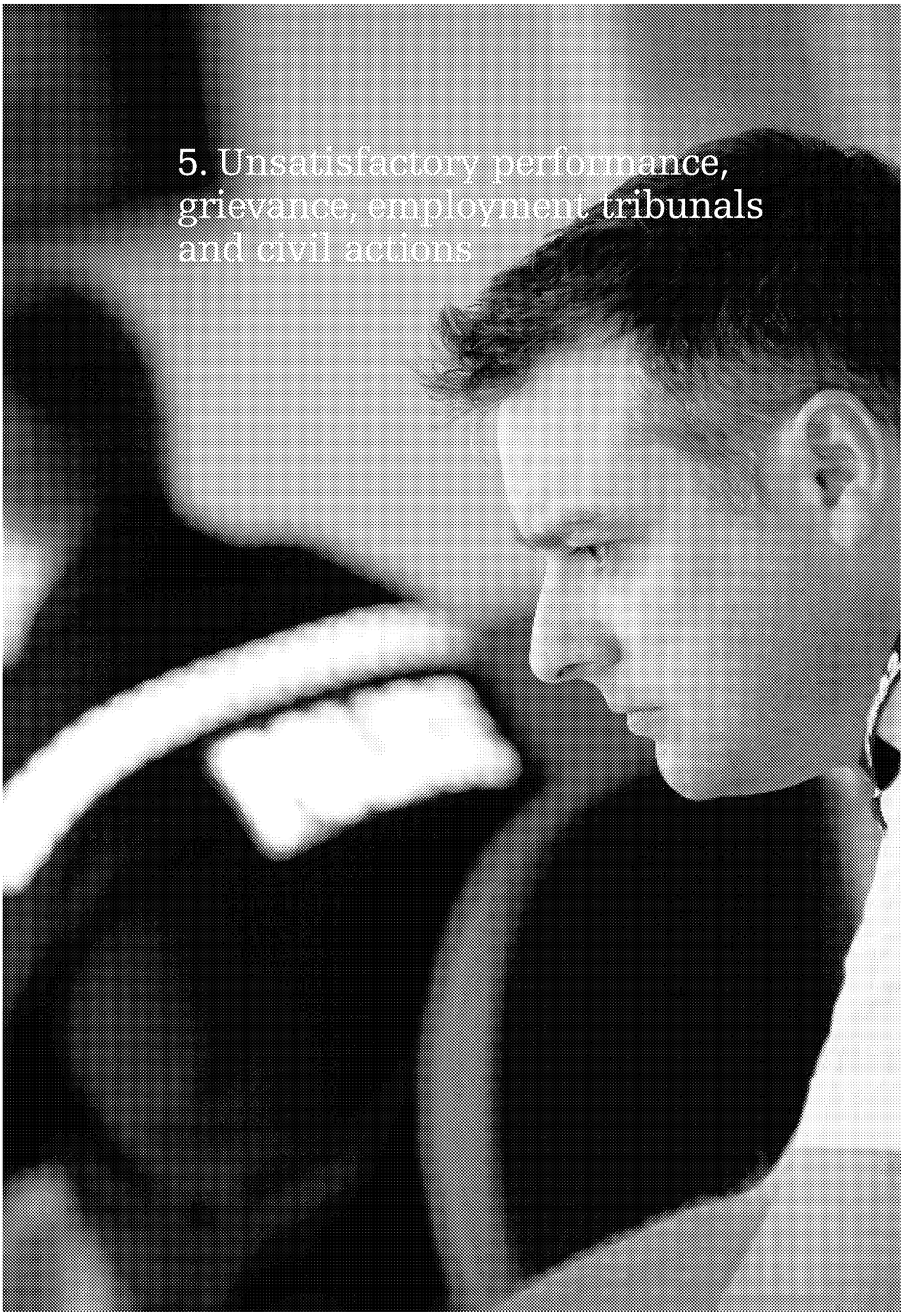
**Conclusion**

4.155 The Service has made significant progress since 1999 in tackling corruption through the establishment of highly professional anti-corruption units within PSDs. These units have generally embedded NIM principles although a number of forces would benefit from a more active use of strategic threat assessments. It is also important service-wide that all forces contribute to the national threat assessment.

4.156 Every force needs to examine its procedures to combat vulnerabilities, not least their vetting process and systems for

information and IT security. It is also key to continued development that all staff engaged in anti-corruption work are appropriately trained and that those taking sensitive and difficult decisions, such as use of covert techniques, have due regard to the relevant legislation.

4.157 There is little doubt that professional standards, and in particular anti-corruption activities, fit squarely within the description of a protective service. As such, it will benefit significantly from the move to strategic forces, but to reap the full benefit, it will be important to consolidate all existing good practice and standardise forces' approaches.



# 5. Unsatisfactory performance, grievance, employment tribunals and civil actions

# 5. Unsatisfactory performance, grievance, employment tribunals and civil actions

**Introduction**

5.1 Chapter 2 identified the elements of the work of professional standards departments (PSDs). This chapter focuses on those elements of this work which, in the case of the inspections, presented the greatest diversity as to where and how individual forces dealt with them. The following four elements cover the majority of the non-'conduct' sources of complaint or concern:

- **Unsatisfactory performance procedures (UPPs)** are a vehicle for managing unsatisfactory performance by police officers, and equivalent procedures are in place to manage unsatisfactory performance among members of police staff. Both these processes are designed to be corrective in nature, rather than punitive; however, they do ultimately provide for staff to be dismissed should their performance fail to improve.
- **Grievance procedures** (most recently described as 'fairness at work procedures'[41]) provide for the resolution of conflict within the workplace. The overriding aim of grievance procedures is to produce a speedy and effective resolution to workplace disputes, at the lowest possible managerial level, and not to establish blame or provide punishment.
- **Employment tribunals (ETs)** are judicial bodies established to resolve workplace disputes. The law covering ETs is now complex, and case law plays a substantial part in the interpretation of the various statutes applied by ETs. ETs hear claims about matters relating to employment law, such as unfair dismissal, equal pay and workplace discrimination.
- **Civil actions** come in many guises, from actions arising from road traffic collisions to claims arising from allegations of assault. They can be made by staff and members of the public alike. Any organisation having to deal with a civil action would be wise to obtain professional legal advice, because of the complex case law involved.

5.2 Analysis of any or all of these elements can provide a significant insight into the health of a force. The above elements are inextricably linked to the wider professional standards and misconduct arena and have significant implications for maintaining the public's confidence in the Service – particularly among minority ethnic communities and other minority groups.

[41] Home Office Circular 028/2004.

5.3 For these reasons the importance of these elements in relation to professional standards – in the widest sense of the term – and to one another is explored in this chapter.

**Unsatisfactory performance procedures**

5.4 In order to manage unsatisfactory performance, the Service has UPPs for police officers, and equivalent procedures are in place to manage unsatisfactory performance among police staff (referred to below as capability procedures to distinguish them from UPPs).

5.5 UPPs are regulated under the Police (Efficiency) Regulations 1999, and the Home Office has issued relevant guidance. The 1999 regulations are comprehensive and clearly outline the process to be followed, together with timescales; and the Home Office guidance is equally detailed.

5.6 Capability procedures are regulated by the Employment Act 2002, and the Advisory, Conciliation and Arbitration Service (ACAS) has issued a code of practice to guide employers, workers and their representatives.

5.7 UPPs and capability procedures are designed to manage unsatisfactory performance and are intended to be corrective in nature rather than punitive. Although the procedures are designed to be corrective, they do ultimately provide for the dismissal of members of staff who fail to improve their performance within a specified timeframe.

*What should 'good' police performance in this area look like?*

5.8 UPPs and capability procedures benefit from comprehensive and clearly defined regulations, together with detailed guidance and codes of practice.

5.9 'Good' performance will see forces able to demonstrate that they are using UPPs and capability procedures effectively to deal with staff who are underperforming. 'Effectively' in this context means that managers are confident enough in the procedures to use them to manage unsatisfactory performance and that they do so when appropriate.

5.10 Good performance will require that managers have the confidence to use the procedures, which can only be secured if they have had sufficient training to use them effectively. Whether managers are confident in using the procedures will to some extent depend on

whether or not they feel they can rely on the support of their own supervisors.

5.11 Good performance will require forces to have mechanisms in place to capture and share organisational learning across the force and the Service.

5.12 Good performance from a Service-wide perspective would see appropriate mechanisms in place for one organisation recording and analysing data to identify national patterns and trends.

5.13 Good performance will therefore entail:

- processes that are used effectively to manage poor performance;
- processes that are widely understood by all staff;
- processes that are backed by appropriate support mechanisms for supervisors and staff;
- processes that are underpinned by comprehensive training to ensure that supervisors have the requisite knowledge to navigate them with confidence;
- systems in place to capture organisational learning and to share this learning force-wide and Service-wide; and
- systems in place accurately to record and analyse UPPs and capability procedures[42] so as to identify patterns and trends.

*How good is current police performance?*

5.14 It is disappointing to note that very few, if any, forces were able to demonstrate that they are using UPPs effectively to deal with poor performance. HMIC did find isolated cases where the procedures have been used to good effect; however, these are few and far between, and even where they exist they do not represent a force-wide picture.

5.15 In fact there is a widespread lack of confidence in UPPs and the procedures are not fully understood by many front-line supervisors. In particular, their relationship with misconduct procedures is often misunderstood.

5.16 There appear to be two main reasons for this lack of confidence in the system. Firstly, training in relation to UPPs is poor and in some areas non-existent. Secondly, there is a widely held view that UPPs are too complicated, unwieldy and impractical to use effectively. The result has been that on occasion supervisors try to use the misconduct procedures inappropriately in preference to UPPs:

[42] Forces must also ensure that any data collection system in place accurately records ethnicity, in line with section 95 of the Criminal Justice Act 1991 and the Race Relations (Amendment) Act 2000.

> **"... for UPPs to be imposed there must be a regime in place where PDRs [performance development reviews] are completed, issues are pointed out to staff in advance, action plans completed, etc. This, given the demands placed upon operational supervisors, is not the case and there is a tendency for supervisors to go for discipline instead. The Police Federation wins both ways, because if the latter option is considered in trivial cases it will argue effectively that the conduct should have been addressed through UPP, and if UPPs is attempted it will be easily able to prove that the regime mentioned above has not been followed. There is a need to ensure that supervisors fully understand the processes and that there is adequate provision to support them through it."**
>
> Police Federation spokesperson

5.17 The most significant factor contributing to the lack of confidence in UPPs is a lack of training and support for front-line supervisors. Although UPPs are currently being reviewed by the Home Office – together with HMIC – forces urgently need to review their training and support mechanisms for front-line supervisors.

5.18 Because of the severe lack of confidence in the system, it is unlikely that the current crisis can be overcome without an urgent Service-wide review. Fortunately, the Home Office, together with HMIC, the Police Federation, ACAS and others, has already begun to carry out a review. Whether the problem is the process itself, or the fact that forces have failed to deliver it with the appropriate level of resources and training to ensure its success, is a moot point:

> **"It is too difficult, time-consuming and complex; just do the discipline route."**
>
> Superintendent/area commander

> **"... there are, however, problems across the force. The issues are around infrastructure, lack of policy, training or understanding around its implementation, and a concomitant loss of confidence among line supervision in the implementation of UPPs."**
>
> Police officer

5.19 Whatever the reason for the failure of UPPs, the effect has been that forces do not have an effective system for dealing with poor performance – or certainly not one that their staff have confidence in. It is essential that forces have a mechanism for dealing with poor

performance, and HMIC believes that this situation needs to be rectified as soon as possible and that the Home Office research work is both timely and welcome.

5.20 Few forces have robust systems in place to ensure that organisational learning from UPPs is captured and shared both force-wide and Service-wide. Furthermore few forces have mechanisms in place to collate data in relation to UPPs and some forces are failing to comply with their statutory requirements to record staff ethnicity data in misconduct procedures.

5.21 There is currently no single body responsible for collecting and analysing data in relation to UPPs in order to identify patterns and trends from a national perspective, and there is currently no national forum for sharing organisational learning across the Service. The merit of analysing Service-wide data should be investigated and if it is deemed to be of value then the Association of Chief Police Officers (ACPO), the Association of Police Authorities (APA), HMIC and the Independent Police Complaints Commission (IPCC) should agree which agency is to take the lead.

5.22 In contrast to the problems experienced in using UPPs to manage unsatisfactory performance among police officers, forces did not report the same difficulties with capability procedures for police staff. Practitioners had several theories for this, but the main two appear to be cultural issues (ie managers are more willing to tackle police staff capability than police officers) and procedural issues (ie police staff capability procedures tend to be easier to use). Unfortunately this means that there is a disparity in the way that the Service manages police staff and police officers.

5.23 Although there are examples of forces using different ways to improve the use of UPPs, it is clear that no one force could demonstrate that it had effectively solved all the problems associated with the procedures.

**Good practice: Mentoring scheme**
In **Gloucestershire**, the head of the PSD and the head of human resources (HR) are developing a system of mentoring staff whose standards of behaviour fall below that required by the Constabulary. The Constabulary has six mentors trainers and 12 trained mentors in place. It was anticipated that a further 50 would be trained by the end of November 2005. While this system was in the conceptual stages during the inspection, it is clear that, if successfully introduced, it has the potential to be seen as good practice for others to follow.

*Key findings*

5.24 There is little evidence of any force in England or Wales using UPPs effectively to deal with poor performance. Staff generally believe that UPPs are too complicated, unwieldy and impractical to use, and thus there is little confidence in the system. As a result, managers on occasion inappropriately try to use misconduct procedures in preference to UPPs. Training for staff in UPPs is poor and in some forces non-existent, and this is a major cause of the lack of confidence in the process. There is a disparity in the way that police officers and police staff are managed in relation to unsatisfactory performance.

5.25 This report follows those produced by Bill Taylor, Sir William Morris and the Commission for Racial Equality (CRE). It reinforces in particular the findings of the Taylor report in relation to UPPs. Since the publication of these reports HMIC has been actively engaged with the Home Office via various 'technical groups',[43] looking at the whole issue of misconduct and performance procedures. The findings of these technical groups are keenly awaited, not least to bring an end to the disparity in the way that the performance of police officers and police staff is managed.

5.26 This work should lead to the implementation of a process that all staff can have confidence in and one that managers feel they can use easily and effectively to manage unsatisfactory performance. What is clear is that whatever process is developed will need to be supported by adequate training and managerial support if it is to be successful.

[43] Technical groups are working groups made up of various stakeholders.

**Grievance and fairness at work procedures**

5.27 ACAS[44] describes grievances as follows:

> **"Grievances are concerns, problems or complaints that employees raise with their employers. Grievance procedures are used by employers to deal with employees' grievances. Grievance procedures allow employers to deal with grievances fairly, consistently and speedily. Employers must have procedures available to employees so that their grievances can be properly considered. If a grievance cannot be settled informally, the employee should raise it formally with management. There is a statutory grievance procedure that employees must invoke if they wish subsequently to use the grievance as the basis of certain applications to an employment tribunal."[45]**

5.28 The Home Office issued guidance to police forces in connection with grievance procedures in 1993 and 2004. The latter, titled *Fairness at Work Procedure* (FAW),[46] was drafted in consultation with the main stakeholders via ACPO's equality subcommittee.

5.29 FAW sets out an updated format for dealing with grievances:

> **"This document [FAW] provides the basis for a procedure applying in all forces for the resolution of conflict within the workplace. The overriding aim is to produce a speedy and effective resolution to a workplace dispute at the lowest possible management level and not to establish blame or provide punishment. An employment tribunal is a damaging and costly experience for all parties and the aim of all involved in a workplace grievance must be to resolve complaints at the earliest opportunity."**

*What should 'good' police performance in this area look like?*

5.30 Grievance procedures have been used in the Service for over ten years, and the Home Office's 2004 FAW guidance is comprehensive and is supported by a wealth of corporate knowledge and experience in dealing with grievance issues.

5.31 For grievance procedures to be effective and for forces to be able to demonstrate 'good' performance in this area, staff will need to have confidence in the procedures. To maintain confidence and thus a good performance forces will need to be able to demonstrate that

[44] ACAS code of practice, *Discipline and Grievance Procedures*, page 23, paragraphs 63–68.

[45] The statutory dismissal, discipline and grievance procedures are set out in the Employment Act 2002. However, this law does not affect police officers as they are not considered employees under the Act.

[46] Home Office Circular 028/2004.

grievances are dealt with fairly, without apportioning blame. Forces will also need to be able to show that grievances are dealt with quickly and confidentially (where possible), and this will usually mean at the lowest managerial level.

5.32 Two other factors that may affect confidence in the system are: firstly, whether or not senior managers are seen to support members of staff who raise grievances; and secondly, whether or not the organisation is seen to want to learn from its mistakes (as this will demonstrate that it is committed to trying to improve the working conditions of its staff).

5.33 Grievance procedures can provide useful management information and may contain opportunities for organisational learning. An organisation that is committed to maintaining the confidence of its staff will therefore want to ensure that the lessons learnt from one grievance procedure are shared throughout the organisation to prevent similar circumstances arising again. To achieve this, the organisation will need to have systems in place to capture and share organisational learning.

5.34 In addition to lessons that may be learnt from individual grievances, lessons may also be learnt from the analysis of grievances across the force (or indeed the Service). Therefore good performance will see systems in place to record data on the number and nature of grievances, together with a system for carefully analysing that data and sharing the findings across the force and across the Service, with learning points clearly identified.

5.35 By their very nature grievances may stem from misconduct, and it is therefore important that robust systems are in place so that misconduct within grievances is identified and reported and investigated appropriately.

5.36 The most recent guidance from the Home Office, its 2004 FAW, recommends that forces use trained mediators or facilitators to improve the way that grievances are handled. A good performance would see forces embracing this useful recommendation to professionalise their approach to dealing with workplace disputes.

5.37 Good performance will therefore entail:
- a system that staff have confidence in;
- evidence of strong support from senior managers for staff who raise grievances;

- evidence that grievances are handled at the lowest appropriate managerial level and in a timely manner;
- clear systems in place accurately to record and analyse the number and nature of grievances so as to identify patterns and trends;[47]
- evidence of organisational learning being captured and shared throughout the force and the Service;
- evidence of robust systems to ensure that misconduct issues within grievances are identified, reported and investigated appropriately; and
- evidence of trained mediators being used in line with the latest guidance issued by the Home Office in 2004.

*How good is current police performance?*

5.38 During the baseline assessment process (and thematic research) in 2005, it emerged that there is a lack of confidence in the system among some staff, in particular among those from minority groups:

> **"We have concerns about the use of the grievance procedure in that we are not able to recommend its use for fear of victimisation – strong effective line management is required to ensure this does not occur."**
>
> Staff association representative

5.39 Several police forces acknowledged this lack of confidence and were of the view that the time was right to look at grievance procedures again in an effort to try to improve the situation:

> **"... there is, however, reluctance in some quarters to raise matters such as bullying and homophobia and a lack of confidence in the grievance procedure for fear of victimisation. The force acknowledges that the fairness at work policy and procedure should be amended and re-invigorated. This work has started and new ACPO guidance is eagerly awaited. The staff support groups have an important part to play in working with the diversity unit to improve existing policy and increase confidence in the procedures."**
>
> Head of a PSD

5.40 Grievance procedures are however working well in a number of forces and the lack of confidence is not therefore widespread throughout the Service. Examples of good practice were found and are detailed below.

[47] Forces must also ensure that any data collection system that is in place accurately records ethnicity in line with section 95 of the Criminal Justice Act 1991 and the Race Relations (Amendment) Act 2000.

5.41 Generally speaking there is good support among senior management for staff involved in grievance cases. However, in many cases a difficult balancing act is needed, senior managers having to be careful not to be seen to be 'taking sides':

> **"... the management of the grievance procedure was recently transferred to the HR department to better reflect the intention of conflict resolution. The grievance procedure is based on the ACAS model and is supported by a database for recording cases, which also records data for proportionality and monitoring purposes. During this period there have been 14 grievance procedures commenced, two of which have not been formalised. The force has a number of advocates and grievance handlers, but there appear to be problems marketing the procedure and a negative perception among staff which is restricting its application."**
>
> ACPO lead

5.42 Overall the collection and analysis of data in relation to grievance procedures remains haphazard across the Service, as is the collection of data in relation to the ethnicity of those involved in the system, contrary to statutory requirements.[48] This is disappointing – not just because this is being allowed to occur in the face of a lack of confidence in the system among some minority groups, but also because it is a missed opportunity to provide a valuable means of analysing patterns and trends across the Service that may be useful in informing future strategy and policy.

5.43 The extent of organisational learning from grievances varies from force to force. In particular, where grievance procedures are dealt with completely independently of PSDs, there is a danger that organisational learning could be lost unless formal communication links exist between departments.

5.44 No single body is currently responsible for collecting and analysing data in relation to grievances so as to identify national patterns and trends, and currently there is no national forum for sharing organisational learning across the Service. The merit of analysing Service-wide data should be investigated and, if it is deemed to be of value, then ACPO, the APA, HMIC and the IPCC should agree which agency is to take the lead.

5.45 A large number of forces rely on informal procedures to identify and report misconduct that is highlighted in grievance cases. Where this is the case, forces should place these procedures on a formal footing to ensure that misconduct issues are highlighted appropriately.

[48] See section 95 of the Criminal Justice Act 1991 and the Race Relations (Amendment) Act 2000.

5.46 The Home Office 2004 FAW guidance suggests that forces adopt a system of facilitators or mediators to help them deal effectively with grievance cases. Although a number of forces have taken up this suggestion, many have not. All forces should ensure that they have updated their grievance procedures in line with the latest Home Office guidance and that they have in place appropriately trained facilitators or mediators to assist with grievance cases.

> **"The force has identified that a significant number of investigations are generated following a lack of confidence in the grievance procedure. In order to address this, the force is developing a mediation capability, quality assured by ACAS, as a first step in resolving problems."**
>
> HR manager

5.47 All forces need to update their grievance procedures in line with the recent guidance issued by the Home Office, in particular in relation to facilitators and mediators.

**Good practice**

Several forces could be cited as examples of good practice. In particular, **Derbyshire** and **Kent** stood out for their use of mediators as per the FAW guidance issued in 2004:

*"Derbyshire Constabulary has introduced a dispute resolution process. A total of 24 police staff and police officers have been trained and accredited as mediators via the Open College Network and have been awarded a Certificate in Mediation Practice. Any issue can be put forward for mediation, eg disputes between staff and minor instances of bullying or harassment, etc. The process is managed by the HR department, and access does not have to be through the official grievance procedure. There are many examples of this process being used very effectively to resolve issues between staff."* HR manager

*"Kent has 52 workplace fairness/grievance advisers and 19 workplace mediators. The details of the former are available to all employees through the force intranet. The mediators undertake four training days per year, and the force is looking to expand the scheme in the New Year with workplace investigators for all Police Support Employee matters. This system is well established and widely used. This is good practice which could be adopted nationally."* Lead staff officer

*Key findings*

5.48 Many forces use grievance procedures effectively but there continues to be a lack of confidence in the system among some staff, in particular those from some minority groups. Many forces do not have systems in place accurately to record and analyse the number and nature of grievances in order to identify patterns and trends. No one organisation has responsibility for overseeing grievance procedures or collating and analysing data to identify national patterns and trends. Many forces have yet to update their grievance procedures in line with the latest guidance issued by the Home Office in 2004, in particular in relation to adopting facilitators and mediators.

5.49 The report into the Police Service by the CRE in 2005 suggested that take-up of the new FAW procedures by forces was patchy and that the procedures were too flexible. The CRE concluded that the Home Office should introduce a "nationally agreed grievance procedure"[49] and that the procedure should be inspected by HMIC.[50] The time is right for the Home Office to determine a nationally agreed grievance and fairness at work procedure to standardise the handling of grievances and to aid organisational learning across the Service.

**Recommendation 12**

The Home Office should determine a nationally agreed grievance procedure.

**Employment tribunals and civil actions**

5.50 ETs[51] deal with claims of unfair dismissal and other matters, such as discrimination cases and equal pay claims. ETs are important for a number of reasons, of which perhaps the most significant is cost – both in financial terms and in terms of their potential for damage to the reputation of the Service and to employee relations.

5.51 The financial cost of employment tribunals to the Police Service was last calculated by the Police Federation in 2003.

**Police employment tribunals (England and Wales)**

- **131 employment tribunals in 2003**
- **Estimated cost: £117,000 each**
- **Total cost: £15.3 million**

Source: Police Federation of England and Wales[52]

[49] CRE report, recommendation 80, paragraph 6.192.

[50] CRE report, recommendation 83, paragraph 6.236.

[51] Previously known as industrial tribunals, the name was changed to employment tribunals by the Employment Rights (Dispute Resolution) Act 1998.

[52] *Police Review*, 4 June 2004.

5.52 ETs are almost always damaging experiences for all parties concerned, and for this reason the aim of all workplace grievance procedures must be to resolve complaints at the earliest opportunity and to prevent the need for matters to progress to an ET.

5.53 Civil actions are closely aligned to ETs. Although they differ from ETs in their scope in many ways, some of the mechanisms that organisations need to have in place to ensure that civil actions are dealt with appropriately are the same for ETs and therefore both are considered in this chapter.

*Legislation and guidance potentially affecting employment tribunals and civil actions*

5.54 In 2003 a number of stakeholders (including the Home Office, ACPO, HMIC and staff representative organisations) produced a report entitled *Learning the Lessons: Recommendations for Reducing Employment Tribunal Cases Involving the Police Service*. The report contains a number of important recommendations and is considered by HMIC to be essential reading for anyone working in the ET field. The CRE endorsed the recommendations in the 'Learning the Lessons' section in its own report and recommended them to all stakeholders.[53]

5.55 Under Schedule 3, paragraph 10 of the Police Reform Act 2002, police authorities and chief officers are directed to ensure that conduct matters arising from civil claims, or other proceedings, are identified and recorded.

5.56 Under the Race Relations (Amendment) Act 2000,[54] police authorities have a statutory duty to secure "an efficient and effective police force" and to:

- prepare and publish a race equality scheme; and
- monitor employment procedures and practices.

5.57 Police authorities should play an active role in overseeing grievance procedures and ETs. In pursuance of this, in 2004 the APA produced *People Matters: Tackling Discrimination: Police Authority Oversight and Scrutiny of Grievance Procedures and Employment Tribunals: APA Guidance*. This document clearly outlines what the APA sees as its responsibilities in relation to the effective monitoring of employment procedures, including ETs and grievance.

[53] CRE report, recommendation 90, paragraph 6.304.

[54] Further guidance can be found in the APA's publication *Race Relations (Amendment) Act 2000: An APA Guide for Police Authorities* and the CRE's *Statutory Code of Practice on the Duty to Promote Race Equality.*

5.58 In that document it is stated that police authorities should ensure that appropriate mechanisms are in place so that:

- high-profile or significant cases[55] are brought to police authorities' attention at an early stage;
- police authorities are able to satisfy themselves that steps are taken in all cases to find early resolution, eg through mediation; and
- the force has trained and skilled mediators or has access to them.

*What should 'good' police performance in this area look like?*

5.59 Much of what has been said above in relation to UPPs and grievance procedures can also be said for ETs and civil actions.

5.60 Good performance will therefore include the following features:

- There should be evidence that police forces and police authorities have robust systems in place to ensure that accurate data is collected and analysed in relation to the nature, number and type of ETs and civil actions, to enable patterns and trends to be established so as to inform future policy and strategy.[56]
- There should be evidence that lessons learnt from ETs and civil actions are being shared across the force and the Service.
- Formal systems should be present to ensure that misconduct issues within ETs and civil actions are highlighted and reported appropriately.
- There should be evidence that police authorities are actively engaged in monitoring cases of significant interest, to ensure that there is clear oversight of the procedures to discharge their statutory duty to "secure an efficient and effective police force".
- Where ETs and civil actions are dealt with outside PSDs, appropriate communication links should be in place to ensure that organisational and professional standards issues are considered in conjunction with PSDs and that misconduct is identified.

*How good is current police performance?*

5.61 There is currently no single body responsible for collecting and analysing data in relation to ETs and civil actions so as to identify national patterns and trends, and currently there is no national forum for sharing organisational learning across the Service. HMIC is of the view that the merit of analysing Service-wide data should be investigated and that, if it is deemed to be of value, then ACPO, the APA, HMIC and the IPCC should agree which agency is to take the lead.

[55] "Significant" is not given an interpretation; rather, police authorities are asked to agree the definition locally with their home force.

[56] Forces must also ensure that any data collection system in place accurately records ethnicity in line with section 95 of the Criminal Justice Act 1991 and the Race Relations (Amendment) Act 2000.

5.62 Few forces are able to demonstrate that they have robust systems in place for collating and analysing data or for ensuring that organisational learning is being effectively communicated across their force area, and this means that the Service may be failing to share the lessons learnt from ETs and civil actions. This situation urgently needs rectifying to prevent avoidable ETs and civil actions in the future, and forces need to ensure that they have formal systems in place to cascade lessons learnt across the force and the Service.

5.63 There is a significant degree of variation as to the extent of police authority oversight and monitoring of ETs and civil actions. As a result, some forces do not benefit from independent scrutiny of their handling of ETs and civil actions. The APA may want to satisfy itself that there is consistency among police authorities in relation to this key oversight role.

5.64 While most forces have informal arrangements in place to ensure that misconduct issues are identified and reported appropriately, few have established formal mechanisms. This is too important an area to leave to informal arrangements and forces need to ensure that they have formal arrangements in place so that misconduct is identified and reported.

5.65 This inspection did, however, highlight some areas of good practice, as described below.

**Good practice**

**Gwent Police** has a debriefing after the conclusion of all ETs, and a standard form – similar to that used for complaints, civil claims, etc – has been introduced as a tool to help identify conduct issues. An ACPO officer has to approve subsequent action plans.

**Sussex Police's** head of employee relations unit within the force's HR department oversees issues arising from ETs and the grievance procedure. In respect of ETs, the current process is that any conduct issues are identified and are forwarded to PSD for action or are retained within the unit if the matter refers to a member of police staff. The HR department gives a report on ETs to the Sussex Police Authority complaints committee for scrutiny. The employee relations unit monitors the grievance procedure. Each form completed at stage one[57] of the process is reviewed, and if misconduct is identified a process identical to those outlined for ETs is undertaken.

*Key findings*

5.66 No one organisation is charged with collecting and analysing data to identify patterns and trends in relation to ETs and civil actions nationally and the Service has no national forum for sharing organisational learning Service-wide. Although many forces have informal mechanisms in place for ensuring that misconduct issues are identified and reported appropriately, few have formal mechanisms. The engagement and oversight of police authorities regarding ETs and civil actions varies across the Service. Where ETs and civil actions are dealt with completely separately from PSDs, there is a danger that, in the absence of appropriate formal communication links, misconduct issues will not be identified, reported and investigated appropriately.

5.67 It is vitally important that appropriate mechanisms are in place so that ETs and civil actions involving misconduct are highlighted and investigated and that organisational learning takes place both locally and nationally. Failure to ensure that this happens could have disastrous consequences for the reputation of the Service, not to mention significant costs in damages.

**Conclusion**

5.68 Analysis of UPPs, grievance procedures, ETs and civil actions can provide a useful insight into the health of an organisation. Careful analysis is also critical to organisational learning and to preventing the same problems arising again in the future.

5.69 There are potential linkages between the different procedures within the umbrella of 'professional standards'. For example, a grievance may stem from misconduct, and this may need to be identified, reported and investigated appropriately. This is perhaps best illustrated by way of a case study.

[57] Grievance is a procedure that consists of three stages of escalation.

**Case study**

In a large metropolitan police force, Sergeant 'A' allegedly treated a female police constable on his shift less favourably than male officers by denying her regular postings on the station van. It was alleged that this was because he believed the officer to be physically incapable of routinely dealing with violent prisoners. Offended by this and feeling victimised, the constable instigated the grievance procedure in an attempt to resolve the situation.

This case was ultimately dealt with and resolved satisfactorily via the grievance route. However, in similar circumstances elsewhere in the country the supervisor dealing with the grievance might have felt that the behaviour was such as to warrant the instigation of misconduct proceedings or a UPP – ie the behaviour was wilfully discriminatory (misconduct) or was a result of a lack of understanding (UPP).

Should the grievance process fail, for whatever reason, this could lead to the officer seeking redress at an ET, and this could have significant cost implications for the force in terms of staff disengagement, financial costs and reputation.

5.70 Such a situation as described in the box above may be damaging enough in itself. However, perhaps of greater threat to the Service is that unless it learns from the case and puts mechanisms in place to prevent it happening again, this scenario may be played out several more times.

5.71 There is a lack of understanding Service-wide of the various procedures and their relationship to one another (especially on the part of front-line supervisors). This lack of understanding and a lack of training and managerial support appear to be the main barriers to improving performance in this area.

5.72 The absence of one Service-wide organisational structure for PSDs is a further barrier to improving performance. At present some forces have PSDs that deal with all the different procedures under one roof; others have an array of other structures, with different departments being responsible for different parts of the process and linked to one another via many different means.

5.73 This variation in PSD structures means that there is no national consistency, and the lack of standardisation inhibits organisational learning, owing to the confusion it causes over the individual areas of responsibility.

5.74 Where the different processes are split across different departments, the inspection showed that it is essential that mechanisms are in place to ensure that information is shared and that organisational learning takes place.

5.75 The inspection did, however, highlight areas of good practice (as shown below), where it was obvious that the forces concerned were fully conscious of the need for robust links between the different procedures and the need to ensure that appropriate mechanisms are in place for organisational learning to take place. The fact remains, however, that there is little evidence that organisational learning is being shared across the Service.

**Good practice: Hertfordshire**
Monthly meetings between the head of legal services and the head of the PSD ensure that **Hertfordshire Constabulary** is aware of any conduct matters that may arise from ETs and civil litigations. All grievances that reach stage 3 of the process are heard by chief officers. The HR department monitors and identifies trends in grievances and disciplinary issues. Matters arising are brought to the attention of relevant managers and the HR senior management team for consideration and action as appropriate. If a grievance is related to an employment issue, it is reported to the legal services department, and any conduct matters will be identified and feedback provided to the appropriate supervisors, following a report to the Executive. If there are any conduct matters falling within the remit of the PSD, then these will be reported for appropriate action, usually at the request of the head of the legal services department. The same applies to conduct matters stemming from ETs. A legal services file review sheet is completed for every case received by the legal services department.

**Good practice: Cheshire**
Monthly meetings between the chief officer lead, the force's solicitor and the head of the PSD ensure that issues that cross over different areas of business are identified and addressed. In line with obligations under the Race Relations (Amendment) Act 2000, the legal department is tasked with ensuring that ethnicity details are recorded in all the cases it deals with. The grievance process is managed through the HR department and the diversity unit. Any matters of misconduct arising out of such actions are directed to the head of the PSD.

5.76 The absence of one lead agency to oversee, collate and analyse data on all the procedures has led to confusion and a lack of statistical analysis to identify patterns and trends across the Service. Whoever ultimately takes responsibility, it is clear that this is an area that needs to be addressed, with one body being given overall responsibility. The Home Office already collates statistics in relation to ETs and it may be that it is the right body to monitor statistics across all three procedures.


6. Police staff

# 6. Police staff

**Introduction**

6.1 HMIC's inspection highlighted a number of key differences between police staff and police officers in the area of misconduct and discipline arrangements. Such differences lead to inconsistency between these two distinct groups. At a national level, discipline arrangements for police officers are set centrally in police regulations, whereas those for police staff remain local and differ throughout England and Wales.

6.2 The Police Reform Act 2002 gave chief officers the authority to grant certain powers to police staff, but no consideration has been given to any additional checks and balances that ought to accompany such increases in powers. These and many other anomalies in discipline arrangements are detailed in this chapter, together with some proposals as to the way forward.

**Key terms**

6.3 The Police Service in England and Wales has two separate categories of employee: police officers and police staff. Members of the Special Constabulary have a status and role within the Service but, as volunteers, are not considered to be employees.

*Police officers*

6.4 The office of constable dates back to medieval times, but the origin of the current constabularies lies in the introduction of the 'new police' through legislation enacted between 1829 and 1856. Police officers are unique in terms of their sworn or attested status, which vests in them powers not held by the general public, such as powers of arrest, search and seizure. Another key difference relates to the employment status of officers. The 'Office of Constable' is a Crown status, and that means that officers do not have the legal status of employees. That said, employment law is increasingly being applied to them, either in fact or in principle. The status brings with it a number of benefits for officers, but the benefits are balanced by restrictions, such as having no right to strike and not being permitted to overtly demonstrate any political affiliation.

*Special Constabulary*

6.5 The Police Act 1964 established the Special Constabulary in its current form. Each force has its own Special Constabulary, comprising volunteers who normally commit at least four hours a week to working with regular police officers. They wear similar uniforms and have the same powers, albeit only in the force in which

they are appointed and nearby forces. They do not hold national powers, and their voluntary status means they are not considered employees. Members of the Special Constabulary are subject to the same regulations as police officers and police staff in respect of complaints and misconduct.

*Police staff*

6.6 Police staff are personnel employed by the local police authority and do not have the sworn status of a constable, but direction and control is delegated to chief officers. The term 'police staff' was adopted across the Service in 2003. Before that time various descriptions had prevailed, including 'civilians' and 'support staff'. Terms and conditions of employment for police staff are negotiated nationally and set locally, and their status is no different from that of any other person in general employment. Relevant employment legislation applies to police staff, and apart from being employed within the police force they have, with a few exceptions, no extra status or powers.

*Police community support officers*

6.7 Perhaps the most notable change to police staff roles in recent years has been the introduction of the police community support officer (PCSO), made possible by the Police Reform Act 2002. Significant in terms of both their role and numbers, PCSOs are police staff employed by the police authority under the direction and control of the Chief Constable. Their function is to provide an accessible and familiar presence in the community to help reassure the general public and reduce crime and disorder. There is scope for PCSOs to have limited powers: to detain suspects, stop vehicles and issue fixed penalty notices. Not all PCSOs have these powers. They patrol on foot and in uniform in an effort to reduce the fear of crime and promote public confidence. PCSOs aim to build strong community ties with local residents and provide intelligence for officers.

6.8 Although the PCSOs are a relatively new concept, by 30 September 2005 their number in England and Wales had grown to 6,324. Not surprisingly, the Metropolitan Police Service (MPS) has the highest number of PCSOs, with 2,053 officers (4.4% of the overall strength). The lowest number was in Hampshire Constabulary, with 23 PCSOs (0.4%). The Government intends that the total number of PCSOs should reach 24,000 by March 2008. Acceleration in the growth in the number of PCSOs was given added impetus in this year's budget, when the Chancellor announced that by April 2007 the number of PCSOs should be 16,000. This will result in the significant growth of the police staff element of the overall Service strength and may see

police staff accounting for around 40% of the Police Service, although this projected figure remains speculative.

*The 'mixed economy'*

6.9 Increasingly, police organisations are experimenting with a more diverse and flexible mix of personnel. In addition to fully employed officers and police staff, some functions, such as custody provision, are being contracted out to private sector providers. In addition, most forces also employ retired police officers and other personnel on short-term contracts to help in periods of exceptional demand, such as major criminal investigations and critical incidents. This mix of personnel is variously referred to as the 'extended police family', the 'mixed economy' of policing and 'workforce modernisation'.

*Police Advisory Board for England and Wales*

6.10 The Police Advisory Board for England and Wales (PABEW) is the national advisory body for pay and terms and conditions of employment for police officers in England and Wales. It consists of representatives of the Home Office, police authorities, the Association of Chief Police Officers (ACPO), the Police Federation of England and Wales, the Police Superintendents' Association of England and Wales and the Chief Police Officers' Staff Association. HMIC sits on the PABEW as special advisers. The board advises on pay and conditions of employment as well as allowances. The Government sets regulations on the basis of advice from the PABEW. Once regulations are set, police forces are bound by law to adhere to them.

6.11 PABEW, together with similar boards in Northern Ireland and Scotland, advises the Police Negotiating Board (PNB), which provides the national negotiating machinery for conditions of service for the Police Service in the United Kingdom. These boards provide a means for enabling the representatives of serving police officers, and those engaged in the governance and management of the Police Service, to bring their expertise to bear on practical issues of police modernisation that affect the conditions of service and working lives of individual officers.

*Police Staff Council*

6.12 The Police Staff Council is the national collective bargaining machinery for all police staff (ie non-police officers) in England and Wales. Unlike the PNB, the Police Staff Council has no statutory status but, with only one or two exceptions, all police forces in England and Wales have incorporated the PSC *Handbook of Terms and Conditions* into the contracts of their police staff. These terms

and conditions are therefore contractually binding and legally enforceable for those police forces.

**Development of police staff within the Service**

6.13 During the last ten years, the Service has faced significant increases in the numbers of police staff, as well as the police reform agenda. Home Office data for all police forces in England and Wales show that at 30 September 2005 there were 71,252 police staff (excluding PCSOs), which represented 32.8% of the Service's strength. This compares with 51,096 police staff in 1995, representing 29% of the then Service's strength. When PCSOs are included, the proportion of police staff increases to 35.7%.

6.14 The force with the highest proportion of police staff is Surrey Police, with 41%, and the lowest is City of London Police at 24.8%. The profile of police staff has altered in some forces, as decisions have been made to outsource some functions to private sector contractors. The MPS, for example, embraced this practice and has fewer police staff now than it had in 1995, a situation also affected by boundary changes in 2000, when Essex, Hertfordshire and Surrey forces took over areas that were previously the responsibility of the MPS.

6.15 Apart from the traditional police support functions of administration and finance provisions, the typical modern-day roles of police staff are:

- PCSOs;
- crime and police complaints investigators;
- scenes of crime examiners;
- front counter staff;
- command and control and call centre operatives;
- custody staff and escort officers;
- traffic wardens;
- coroner's officers;
- property officers; and
- tape interview transcribers.

**Modernising the Police Service**

6.16 Such has been the growth of the importance of police staff that in July 2004 HMIC published its *Modernising the Police Service* report, a thematic inspection of workforce modernisation and the role, management and deployment of police staff in the Police Service of England and Wales. That report made a total of 28 recommendations aimed at prompting the Service to adopt a considered, planned and fair approach to establishing the optimum mix of staff and skills

required to deliver policing in the 21st century and helping ensure the professionalism of the Service as a whole.

6.17 The report highlighted that for too long the Service has dealt with officers and police staff in separate 'silos', as if somehow they were not part of the same organisation. Pointing to the future, the report concluded that a more consistent national approach was needed if workforce modernisation was to be successfully progressed, and it stressed that current force structures and hierarchies are acting as barriers to change. Other changes advocated by the report that will have an impact on police discipline included the need to adopt a more flexible approach to the delegation of police powers.

6.18 *Modernising the Police Service* described how pay, conditions of service, discipline and many other employment arrangements are negotiated separately for police officers and police staff. The report acknowledged that some structural changes have taken place, such as the enhanced involvement of the Home Office in the Police Staff Council. The report said:

> **"... significant and profound change is required to fully integrate and to develop flexible working. This involves strengthening the role of the Police Staff Council (PSC), with the long term aspiration of reforming the Police Negotiating Board (PNB) and the PSC to provide one umbrella body responsible for the full range of officer and police staff terms and conditions and other arrangements. It is this issue which is at the heart of the disparities in police officer/police staff discipline."**

6.19 In pointing to a model police force of the future, the report advocated that:

> **"In addition to standards encapsulating systems, technology, performance and delivery, the Service will have a comprehensive code of ethics, incorporating expectations in respect of professional standards and integrity and applicable to every member of the Service."**

6.20 Some of the issues highlighted in *Modernising the Police Service* concerned with police staff discipline are mirrored in the present thematic report, which may indicate that the Service is moving slowly in this area of reform. Reform of disciplinary arrangements for police staff is urgently required if the Service is to meet modern-day challenges. Such challenges will be brought into focus as the

planned and substantial increases in the number of PCSOs that were set out to forces in a recent government directive materialise.

**Discipline procedures for police staff**

6.21 The discipline procedures applying to police staff are largely the same as those that apply to any other employee within the private sector. Procedures are based on the code of practice of the Arbitration and Conciliation Advisory Service (ACAS). Employers contemplating dismissal – including dismissal on grounds of capability, conduct, redundancy, non-renewal of a fixed-term contract and, in some cases, retirement and industrial action – must follow the set contractual procedure, and failure to do so will make any dismissal automatically unfair. The procedure adopted must comply with relevant employment legislation.

6.22 There are generally two levels of misconduct in respect of private sector and police staff discipline: misconduct for the lesser wrongdoings and gross misconduct for the more serious transgressions. An example of gross misconduct might involve theft from an employer or drug misuse in the workplace. For these examples an employee could expect instant dismissal. Misconduct might involve inappropriate behaviour towards another staff member, for which the employee might expect a written warning.

6.23 Reference to a code of conduct for police staff exists within the Police Staff Council handbook, but this is only a brief entry and does not contain any detail. Forces have developed their own local codes of conduct, which are incorporated into staff contracts. The Service has historically shied away from adopting a national code of ethics for police staff. The emergence of professional standards departments within forces and the establishment of the Independent Police Complaints Commission (IPCC) have gone a long way to providing a structure within which to address integrity failings.

6.24 There is now an acknowledged need to complement these advances by introducing a code of ethics, against which the professional standards of **all** staff can be judged. A proposed code of professional standards (COPS) for police staff is currently under development by the trade union side of the Police Staff Council. A number of drivers for the development of COPS have already been mentioned, including *Modernising the Police Service*, views expressed by the IPCC and the recent Taylor Review of police discipline.

6.25 Despite the provisions of the Police Reform Act, the likely growth of the number of PCSOs patrolling our streets and oversight by the IPCC into police staff complaints, it remains an issue that there is no standard code of ethics or conduct for police staff. Local arrangements and codes of conduct written into contracts of employment differ throughout England and Wales. It can be argued that the Police Reform Act did not go all the way to completing the reform process, because, although it gave chief officers the authority to create new police staff roles with powers, it failed to identify the need for a national system of discipline for police staff.

> **"We deal far more robustly with police staff than we do with police officers."**
>
> Senior HR manager in a large police force

6.26 The police staff discipline system can, if handled correctly, be swift, efficient and just. For example, if evidence of wrongdoing is clear – for instance, criminal conduct, which would be classed as gross misconduct, either internally or outside the workplace, the process is likely to be relatively rapid

6.27 A subgroup of PABEW, known as the Taylor[58] group, is currently working to reform the police discipline system, with the intention of bringing it more into line with that of the private sector, with the ACAS model and with the system that forces currently use in respect of police staff. HMIC wholly supports the work of the Taylor group and considers that the group's aims, if achieved, will go a long way to addressing some of the current inconsistencies between the discipline systems for police officers and police staff.

### National issues and drivers for change

6.28 The complaints and misconduct landscape has been subject to significant scrutiny and change in the past few years, and the element relating to police staff has not escaped the spotlight. The particular issues and drivers for change in this field, however, include:

- the impact of the Police Reform Act 2002;
- inconsistencies in dealing with police officers and police staff;
- a lack of specialist investigation skills and training;
- disproportionality in investigations and outcomes; and
- anomalies in representation for staff.

[58] The Taylor Review of police discipline arrangements was sponsored by the Home Office and took place in 2004. The review made a number of recommendations aimed at modernising police discipline procedures.

*Impact of the Police Reform Act 2002*

6.29 The Police Reform Act 2002 (PRA) led to changes that meant that police staff could support their sworn colleagues by undertaking important front-line roles. Examples include PCSOs, detention officers, escort officers and investigators. The Act also gave chief officers the power to accredit individuals not employed by the Police Service, such as neighbourhood wardens and private security staff, raising the profile of other public sector and private sector involvement in 'policing'.

6.30 The PRA also introduced changes that combined the recording and investigative processes for complaints against police staff and that were (where appropriate) subject to professional standards investigations and oversight by the IPCC for the first time.

6.31 Adding an independent element to the investigation of police staff complaints has improved the system and provided extra protection for those staff members who are the subject of investigations. In addition to this protection, the new system is likely to add transparency to the process and to increase public confidence. This is particularly important because of the planned increase in the number of PCSOs, who interact with members of the public on a daily basis and have access to police data and new limited police powers. Police staff are just as susceptible to corruption as police officers; it is therefore important that measures are in place to address such risks.

*Inconsistencies in dealing with police officers and police staff*

6.32 Inconsistencies between police officers and police staff in terms of how they are dealt with emerge through two main routes: the built-in differences that are nationally generic and that are the product of very different legislative structures, terms of employment and allocated roles; and those differences that are a result of local policies and practices.

6.33 The generic differences are illustrated in the following table.

**Differences between police officers and police staff in terms of disciplinary procedures**

| Police officers | Police staff |
|---|---|
| Standard system throughout England and Wales for all Home Office forces (also for some non-Home Office forces), set out in regulations underpinned by IPCC statutory guidance | Contracts of employment set locally but must comply with relevant employment legislation. Can differ throughout England and Wales |
| Standard code of discipline throughout England and Wales for all Home Office forces (also for some non-Home Office forces) set by police regulation, underpinned by IPCC statutory guidance | No standard code of discipline, but use of locally agreed standards in compliance with relevant employment legislation |
| The range of sanctions is standard and set out in regulations[59] | Sanctions are not in regulations and differ nationally |
| Quasi-judicial process, resembling criminal investigation and tribunal | Use of the ACAS process; sometime involves tape-recorded interviews |
| During interview, inferences can be drawn from silence | No inferences can be drawn from silence |
| Right to legal representation | No right to legal representation |
| Specific appeals process | Several internal appeals mechanisms with final appeal to an employment tribunal |
| Staff associations (Police Federation, Superintendents' Association, Chief Police Officers' Staff Association) have high membership and influence | Many trade unions have small memberships and hence relatively little influence |
| Pay and conditions of service, including discipline, are negotiated and set centrally | Pay and conditions of service, including discipline, are negotiated nationally and set locally |

6.34 Many of the differences listed in the table are currently under review within the work of relevant policing stakeholder groups, and in response to the Taylor Review.

6.35 To give an example of differences in local policies and practices, in one force members of the professional standards department (PSD) give presentations to new recruits and at sergeant and inspector

[59] Sanctions differ for members of the Special Constabulary, as they do not receive any remuneration for their employment.

courses. The same level of energy is not applied in respect of new or existing police staff, who were found to lack awareness of professional standards. By contrast, in another force of a similar size, PSD staff give inputs to force supervisors – both police officers and police staff. In the latter force, revised guidance on dealing with complaints has been completed and handbooks produced for all supervisors – including police staff.

*Lack of specialist investigation skills and training*

6.36 Changes to the investigation of misconduct among police staff were introduced with the creation of the IPCC in April 2004. Before that, managers and human resources departments administered the entire process. Investigations have now become the remit of PSDs (overseen by the IPCC), which investigate the alleged misconduct or criminal allegation and at conclusion pass the matter on to HR departments to handle the misconduct aspect. This is the case even when the allegation amounts to criminal conduct, as police staff can be dismissed instantly for criminal offences with no avenue of appeal prior to a criminal trial.

6.37 A recurring theme is that staff within PSDs are not trained in handling police staff misconduct and have little understanding of employment law relevant to police staff. This leads to some staff resorting to the model of investigation they feel most comfortable with, which inevitably involves criminal-style, adversarial tape-recorded interviews, sometimes in custody suite interview rooms. Staff say they feel intimidated and criminalised by this level of scrutiny and the associated tape-recorded interviews in interview rooms. One police staff member in a small force said:

> **"Imagine how staff feel, being taken to a custody interview room with criminals present, then being subject to a tape-recorded interview by two police officers and finally being told that the evidence will be considered and they would be informed of the next stage. They only see this sort of thing on *The Bill*. It is quite outrageous."**

6.38 Although tape-recorded interviews can be intimidating and formal, they do offer those involved a level of protection they otherwise would not have. The model of interview adopted for police staff and in the private sector is less formal; for example, it does not usually involve tape-recorded interviews and is usually referred to as a 'meeting' rather than an interview. It involves an exchange of views and an explanation by the member of staff under investigation. The argument against tape-recoding interviews is that it stifles

discussion in an environment where the objective is to achieve learning, both organisational and individual.

6.39 Some forces had prepared well for the creation of the IPCC and had either trained their staff in employment law or transferred staff from HR departments who were skilled in and familiar with the investigation of police staff members. Where this has happened, the process seems to work well, with much less conflict between PSDs and representatives of police staff trade unions.

**Good practice: skilled police staff investigators within the PSD**

Before April 2004, misconduct matters involving police staff in **Avon and Somerset** were dealt with by an individual working in the HR department. After the regulatory change that brought police staff within the formal complaints procedure, this individual moved across to the PSD. He brought with him a wealth of experience in handling misconduct matters and tribunals. Initially he dealt only with complaints against police staff but is now involved in investigating police complaints and misconduct, as well as civil claims. This has helped the PSD to manage effectively the tensions and constraints arising from the different discipline procedures for police staff and police officers.

*Disproportionality in investigations and outcomes*

6.40 As stated above, there can be a tendency for investigating officers to revert to a 'criminal-style' interview and investigation. Forces vary in how they manage the process of interviewing police staff, with some defaulting to the criminal model.

**Case study: Oppressive investigation techniques**

It was reported that a member of police staff was invited into the PSD "for a chat" and once in the room was given a formal caution, interviewed on tape and told that the allegation concerned the leakage of information to another member of police staff under investigation for criminal matters. The staff member claimed that he was subjected to a three-hour adversarial interview under caution over the allegation that he had attempted to pervert the course of justice. He stated from the start that the allegation was quite outrageous, and that the interview had been a "sledge hammer to crack a nut" and would never have happened in the private sector. The final result was that there was no case to answer, and no further action was taken.

6.41 Another issue that affects the style and progress of an investigation is that two departments may handle the same investigation at different stages. This can lead to delays and confusion. For example, PSDs investigate to a conclusion and then hand the matter over to the HR department to take the misconduct aspect forward. This may mean a finding of misconduct or gross misconduct, resulting in words or advice and/or an action plan to achieve individual learning. The difficulty arises in that the two departments often operate in 'silos' and lack a joined-up approach. Even where the PSD may have dealt with an investigation quickly and efficiently, delays often occurred within HR departments.

6.42 In an interview one head of a PSD said:

> **"Although my staff and I are quite clear about the disparities, members of the public find it difficult to understand."**

6.43 A basic command unit (BCU) commander in another force summed up inconsistencies in the treatment of police officers and police staff thus:

> **"There seems to be considerable disparity in the manner of investigation of police staff complaints. Surely there is a need, in the light of Taylor and Morris, to bring these under one departmental control. This may not necessarily mean significant staff growth or indeed moves, as long as the commander has access to appropriate qualified advisers."**

6.44 A number of examples of similar disparities in treatment arose during the HMIC inspection, and the following case studies illustrate the anomalies in operating two different discipline systems.

**Case study: The passing on of offensive e-mails**

The circumstances of this case are that an offensive e-mail was passed from a police officer to a member of police staff, who in turn passed it on to another police officer. The matter contravened the police discipline code, and the police officer was dealt with swiftly and proportionately by means of a formal written warning, without resort to a tribunal. In respect of the police staff member, employment law is such that, to achieve the same result, prescribed procedures needed to be followed. This resulted in excessive further delays. Part of the reason for these additional delays was that once the investigation was complete the investigating team handed over the results to the HR department for them to progress the case. HR did not display the same levels of timeliness that the PSD had and placed any further activity on hold. Eventually, and after some considerable time, the staff member was dealt with by way of a warning. This delay was unnecessary and resulted in distress to the individual.

**Case study: Disproportionate police staff investigations, suspension and interview**

In one large police force a member of police staff (a scenes of crime officer) was the subject of an in-depth discipline investigation. The allegation was one of neglect (the circumstances being that in carrying out the examination of a motor vehicle crime scene the staff member had missed a piece of vital and incriminating evidence). The individual was suspended for six months and was eventually interviewed under the Police and Criminal Evidence Act 1984. Throughout the investigation, UNISON representatives insisted that this was an omission amounting to lack of competence not conduct. Despite this, the investigation continued and resulted in the reinstatement of the staff member with a verbal warning only. As the UNISON representative described this situation: *"This was a clear case of absolute overkill. The issue could have been resolved in a very short and more cost-effective way through capability procedures."*

6.45 The HMIC also found disparities in outcomes and delays in the process of investigating police staff. As the two discipline systems differ, along with outcomes, it was no surprise to find a number of examples of these disparities.

**Case study: Disparity of outcomes – excess alcohol**

It may be somewhat confusing that two disparate systems can operate when quite often the roles are so similar. In one case in the National Crime Squad, a member of police staff and a police officer were convicted of excess alcohol within a very short time of one another. The police officer was dismissed while the staff member was retained. Annex N of the Home Office's guidance on police discipline sets out advice to forces in relation to police officers convicted of excess alcohol. This guidance makes it clear that the sanction should be based on an assumption that any officer found guilty should be dismissed. No such guidance exists in relation to police staff, and some may find this unfair. Annex N is intended to reflect the unique role of the police officer as well as public expectation.

*Anomalies in representation for staff*

6.46 The trade union UNISON,[60] which represents the majority of police staff in England and Wales, is concerned that nationally there is a low level of consultation between PSDs and UNISON representatives. They report that although PSDs seem routinely to consult with the Police Federation and the Superintendents' Association, they often omit to include police staff trade unions. One UNISON representative said: *"They don't feel the need to talk to us."*

6.47 Examples exist of police staff being interviewed on tape in police custody suite interview rooms during investigations into misconduct. These could have been challenged had representatives been consulted earlier in the process. There are also examples of lack of consultation between PSDs and trade union representatives. Although the relationship between the Police Federation and the Superintendents' Association is generally good, often the trade unions are left out of the consultation process or are brought in later, almost as an afterthought. This lack of consultation is a recurring theme; and in light of the new arrangements for PSDs to investigate police staff members, it is a weakness that forces should address.

[60] Other trade unions with an interest in police staff include the Public and Commercial Services Union (PCS) and the General, Municipal and Boilermakers' Union (GMB). There are also a number of others.

**Case study: Lack of consultation**
In one rural force visited, the inspection staff were shown the newly written professional standards strategic plan. This was a thorough and wide-ranging document covering all aspects of the business, including the handling of police staff discipline. The UNISON representative reported that there had been no consultation with the union throughout the entire process, despite involvement of the police staff association. This was put to the head of the PSD, who acknowledged the omission and made arrangements to remedy it.

6.48 The findings are not all negative, however. Some forces have very good working relationships with their UNISON branch representatives.

**Good practice: Wiltshire memorandum of understanding**
In **Wiltshire**, the local branch of UNISON, the Police Federation and the PSD have agreed a memorandum of understanding regarding the role and function of the PSD. This works well.

6.49 Police staff disciplinary investigative processes are in need of standardisation throughout the Service. This is a matter that is possibly best resolved nationally through a new and updated version of PSD guidance – which is a recommendation set out in Chapter 2 of this report.

**The way forward**

6.50 The Taylor Review of police discipline arrangements makes recommendations aimed at bringing the two systems – police officers and police staff – into alignment. Work by the PABEW subgroup is currently ongoing, aimed at reform of police regulation. The intention is to closely reflect arrangements in use in the private sector but to retain a regulatory framework. At the same time, the trade union side of the Police Staff Council is contributing to the development of a code of ethics for all police staff that can be adopted nationally by forces. This inspection supports the work of these groups, which should see an improvement and a move towards greater parity. In order to improve public confidence and achieve consistency throughout the Service, a national set of standards to which all police staff should adhere is needed. This inspection supports the development of a national code of ethics for police staff; this should be set by the Police Staff Council and incorporated

in the employment contracts of all police staff throughout forces in England and Wales.

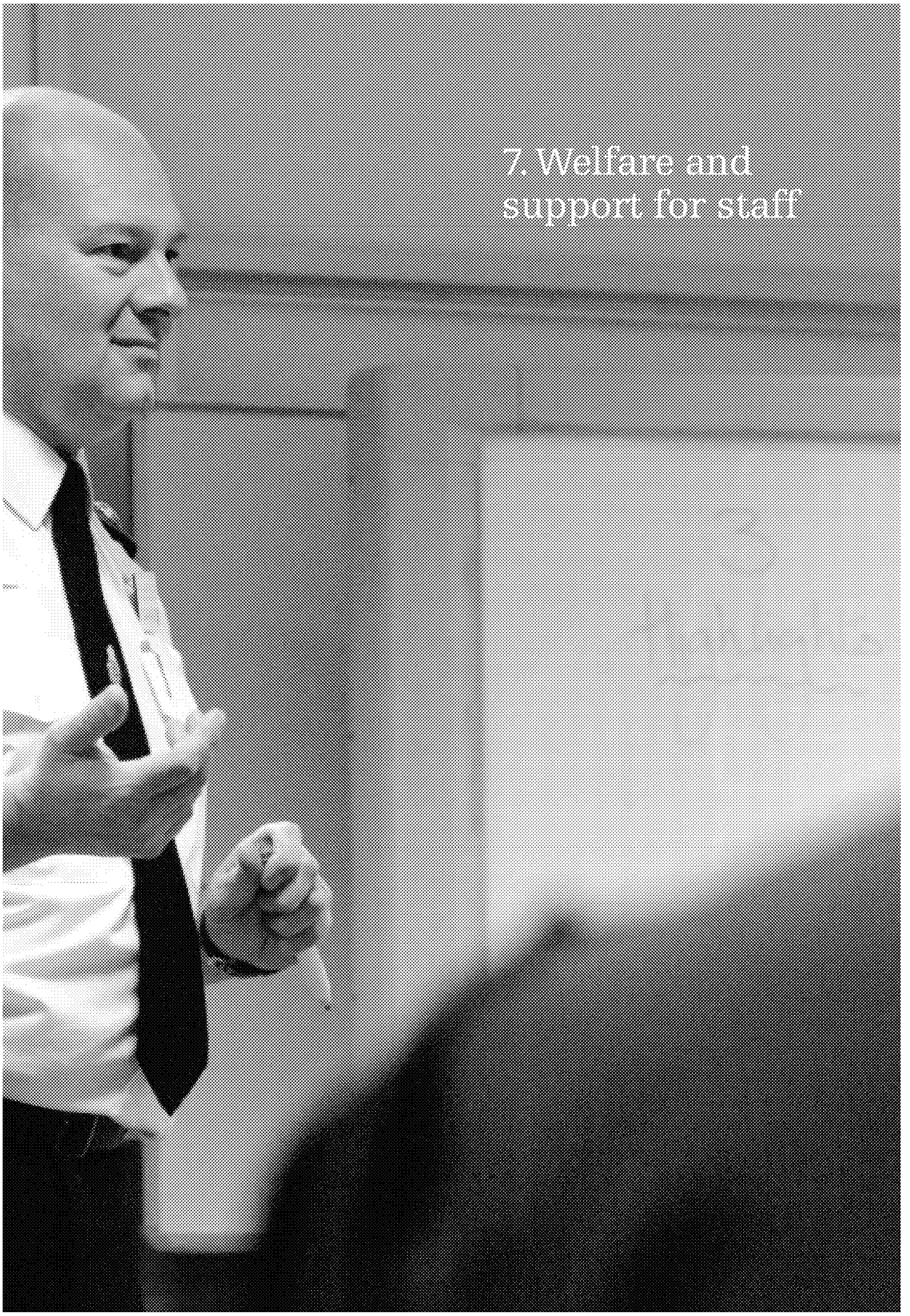
6.51 Owing to the absence in statute of the Police Staff Council and of relevant national legislation to govern police staff pay and conditions of service, inconsistencies exist throughout England and Wales and between police officers and police staff. The time may be right to consider putting the Police Staff Council on a statutory footing and to incorporate it within the PABEW. In the interim, those forces currently not subscribing to the Council should do so in order to improve consistency throughout the Service.

**Conclusion**

6.52 It may seem to some observers rather unusual that within one organisation two very different systems operate to investigate wrongdoing by staff. In many forces PSD staff do not possess the necessary skills to manage the police staff misconduct procedure effectively. Often the PSD and HR departments deal with different parts of the police staff discipline process, and this can lead to delay and confusion. This matter was highlighted in the HMIC thematic report *Modernising the Police Service* in 2004, and yet the necessary changes have not so far been made.

6.53 The issues and drivers for change highlighted above all require a concerted effort to ensure progress towards a more consistent and fair system for police staff. Achieving the required change will be a major challenge for the Service, police authorities and the Home Office. Police staff trade unions must not be left out of the consultation and investigative process, and police staff should not be interviewed inappropriately, through the use of techniques that some say are oppressive and disproportionate.

6.54 Outcomes and sanctions are in need of alignment, and although work is ongoing nationally to achieve this by amending police regulations, a sustained effort is needed to bring systems closer to those of the private and police staff sectors.



# 7. Welfare and support for staff

# 7. Welfare and support of staff

**Introduction**

7.1 The disciplined nature of the Police Service requires police officers and police staff to adhere to the high standards expected of those who hold public office. All police employees are increasingly vulnerable to becoming the subject of complaints or disciplinary procedures following confrontational situations or exposure to corrupting influences.

7.2 The Service and police authorities have a duty of care to their staff: they must ensure that those subject to disciplinary processes are given appropriate and qualified support and that their rights are protected. However, they must also ensure that due processes are performed, and are seen to be performed, in as transparent a method as possible.

7.3 Significant developments have occurred in all police forces in relation to welfare arrangements for police officers and staff in recent years. These are the result of experience and a realisation that staff in key posts require support, as do those who, for personal or professional reasons, are under unusual and debilitating levels of pressure, which can result in stress-related illness. These two categories of staff can be found in the professional standards arena, both on the investigative side, where aspects of the role are particularly demanding and challenging, and at the other end of the spectrum, where staff are the subject of investigations or involved in disciplinary proceedings.

**Professional standards department staff**

7.4 The investigation of colleagues brings with it unique pressures and requires the support and understanding of line and senior management. Overall, welfare arrangements for staff involved in these investigative processes are generally good. There are, however, examples where this is not the case.

> **"Welfare – well it's there if needed but... it's unlikely it would be picked up if it was needed."**
>
> **Professional standards department (PSD) staff in a Midlands force referring to the fact that support was not proactively marketed**

7.5 This comment illustrates the need for proactivity and the fact that it is not enough to have policies in place – they must have buy-in from the staff who are expected to use welfare arrangements. There is a need for proactivity and marketing and for the creation of a

spirit of openness and trust, where staff feel safe to say they need support.

**Good practice: Positive impact of staff rotation**
In the **Metropolitan Police Service (MPS)**, the turnover of staff in PSDs tends to be high. At first glance, this might appear to reflect the demanding nature of the role; in fact, many staff leave the department on promotion. This means that the investment in terms of training and development is paid back when they leave as managers who understand PSD processes.

7.6 There are examples of reintegration packages for staff returning to general policing from covert roles that take into consideration their welfare as well as their training.

**Good practice: Welfare policy**
In **Dyfed-Powys**, the force has introduced a policy and supporting document entitled *Recruitment, Care and Reintegration of Police Officers in the PSD.* This guidance document includes staff welfare considerations and the policy has been adopted as part of the wider force recruitment and selection procedures. The policy has been widely circulated. The head of the PSD routinely conducts welfare checks of staff who have returned to general policing duties to ensure that this process is working effectively.

7.7 There were, however, some forces where these considerations were not so evident and where staff who had been away from mainstream policing for some years had justified concerns about the prospect of returning without any preparation.

### Staff as the subject of investigations

7.8 The Service can do much to move towards the position espoused in the Taylor Review and by the Independent Police Complaints Commission (IPCC), addressing the need to have an effective misconduct procedure without the negative quasi-judicial and adversarial nature seen in many investigations today.

**Case study: Disclosure**
In one example in the South West, a pre-interview disclosure notice was issued to an officer who was the subject of a misconduct procedure with no criminal overtones. The notice was one normally used in custody centres for interviewing detainees, and at its head the word 'SUSPECT' had been crossed out and the word 'OFFICER' inserted.

7.9 In other cases identified during the course of the inspection, members of police staff complained that they were being issued with regulation 9 notices but that they were not subject to the police discipline code. Apart from finding the content and nature of the form distressing, they felt that it had no validity in terms of notification under the Advisory, Conciliation and Arbitration Service (ACAS) principles. Clearly, forces should ensure that the forms they use are both fit for purpose and convey a professional image.

7.10 The serving of regulation 9 notices can be a significant and potentially traumatic event, especially for those who either are new to the Service or, as was found in the inspection, are members of police staff in forces that have adopted similar practices for staff and officers.

> **"Regulation 9 notices have a tendency to have limited detail regarding the allegation. This has led to instances where representatives and officers have felt the need to seek clarification. With the advent of the IPCC, police staff members were provided with information on regulation 9 forms, which created confusion."**
>
> **Police Federation representative**

7.11 Experience has also shown that some forces have a propensity for issuing regulation 9 notices in an unfocused manner, for example to entire teams of officers where it is clear that only one officer is the subject of the enquiry. This devalues their use and meaning and harms the credibility of the PSD at force level. Clearly, a balance needs to be struck.

7.12 There is a need for proportionate use of regulation 9 forms and for effective communication to ensure that those who need to know have the appropriate information in a timely fashion. There were examples of forces where these procedures are in place.

**Good practice: Staff association support**

In **Surrey**, police officers who are the subject of investigations are supported by the Police Federation and the Police Superintendents' Association through representation and 'friending'. In addition, all department heads and basic command unit (BCU) commanders are given information, shared by the PSD, on all complaints and misconduct cases so that they have access to information for the purposes of welfare provision. Regulation 9 notices are issued at command level. For more critical cases, the PSD proactively works with the Federation, the Superintendents' Association and UNISON, and with the Black Police Association if one of their members is involved. Welfare is the responsibility of the division or department, but direction can be given in critical cases through Gold groups. Supervisors are agreed and reviewed by the deputy chief constable and a welfare officer provides support from the BCU or department. If police staff are suspended or investigated for misconduct, the provision of welfare is through the HR manager on the BCU or in the department.

In **Dorset**, as soon as an investigation becomes overt, a copy of the regulation 9 notice or equivalent police staff notice is sent to the welfare department, which provides support. In addition, a copy goes to the Federation and, if required, UNISON representatives. It is force policy that the line managers are responsible for providing support to officers who are the subject of investigations, and command teams also play an important role. Once suspended, an officer is provided with a nominated support officer, usually the support manager whose responsibility it is to provide regular contact and support throughout the process.

**Recommendation 13**

Chief officers should review all forms used in misconduct proceedings and unsatisfactory performance procedures to ensure that they are fit for purpose, contain all the necessary information, and comply with employment legislation and police regulations.

7.13 For the majority of police staff, the receipt of a regulation 9 notice or equivalent, though unpleasant, will not be a cause for significant concern; in most cases, this will require only casual monitoring by line supervision. However, there needs to be an appreciation that effective structures and support mechanisms are necessary for those who may need greater levels of support. It is therefore important that there are clear and transparent processes in place with lines of accountability, ease of access and named people with responsibility for welfare needs. If these processes and systems are in place, the organisation will stand a greater chance of picking up infrequent but potentially significant cases that might otherwise be overlooked.

7.14 In one Midlands force, there was a lack of clarity in terms of ownership and the Federation indicated that it was not involved in the routine monitoring of suspended officers:

> **"A member of staff has been tasked with looking at welfare issues. The Federation feels left out on a limb regarding welfare of suspended officers as the command team does home visits. While there are currently no live issues, the structure regarding support for suspended officers needs sorting. This is a personnel function but they feel under-resourced to respond."**
>
> Head of the PSD

7.15 In another force, staff reported:

> **"Welfare of suspended staff is the responsibility of divisional commanders. Some staff complain that they are not contacted and the system does not seem to work well."**

7.16 In other forces, lessons have been learnt in the aftermath of sometimes tragic events.

**Good practice: Proactivity and support**

In one southern force, following the tragic loss of life when an officer murdered members of his family and then committed suicide, it was found that various parts of the organisation held valuable but disconnected pieces of the jigsaw which, if put together earlier, might have avoided or at least reduced the loss of life that followed.

Learning from this sad event has resulted in the formation of a "proactive scanning group". A regular meeting is held with key players, including the assistant chief constable (ACC) (Personnel and Training), the head of the PSD, the domestic violence coordinator, and representatives from legal services, absence management, welfare and HR. Only two sets of minutes are recorded: one for the ACC and the other for legal services. Officers and staff who are the subject of concern can be flagged up and appropriate measures set in place to ensure that they are given the support they need.

In **Cumbria**, the force has recently reviewed its arrangements. The procedure for suspension includes notifying the Police Federation and the occupational health unit. It has recently been agreed with the Federation that it will receive copies of all regulation 9 notices unless an individual declines consent. The 'friends' network is available to police officers, and welfare services are automatically provided to all officers and staff who are subject to suspension and/or investigation. A specific welfare officer is designated to each individual in these circumstances. Local staff associations play an active role in supporting officers and staff, through the formal 'friends' scheme and informally. Access is provided for all officers and staff to the services of the force medical officer, confidential counsellors and a retained consulting psychologist.

7.17 It is important that there is regular and effective communication between key departments that are in a position to highlight, or who may have intelligence relating to, individuals who may be at risk either during professional standards enquiries or as a result of other issues relating to health and welfare.

### Providing a 'friend' to the accused

7.18 It is standard practice for police officers who are the subject of a complaint or other official allegation to be given a 'friend', usually courtesy of their respective union or staff association. The friend's role is to provide advice and support at what will undoubtedly be a

worrying time. The friend is appointed regardless of the need for qualified legal representation, and is not an alternative. A friend helps an individual through what can be a very complex process and ensures, as best they can, that their case is dealt with fairly and is not disadvantaged by ignorance of the systems or processes. They also play a key role in ensuring that force or organisational welfare representatives are in touch with and provide support to the member of staff who is the subject of the allegations.

7.19 There are four separate systems for friending within the Police Service. Which system is used depends largely on the rank or status of the accused. The systems relate to the friending of:

- chief officers;
- superintending ranks;
- federated ranks; and
- police staff.

7.20 In many forces, these systems are coordinated and work well together. In others, however, they are disparate, with differing levels of support and even a degree of mutual tension or competition.

**Good practice: Cooperation of friending arrangements**

In **South Yorkshire** the relationship typifies that of many forces: "The Police Federation and Superintendents' Association take an active part in support mechanisms for all police staff subject to overt investigations. There is extensive use of Police Federation and superintendent friends and suspended officers are provided with a key district or department support officer to keep them personally informed about developments in the force, ensure links with the policing family and monitor welfare."

7.21 In highlighting the potential for greater cooperation among those bodies involved in the friending process, it is important to understand how the differences in the overall context of each system have evolved.

*Friending for chief officers*

7.22 The staff association for police chief officers is the Chief Police Officers' Staff Association (CPOSA). Until recently, CPOSA only represented sworn officers, but it has now changed its constitution to allow non-sworn staff who are members of the Association of Chief Police Officers (ACPO) to join. Virtually all police chief officers and a number of police staff chief officers are members. One of the main services offered by CPOSA is a legal expenses insurance

scheme. This has been taken up by the vast majority of its members and is currently open to police staff members of ACPO who are not members of CPOSA. Like the Superintendents' Association, CPOSA maintains a panel of friends on a voluntary basis.

7.23 While the panel of friends assists members who are the subject of misconduct allegations, far greater reliance is placed on the legal advice available through the legal expenses insurance scheme. One reason for this is that any allegation against a chief officer is usually serious in both personal and public interest terms. Another reason is one of practicality: with no full-time officials, CPOSA can not rely simply on friends, who may be distant from the officer in difficulty and who carry significant workloads.

7.24 There are currently about 250 ACPO members in the country and complaints against them are relatively uncommon. CPOSA friends work in tandem with the legal representatives and their costs are covered in the same way as those for Superintendents' Association friends, ie by the friend's force. Unlike the Superintendents' Association, CPOSA has expressed a reluctance to formalise arrangements whereby the costs fall to the force that the officer who is the subject of complaints comes from. It is thought more practical to keep to the current arrangements as they provide more flexibility and friending is not a task that is frequently required.

7.25 CPOSA friends have expressed concern that the infrequency of complaints against chief officers leaves police authorities and their executive officers lacking familiarity with the process, which can sometimes lead to them adopting a disproportionate approach when an allegation is made, moving straight to an investigation rather than asking for an initial report from the officer. Such a report may remove the need to go further. A case is made later in this document for better training for police authority members and officers. If this is adopted it might increase the confidence and awareness of staff involved in these decision-making processes.

*Friending for superintending ranks*

7.26 The Police Superintendents' Association of England and Wales (PSAEW) Panel of Friends was set up in the 1990s, in recognition of the need to give overt support to senior police officers in the wake of an increasing number of complaints levelled against superintendents and chief superintendents. The rationale was to provide a similar service to that established by the Police Federation friends for federated ranks, ie those from constable to chief inspector level.

7.27 There are currently 98 PSAEW friends across England and Wales. They are all volunteers, appointed and managed by a central coordinator who ensures impartiality and that no conflicts of interest prevail. This means that friends are appointed from forces different to those who are subjects of criminal investigations, complaints, employment tribunals or other formal review procedures, such as complex inquests. The exception is the MPS, as the size of the organisation means that internal appointees can usually be selected without conflict.

7.28 In the mid-1990s there were just 12 superintendents under investigation and in need of friending, from over 1,700 officers of superintending rank nationally. By 2001, after Sheehy's 'slimming down' of managerial ranks, there were around 1,300 officers of superintending rank, of whom 206 were the subject of investigations. While this number has since subsided (to around 180 in late 2005) it still represents a significant workload for friends.

7.29 Friends are mainly superintendents and chief superintendents who often have experience of working within the world of professional standards or other specialist experience, such as firearms, public order or BCU command. As volunteers, the time they give to their roles is significantly over and above their normal duties. They are available almost 24 hours a day to support those under investigation, which imposes considerably on what might otherwise be considered off-duty time, and contributes to already demanding jobs in terms of travelling, counselling and research.

7.30 Being a friend explicitly outlaws any knowing collusion to assist officers who may be guilty of offending behaviour. The friend's role is to work with them to protect their professional and personal interests in an objective, informed manner. These ground rules are set out in the training given at the commencement of any friending, to engender the spirit of mutual trust. Friends provide invaluable advice and guidance and act as a link to representing solicitors in the case of possible criminal proceedings. In addition to legal support, the most valuable assets offered by friends are their independence, empathy, time and availability to officers who may require a range of support and welfare interventions (though clearly the Superintendents' Association local branch and relevant force welfare department should retain responsibility for the officer concerned).

7.31 Officers are required to contact the PSAEW as soon as possible when they think they may be vulnerable to a complaint, employment tribunal, criminal allegation or feel 'at risk' for any other reason. They are then placed on an 'at risk' register and, when the register's coordinator thinks it appropriate, the wheels are put in motion to appoint a suitable friend.

7.32 There has been an ongoing debate over the question of who should cover the cost of friending at superintendent level. The costs currently fall to the force providing the friend and therefore not to the force responsible for the officer who is the subject of complaint or discipline. As no force has a specific budget for this purpose, monies tend to be gleaned from departmental budgets, and sometimes from the PSAEW, locally or nationally. This situation is seen as anomalous, considering that Federation friends are supported from within their own force areas and in the vast majority of cases they do not cross boundaries.

7.33 Despite attempts to achieve a resolution to this matter, the debate appears to have reached stalemate. A view that does, however, attract a lot of support, is that the cost of the friending should fall to the force that the officer who is the subject of the discipline process comes from.

7.34 HMIC believes that chief police officers should agree to apply the same standards to the PSAEW Panel of Friends in terms of funding provision as exists for federated officers, and police forces should bear the cost of supporting their officers who are the subject of disciplinary proceedings by providing friends.

7.35 The following case studies illustrate the length of time and depth of involvement that friends are likely to encounter. These cases are, as mentioned, undertaken over and above the normal duties of panel friends.

**Case study**

Following the introduction of speculative drugs testing, an officer was, among others, subjected to a random drugs test where samples of hair were taken for analysis. The officer, who had an impeccable service record, thought no more of the event until served with a regulation 9 notice, indicating he had tested positive for traces of cannabis. The trace of the drug allegedly found was minute. The officer was subjected to a tape-recorded interview where he denied any involvement in drugs and the force indicated there would be no further action taken.

An appointed friend went to great lengths to provide support and offer advice on possible options to prove the case flawed, including finding data on drugs found in tap water samples and testing the brand of hair shampoo used. In the end, independent analysis of the results was secured, using the forensic science service laboratories. This analysis cast doubt on the reliability of the result of the original sample. It also transpired there had been no control sample taken and that there was a strong likelihood of contamination from another sample in the original laboratory.

The issue went further, as the officer, justifiably, wanted to be formally exonerated by the force concerned. A lengthy period of negotiation was entered into and the friend again offered support and guidance. Eventually an apology was made for the incident and the officer was assured that all records relating to the incident had been destroyed. A review of the force's policy was also immediately implemented.

**Case study**

A member of the public made a complaint regarding his treatment following a criminal allegation. The complaint was investigated by the force's PSD and was found to be without merit. The complainant then lodged a complaint against the officer who conducted the investigation. This complaint was investigated and was also found to be without merit.

During this time a new manager took over the PSD. The complainant entered into correspondence with the new manager, eventually making a complaint against him, alleging a conspiracy with the force solicitor to protect the officers concerned in the original incident from disciplinary action. The complaint was recorded by the force in May 2004. The IPCC declined to supervise it. The officer was served with a regulation 9 notice. He contacted the Superintendents' Association some five months later, having become frustrated by the process, and a friend was appointed.

The investigation and decision-making process took until October 2005 to come to a conclusion that the complaint was without merit. The complainant then appealed to the IPCC, who dismissed the appeal.

The case highlighted the need for clear roles for chief officers responsible for overseeing investigations, in accordance with regulations, and the need to apply timeliness and proportionality to such investigations. It is also important to build in structured review periods, as there were opportunities for this particular case to be resolved at a very early stage, rather than continuing for a lengthy period.

7.36 As shown above, the time and effort expended by police superintendent friends can prove costly, in both personal and professional terms. There is also a significant turnover of staff, as many of those who fit the criteria in terms of experience and service are coming towards the end of their careers.

7.37 Currently, PSAEW loses as many as 20 members from its Panel of Friends each year, due to their retirement from the Service. Consequently, a similar number of new members need to be recruited and trained each year to retain the current level of resilience. While the addition of 'new blood' is arguably a positive outcome in securing new areas of expertise and maintaining

freshness in the process, the loss of the more experienced friends and the constant need for new initial training and mentoring represents a significant downside.

7.38 While the funding of friending comes from the friends' home forces, there is no option but to cease friending when officers retire. However, if funding is provided either centrally or by the home force of the accused, an alternative might be to retain or to recruit retiring or recently retired officers who have the requisite knowledge and skills to act as friends. This would ease the burden on existing friends and provide a useful resource in the large number of potential candidates. These staff could be coordinated by the existing coordinator, himself a retired police officer.

7.39 The issue of funding provision has yet to be resolved. The opportunity exists to do so, by setting up a regional fund, perhaps based on contributions levied according to the number of superintendents involved. In the strategic forces of the future, the opportunity exists to establish such a fund from within the strategic force. This has been achieved in the MPS where, given the size of the establishment, friends are almost invariably found from within the organisation.

**Recommendation 14**

The Police Superintendents' Association of England and Wales should, in collaboration with police forces, explore the option of introducing a cadre of retired superintendents whose services could be employed on a retainer basis as friends.

*Friending for federated ranks*

7.40 The majority of complaints and allegations made are against officers of federated rank, namely constables, sergeants and inspecting ranks. It is not surprising, therefore, that the system for supporting federated rank officers is the best developed and most comprehensive.

7.41 A positive picture has emerged across the country in terms of the resilience levels of Federation friends and their relationships with forces and PSDs. Most forces report adequate numbers of officers who fulfil this role, although there are one or two exceptions.

**"We feel that they [Federation friends] are currently struggling to meet demand and we're in preliminary discussions with the force regarding the potential for a full-time discipline representative."**

A Federation branch secretary

**"The [low] number of Federation friends in the force has delayed the progress of some investigations."**

An investigator

7.42 All forces throughout England and Wales have appointed discipline liaison officers (DLOs), who are responsible for coordinating friends and ensuring that officers have effective representation throughout the disciplinary process. It is no coincidence that the forces where the best relations were reported had full-time DLOs. Equally, it is appreciated that smaller forces might have difficulty in justifying the appointment of a full-time post when, generally, they process fewer disciplinary matters.

7.43 There are currently 13 forces with part-time DLOs (ie they have other operational duties to perform). Of the other 30 forces, 10 have appointed full-time DLOs and the remaining 20 use existing Federation staff to perform this role as part of their other Federation duties. In the current climate it might, however, be appropriate to consider dedicating more staff to this important role, as there are undoubtedly growing needs relating to training and coordination following key developments, such as the new drugs and alcohol testing policies, which vary in implementation across the country, and the potential changes to the codes of conduct and disciplinary procedures following the Taylor Review.

**Good practice**

The Police Federation reported positively on the training events held by the **MPS**, in Oxfordshire and elsewhere, which have proved useful in increasing the knowledge and confidence of those charged with the responsibility of holding tribunals. Tribunals have been held on several occasions and have included ACPO officers, chief superintendents and superintendents. These events also provide the opportunity for colleagues charged with adjudicating and those representing their colleagues as friends to meet in an informal environment and discuss learning points on the theme of tribunals, and also wider disciplinary issues.

7.44 The traditional approach from the Police Federation towards groups such as the Special Constabulary has not always been an easy one. With the enactment of the Police Reform Act 2002, members of the Special Constabulary found themselves subject to the same disciplinary arrangements as their regular colleagues, but without the same level of support in terms of misconduct investigations and disciplinary arrangements. A positive side-effect of the Police Reform Act is the improved relationship between the Federation and the Special Constabulary.

7.45 Federation representatives are now assisting and advising members of the Special Constabulary about disciplinary matters. Moves are afoot that, through changes in enabling legislation, will allow the Federation to become the umbrella organisation for the Special Constabulary and civilian investigators in either criminal investigation departments (CIDs) or PSDs and, potentially, for non-sworn groups such police community support officers (PCSOs). Until the enabling legislation is passed, it is likely that these relationships will remain varied across the country. That said, the assistance given is widely appreciated.

> **"My officers get excellent support from the Federation in terms of advice, guidance and friending when they are the subject of complaints. This approach from the Federation is highly valued and there is acknowledgement that it is above and beyond their terms of reference."**
>
> **Special Constabulary commandant in a force in the South West**

7.46 In fact, the overall picture from the federated ranks is that they receive an excellent service from DLOs and Federation friends. Officers are appreciative of the service provided and invariably speak highly of staff who put themselves forward for this task. Senior officers, too, recognise the dedication and commitment of Federation friends, many indicating they find it not only in the interests of the individuals represented, but also of the Service.

> **"Ultimately we are all police officers and have a duty to our wider membership as well as the individuals we represent. It is in nobody's interest to retain the services of dishonest individuals or those who will continue to bring the Service into disrepute."**
>
> **Federation representative**

*Friending for police staff*

7.47 The main staff association for representing members of police staff is UNISON. There are others such as the General, Municipal and Boilermakers' Union (GMB) and a small membership of others such as the Transport and General Workers' Union (TGWU) in specialist areas such as engineering and fleet management. There are also still many police staff throughout the Service who are not members of any staff association.

7.48 Under ACAS provisions, members of police staff are allowed to have a friend present at disciplinary proceedings, normally a union representative if they are part of a union. If they are not a part of a union they are normally allowed a nominated work colleague (who may or may not be a union representative). Union representatives receive training in friending issues and will be aware of how investigative processes and subsequent disciplinary processes should be undertaken.

7.49 Chapter 6 highlighted the significant differences in how police staff and police officers are dealt with in respect of misconduct and performance issues. One major failing of the Service is that police staff are often perceived to be treated as less important than their warranted colleagues.

7.50 Unions and staff associations were widely canvassed in the course of the thematic inspection; staff associations mainly reported good and inclusive working arrangements with forces. Some said, however, that they felt like they were the poor relations, outside the strategic decision and policy loop, lacking in resources and relatively unimportant in the eyes of the organisation. There is always the potential for groups to feel marginalised, and those forces that invested time and effort in ensuring good communications and engagement by all stakeholders appeared to enjoy positive working relationships as a result. The use of strategic reference groups provides a means whereby all key stakeholders are represented and have a real say in force developments.

**Good practice**

In **Norfolk**, the ACC chairs the Professional Standards Strategic Group. This group includes the head of the PSD, the head of HR, the head of training, a barrister from legal services, the force vetting officer, the head of the Police Federation, the Joint Branch Board (JBB) secretary, the UNISON secretary and the head of community safety. The group discusses all matters impacting on the professional standards of the force and agrees improvement actions where necessary.

In other forces, examples such as those below prove the case for regular and open communications structures.

In **North Wales** there is a force PSD committee meeting held on a quarterly basis and chaired by the ACC. It is attended by PSAEW, Police Federation and UNISON representatives and looks at policy development and any issues relating to complaints management.

In **Cheshire**, the head of the PSD meets with staff associations and UNISON bi-monthly, maintaining constructive and positive relationships. The PSD provides inputs and runs interactive sessions on police staff induction courses.

7.51 The national picture of police staff is documented in Chapter 6. It is clear that numbers have grown over the past few years. The growth rate has, until recently, been commensurate with that of police officers, but, in years to come, the ever increasing pressure on police budgets combined with the impact of the police modernisation agenda is likely to mean that the number of police staff will increase faster than that of their sworn colleagues. Already, in forces in the South East (such as Surrey – arguably leading the way in terms of modernisation), the concept of a mixed economy of policing has been adopted.

7.52 Numerous posts have been 'civilianised' and police staff numbers will continue to grow as more roles are reviewed and made open to non-sworn staff. Already, in Surrey, against an overall workforce of 3,420 there are 1,959 police officers and 1,461 police staff (43% of the workforce). In other forces this ratio is lower, but, as the modernisation agenda bites, increased numbers and thus an increasingly powerful lobby of staff are likely. It is therefore important that the Police Service recognises the need to build appropriate dialogue, support and welfare mechanisms between the PSD, HR, unions and staff associations where they do not exist and reinforce them where they do.

7.53 There is a need to give UNISON representatives the professional recognition they merit. For example, in Northumbria, Durham and Cleveland, UNISON representatives are professionally accredited in the handling of employee relations and discipline. UNISON representatives across the country have expressed a desire to work in partnership with police managers, and their advice and guidance should be a first port of call rather than an afterthought.

7.54 The following case study clearly illustrates the need for early HR and UNISON engagement and guidance when administering police staff discipline.

**Case study**
A BCU commander in a northern force held a discipline enquiry involving a member of police staff. On PSD advice he decided to demote the member on finding them guilty. Fortunately, the UNISON representative was able to point out that this option related only to police officers and the situation was resolved. In fact, if the capability path had been followed rather than the misconduct path, demotion, with an action plan and pay protection, would have been an option, pending improved performance or eventual dismissal on capability grounds.

7.55 Considering the significant proportions of police staff in the modern Police Service and the increasing vulnerability of those in more operational roles, there is a real need to consider the whole issue of friending and staff support across the entire workforce.

**Supporting staff within the mixed economy**

7.56 Police forces are people-based institutions. Police officers and police staff need to understand and adhere to the rules governing those institutions and the manner in which they are expected to conduct themselves in their professional and personal lives. However, it is also right that safety nets are provided to support those staff who are subject to investigation.

7.57 The inspection has highlighted that appropriate mechanisms are in place for police officers of all ranks and for support staff, though the latter group are in danger of being treated with less emphasis than they merit. With the increased emphasis on the 'mixed economy of policing' (the phrase coined to reflect the increasing civilianisation on the police modernisation agenda), there is a need to ensure that staff associations and unions are given the necessary

scope to exercise effective support for their members and be effective partners in strategic developments.

7.58 Chief officers have a crucial role to play in ensuring that their forces are inclusive and provide opportunities – and, where appropriate, funding and training – for staff engaged in these duties at every level.

**Seconded police officers**

*Introduction*

7.59 Providing support and welfare advice for staff clearly presents a number of difficult challenges. How much more difficult, then, is it to provide a similar service to those officers and staff who are working away from their home forces, especially to those who are absent for extended periods?

7.60 At any one time, more than 1,700 police officers of all ranks are seconded to non-force jobs, either within the United Kingdom or abroad. These secondments range from instructing at training schools or attachments to national bodies such as HMIC to service abroad, for example in Bosnia, Afghanistan or Iraq. Such secondments can last for upwards of two years, and details of entry into and return from them can be difficult to keep track of from anywhere other than within individual forces. There is currently no central register of the numbers of officers on secondment, but research suggests that there are at least 50 different 'seconding-in' units.

7.61 With such a large number of officers seconded away from their forces, it is important to identify how PSD matters impact on those officers, particularly given that:

- the officers are away from their own forces;
- officers on secondment are frequently on temporary promotion and living away from home – this means that any return to force, which would be the likely outcome of a finding of guilt within the context of the code of conduct, may have a disproportionately greater impact on that officer than on colleagues within the force area;
- representation using friending during the process may not be as readily available as within a force; and
- officers may be subject to locally set 'standards', which may not amount to a breach of the code of conduct but still result in the termination of the officers' secondment.

7.62 In essence, the procedure adopted for dealing with any complaint or misconduct alleged against an officer seconded within the United Kingdom is as set out in Annex L of the Home Office's *Guidance on*

*Police Unsatisfactory Performance, Complaints and Misconduct Procedures*, namely:

1 The allegation is assessed.
2 A decision is taken as to whether it is an internal matter or one that should be referred to the force to deal with (this decision is undertaken in consultation with the force).
3 An investigation is carried out by the force, including the probable return of the officer to the force during the investigation.
4 The officer returns to the force for resolution.

7.63 Overseas secondments are covered by the Police Act 1996, section 26. They are managed through the Foreign and Commonwealth Office, in close consultation with ACPO. The management of officers accused of unsatisfactory performance or misconduct is dealt with in the Police Act 1996, with local matters dealt with by 'contingent commanders' overseas. More serious matters are referred back to the force for investigation in line with section 97(6) and section 50(3) of the Police Act 1996. Welfare arrangements are provided for through an agreement between the Foreign and Commonwealth Office and ACPO.

*Inspection of professional standards arrangements for seconded officers*

7.64 It was not possible within the scope and scale of this thematic inspection to carry out any substantial inspection activity that would cover all of the 50-plus 'seconding-in' units. However, it was agreed that a very limited case study should be undertaken, using one of the larger 'seconding-in' units. A questionnaire was sent out to a sample of the units.

7.65 Of the 15 questionnaires that were sent out (to approximately 30% of the known 'seconding-in' units), only six substantive replies were returned, despite follow-up contact with the organisations. In order to provide the widest relevance, therefore, the case study unit selected was the Central Police Training and Development Agency (CPTDA), which operates under the title Centrex.

7.66 Centrex was chosen because it:
- is one of the largest 'seconding-in' units, with 308 seconded police officers;
- has a diverse group of officers and staff working for it; and
- is probably the most experienced unit in terms of dealing with conduct issues among police officers on secondment.

7.67 In order to make the case study as comprehensive as possible, a specialist unit of Centrex and two recruit training sites were visited, as well as Bramshill Police College (where the HR function of Centrex is managed). Interviews were conducted with senior managers, middle managers, police officers and those responsible for Centrex's unsatisfactory performance and misconduct policies.

7.68 As Centrex is a training organisation, additional expectations are placed on staff to provide a role model for students. This may not be the case in other 'seconding-in' units. This means that the organisation requires standards from their seconded officers that exceed those required of operational officers. Behaviour of officers at a training centre may not be appropriate and may occur outside the normal working hours when the officer is off-duty. It may also be of such a nature that it does not breach the standards within the police code of conduct. That creates instances where officers are 'returned to force' for matters which the force does not deem to be discipline matters. An example of this might be where an unprofessional relationship develops between a trainer and a student.

*The legal provisions for secondment*

7.69 The legislation providing for the secondment of police officers is derived from the Police Act 1996 and is difficult to interpret. Many staff managing secondees, as well as secondees themselves, report finding the legislation complicated because of the lack of clarity between disparate sections within the Act. In summary, the following sections of the Act are relevant:

- section 26, for the provision of international advice and assistance;
- section 50(3), for regulations about misconduct matters;
- section 56, for secondment of assistant inspectors and staff officers to HMIC;
- section 57, for the provision and maintenance of 'common services', which allow for police officers to be seconded to agencies outside their force;
- section 84, for the matter of representation at disciplinary proceedings; and
- section 97, for aspects of responsibilities and powers that remain relevant to seconded police officers, eg powers of a constable, union membership.

7.70 The main provisions, however, are sections 83 and 87, which provide for the Secretary of State to issue guidance on disciplinary processes. This resulted in the publication of the Home Office

*Guidance on Police Unsatisfactory Performance, Complaints and Misconduct Procedures;* Annex L of that guidance specifically deals with police officers on secondment.

7.71 Subsequent Acts of Parliament, such as the Police Reform Act 2002, add to the direction given by the Police Act 1996 but do not appear to have clarified to the situation regarding secondments.

*A focus on Centrex*

7.72 Centrex has a central HR function that is responsible for the development and management of HR strategies and includes employee relations. It has a specific policy for the management of seconded staff, entitled 'Managing discipline complaints and poor performance involving seconded police officers'. At the time of the inspection, Centrex was in the process of updating the policy and a draft new policy had been circulated for consultation. The policy has been developed to comply with Annex L of the Home Office guidance mentioned above and appears soundly based.

7.73 The central unit acts as a source of advice for Centrex's operational units, monitoring consistency of application and standards for line managers who deal with seconded staff on a day-to-day basis and in more high-profile cases. It is expected that relevant line managers will interact directly with forces on staff management issues in the first instance, with the central unit only becoming involved where negotiations become difficult. Such circumstances have become increasingly rare over the years as forces begin to understand the specific requirements of Centrex. Historic examples include inappropriate relationships with students or occasions where a number of trainers from various forces have been involved in the same incident and each force has taken a different position, and deliberate breaching of local orders by staff. These examples occurred prior to the creation of the central unit. In general, relationships with forces around staff matters are positive and a credit to the energy Centrex has invested in building its relationship with customers.

**Unsatisfactory performance**

7.74 Centrex has developed an effective policy supporting the requirements of the Home Office guidance on unsatisfactory performance. This includes the duty to monitor the policy in respect of diversity, including equality of application and any disproportionality of application. This is being supplemented by a newly introduced electronic performance development review (PDR) process based on the national integrated competency framework (ICF) for the Police

Service, developed by Skills for Justice, the skills council for the criminal justice sector. The unsatisfactory performance process is described in Annex L and in the Centrex policy. The PDR process has been designed to meet the requirements of Annex L.

7.75 Centrex has a dedicated unit to manage people performance matters and work is underway to consolidate the ICF.

**Misconduct**

7.76 Centrex has included the management of misconduct within the central unit, thus allowing for an oversight of the relationship between welfare issues (often the root of symptomatic unsatisfactory performance and misconduct matters for staff on secondment) and misconduct. Centrex has achieved this by following the structure within the Home Office guidance and including these areas in one policy document.

7.77 Unsurprisingly for a large central service unit, the work is not yet fully embedded but it is in the early stages of becoming part of the way that Centrex 'does business'. Communication with staff in respect of the new procedure is frail and there is a dependency on the Centrex intranet as the key method of communicating the policy and procedures to staff. A number of staff interviewed were not aware of Annex L or the other related policies. Some stated that they were aware of the availability of the policies on the Centrex intranet but often were too busy to read through them or were not sufficiently encouraged to do so.

> **"When I joined this establishment I had just completed a demanding trainers course and in all the euphoria about this success and my new posting to Centrex I did not seriously consider that the extra responsibilities that went with the job, in terms of being a role model, would be a problem."**
>
> Trainer at Centrex

7.78 Overall, there are good signs, but the current uncertainty about the future of Centrex and the interpretation of the legislation, on misconduct in particular, means that clear communication will remain a challenge for the foreseeable future.

7.79 In addition, the letter of appointment sent to each seconded member of staff has changed in content over time, often driven by local interpretation of the requirement. In some versions of the letter unsatisfactory performance and misconduct are mentioned, as are

the terms and conditions of the secondment, but this is not consistently the case. There is a distinct danger that the member of staff will not be sufficiently aware of the context in which they will work to understand the implications referred to in the letter.

**Recommendation 15**

Centrex should clarify its policies and procedures concerning seconded members and work to improve the information provided before induction and increase the level of awareness among staff of their personal and professional responsibilities following appointment.

**Performance management**

7.80 Centrex undertakes very limited monitoring and reporting of unsatisfactory performance and misconduct. This is not focused into a learning process for the organisation. The level of incidents is low and may not be statistically significant, but increased analysis at the corporate level may provide additional information for senior managers on organisational trends.

**Suggestion 11**

Centrex should make better use of the management information available from records of the unsatisfactory performance and misconduct processes.

7.81 In summary, it is pleasing to note the structures, resources and policies that Centrex has established to support seconded staff, particularly in relation to the areas of unsatisfactory performance and misconduct. It is anticipated that this positive work will develop over time as the policies and procedures become embedded into the organisation.

*Conclusions*

7.82 It is clear that there is currently a range of different types of secondment. The legislation and guidance are confusing and the plethora of terms and conditions is complicated, allowing for officers to be treated differently by different 'seconding-in' units. There is a need for clarity and consistency, with the details about the conditions of appointment being made abundantly clear to officers and staff who are about to take up that appointment.

7.83 The Centrex case study contains a number of areas of noteworthy practice that could be of benefit to other units charged with the management of seconded staff:

- A central management unit is dedicated to the HR management of people within Centrex. In particular, part of the unit is dedicated to strategic management and standards relating to unsatisfactory performance and misconduct.
- A policy is in place for the management of unsatisfactory performance and misconduct for seconded staff.
- There is regular contact with forces in the management of misconduct.

7.84 The case study also highlights the need for clear understanding and communication of the legislation and policies for staff.

*Recommendations on secondments*

7.85 Although the Centrex inspection identified specific areas for improvement, the inspection process identified other issues that should be addressed to enhance the management of all seconded staff. Fortunately, some of these generic issues are being progressed by the Police Advisory Board for England and Wales (PABEW), in particular those relating to 'terms and conditions for seconded officers' and the development of a secondment 'template'. There is, however, no timetable for delivery.

7.86 The resultant template is required to be completed and signed off by the individual officer and the 'seconding-out' and 'seconding-in' units. The document requires a clear statement of conditions of secondment to be agreed before the officer commences the secondment. The template makes limited reference to unsatisfactory performance and misconduct policies and procedures and will, following the findings of the thematic inspection, require additional work in this area.

**Suggestion 1**

The Police Advisory Board for England and Wales (PABEW) should ensure that the secondment template recognises the increasing and diverse secondments available and ensures that:

- secondees are appropriately supported during the secondment;
- there is a named central contact within each seconding-out force;
- each seconding-in unit has a central role, with responsibility for management of secondees; and
- the secondment template agreement is completed between the two organisations and the secondee prior to commencement of the secondment (subject to exigencies of urgent demand).

7.87 The inspection also identified variations in the quality and content of different unit induction processes, which are generally inconsistent in their application and weak in content and quality assurance. The template should become part of an extended induction process for officers commencing their secondment. Induction should commence in-force with the correct preparation of the officer for secondment, the transfer of the officer to their place of secondment and the integration of the officer at their place of secondment. The template should act as a process management tool to ensure the quality of the induction process. The Home Office should be given and should register a copy of each secondment template, in order to coordinate force commitments to such secondments and provide accurate data on the number of officers on secondment.

**Recommendation 16**

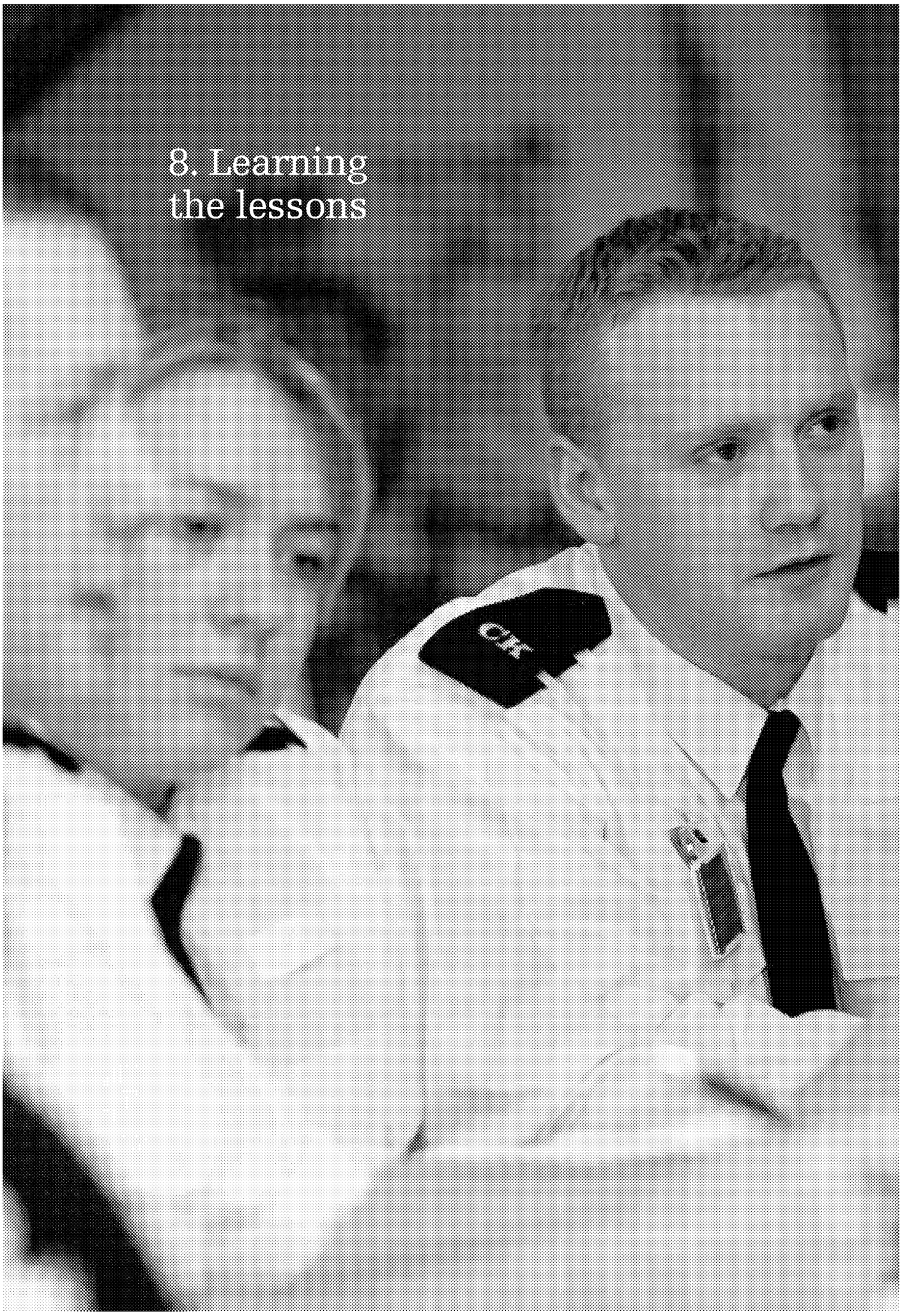
The Home Office should review the legislation relating to officers on secondment to achieve transparency, clarity and consistency. Secondments should be subject to central registration and recording.

**Conclusion**

7.88 There is a duty of care to all staff involved in professional standards investigations, whether as accused parties, witnesses or indeed investigators. Line managers, chief officers and authorities all need to ensure that appropriate structures exist to identify vulnerabilities and provide support and advice as necessary.

7.89 The systems for 'friending' accused staff are currently independent 'silos' of activity and, with the increasing move towards a modernised workforce, there is a need for an holistic review to ensure fairness and suitability.

7.90 Officers seconded away from their home force can feel, and indeed be in reality, forgotten. It is important that they remain supported and 'visible' to their respective force management teams.



# 8. Learning the lessons

# 8. Learning the lessons

**Introduction**

8.1 The health of an organisation can be measured in many different ways, but one vital measure is how good an organisation is at learning lessons from previous events. A 'good' organisation will view learning as a continuous cycle, with lessons – good and bad – being captured and fed back into the organisation to improve service delivery. Such improvements will then themselves be reviewed and any further lessons learnt recycled into the organisation and so on. A learning organisation should aim to achieve this 'virtuous circle' and thereby ensure continuous and sustainable service improvement.

8.2 Industry and commerce have long recognised the value of having robust and effective mechanisms to manage customers' complaints and to ensure that organisational learning is captured and fed back in to achieve constant improvement of service. Successful companies recognise that if they do not continually improve their service by listening to their customers, they will lose trade and eventually cease trading. Learning lessons is critical to their mission.

8.3 Although the Police Service is not a profit-oriented organisation, the principle remains the same. However, instead of loss of business, the loss to the Service will be one of public confidence, which is equally critical to effective policing. The importance of retaining public confidence has been clearly recognised by all the major stakeholders in the area of policing professional standards.

8.4 In January 2005, Bill Taylor produced a report titled *Review of Police Disciplinary Arrangements*. The Taylor report made recommendations and suggestions for moving the Service away from one where "blame rather than learning"[61] takes place, to a learning Service that is committed to continuous improvement. Mr Taylor went on to say:[62]

> **"It seems an obvious point that in all cases where capability or conduct issues are proved, regardless of their scale, there should be an emphasis on learning for individual(s) and the organisation..."**

[61] Taylor report, paragraph 4.2.14.

[62] Taylor report, paragraph 4.2.15.

He also said:

> **"The intention is to encourage a culture of learning and development for individuals and/or the organisation. Sanction has a part, when circumstances require this, but improvement will always be an integral dimension of any outcome."**

8.5 In its first statutory guidance document, the Independent Police Complaints Commission (IPCC) clearly set out its determination to engage with the Service to move it towards a learning culture. In his foreword to the guidance, the chairman of the IPCC, Nick Hardwick, said:

> **"This Statutory Guidance for police forces about the complaints system, developed in partnership with police organisations as well as voluntary and community organisations, sets out the framework for that guardianship role – greater access to the complaints system; improved confidence of police officers, police staff and the public in the complaints system; proportionate and timely complaints investigations; evidence of lessons learned being fed back into operational policing."**

8.6 There is therefore a clear and understandable appetite to move the Service more towards being a truly learning organisation. In relation to professional standards, what would 'good' look like if the Service were to be a learning organisation?

**A 'good' learning structure in professional standards**

8.7 'Professional standards' encompasses a wide spectrum of learning opportunities, including: complaints from members of the public; internal discipline or misconduct enquiries; complaints concerning police direction and control; intelligence development (through the National Intelligence Model); anti-corruption investigations; information security; data protection; freedom of information; staff vetting; grievance; unsatisfactory performance procedures (UPPs); employment tribunals (ETs); and civil claims.

8.8 Owing to the inter-related nature of all these different processes, a good learning organisation will need – first and foremost – formal, robust communication links between the different practitioners involved. Such links will ensure that organisational learning is captured across the whole range of professional standards activities and is shared throughout the force and the Service.

8.9 Although communication is key, to make learning a core part of mainstream business a good learning organisation will ensure that it also has:

- a learning culture at its heart;
- a high level of commitment from senior managers to promoting the learning culture;
- effective mechanisms to ensure that organisational learning is captured and used to improve customer service; and
- structured use of performance data, to identify patterns and trends and to inform strategic and policy decision making.

**Current police performance**

8.10 In relation to formal communication links between the different professional standards processes, it is disappointing to find that nationally the picture is somewhat different from that described as 'good' above. Many forces have no formal communication links in place between the different departments dealing with the various processes, which presents a real danger that organisational learning and corporate knowledge are being lost. Although ETs and civil actions occur relatively infrequently, it is important that any potential lessons are extracted and then considered at both strategic and practical levels.

**Good practice: A dedicated learning group**

**Sussex Police** has a system whereby a 'learning the lessons' pro forma is completed for every complaint and the results analysed and considered at a 'learning the lessons group' chaired by a chief officer and attended by a police authority member. This group has identified a number of issues which, once addressed, made a significant operational difference – for example, an inefficient duty solicitor scheme and a lack of knowledge among staff on particular legislation.

8.11 Although the remedy to poor communication does not necessarily lie in forming a committee, there **is** a need for a structured process and for a specific amount of time to be set aside to fully consider the importance of potential lessons. Furthermore, all the relevant stakeholders should be involved. This is not so easily achieved through a single item on another meeting's packed agenda or through ad hoc bilateral discussions.

8.12 Undoubtedly, good, structured communications will support and help achieve all the other aspects of a 'good' learning organisation listed in paragraph 8.9, each of which is now explored individually.

*A learning culture*

8.13 Generally, forces have been slow to move towards having an "emphasis on learning for individual(s) and the organisation", as espoused in the Taylor report. While many forces claim to have effective mechanisms in place to capture organisational learning, a scratch beneath the surface often reveals that the mechanisms are not as robust as were first thought.

**Case study: The theory and the reality of capturing organisational learning**

A large rural force claimed to have an effective mechanism in place to capture organisational learning from complaints. This mechanism was in the form of a 'learning the lessons' pro forma which was placed on the front of every complaint file. Unfortunately an inspection of a number of files failed to find a single pro forma in which any feedback of lessons learnt had been completed, and the force was unable to give a single example of any lessons having been turned into positive action.

8.14 The case study above was not unique, and it illustrates the need for forces to ensure that any mechanisms they believe are capturing organisational learning are actually being used. Simply putting details of potential lessons onto force orders or the intranet will by itself probably not achieve any significant improvements in service. The key is to have a range of approaches and a clear and structured system for analysis, targeting action and evaluating results.

8.15 Although no force's professional standards department (PSD) was assessed as fully demonstrating that it had organisational learning 'at its heart', areas of good practice have been shown, with some forces using effective mechanisms to capture and share organisational learning.

**Good practice**

**Lancashire Police** makes good use of a range of methods to learn lessons and improve, including:

- a good-quality newsletter, *Right First Time*;
- close links with the training department and a coordinated training programme with clear objectives;
- effective liaison between PSD investigators, each of whom has geographical liaison responsibilities, and basic command units (BCUs) and departments;
- quarterly information packs for each BCU, with good-quality analysis of data and commentary on trends and learning points (including information about individual members of staff and those members attracting three or more complaints in a year – information that is set out in a separate confidential report);
- use of Gold groups to coordinate wide-ranging corrective action after major incidents where the learning opportunities are complex; and
- in urgent or important cases, advisory e-mails to the whole organisation from the assistant chief constable.

**Good practice**

The **Metropolitan Police Service (MPS)** has a 'prevention and reduction' (PAR) team. The PAR team links with the Service's Leadership Academy (DCC9) and uses the Home Office Large Major Enquiry System (HOLMES) to action any recommendations from the IPCC, coroners and senior investigating officers arising from deaths following police contact. The team has a database to record recommendations and 'learning the lessons' opportunities from all other professional standards investigations. After being recorded, all recommendations are progressed with the appropriate MPS chief officer, and the final outcome is recorded and auditable.

Examples of changes in policy and practice can be extracted from PAR databases. The PAR team is responsible for progressing training in respect of lessons learnt and also undertakes projects arising from lessons learnt, eg use of defibrillators, safer suits. For all major pre-planned operations, consideration is given to the appointment of a dedicated complaints officer to handle complaints arising from the operation and to take prompt initial action in respect of them. The PAR team is expanding its terms of reference to encapsulate all learning opportunities from across the professional standards arena.

*Commitment from senior managers to the learning culture*

8.16 Inevitably, all HMIC reports highlight the importance of leadership, but the majority do so in the context of finding an absence of strong leadership or at least an inconsistent picture. It is pleasing, therefore, to report clear and consistent evidence across the Service of a high level of commitment by chief officers to professional standards in general and to improving organisational learning in particular.

> **"... the force is moving the strategic direction in line with recent reports, trying to ensure learning is captured and moving from a blame culture, using the ACAS [Advisory, Conciliation and Arbitration Service] approach and early resolution. Policies and procedures have been reviewed accordingly. The Chief Constable has given clear direction about the style of tribunals, and suspensions are used sparingly..."**
>
> Assistant chief constable of a large rural force

> **"The internal standards and integrity group meetings are attended by a member of the police authority, representatives from staff associations, area commanders, human resources, legal department, force communications department and head of the PSD. This group is committed to organisational learning, which includes experiences linked to misconduct, complaints, direction and control, grievance, exit interviews, employment tribunals and civil actions. This process is designed to increase staff and public confidence in our policies and procedures and therefore encourage reporting. Through this forum the DCC [deputy chief constable] is then able to influence and direct force policy and strategy to inspire, promote and support an ethical culture. Through the statutory purposes committee the DCC also reports to the police authority on direction and control matters..."**
>
> Head of the PSD in a small rural force

8.17 The high level of commitment throughout forces at chief officer level continues to have a positive effect on the professional standards environment. There are several examples of chief officer leads having been instrumental in ensuring that organisational learning has been captured and shared across the force, one of which was found in Surrey.

**Case study: Evidence in Surrey of the impact of committed leadership**

Following a significant and complex disciplinary enquiry, the Chief Constable of **Surrey Police** engaged the services of the MPS's internal consultancy group to debrief all those involved in the process. This process ensured strict confidentiality for individuals, allowed them to discuss the emotional aspects of the process and took them forward into problem solving and the identification of learning outcomes. This third-party confidential service has been widely acclaimed and is being considered for future debriefs, and it may become a regular feature in the force's approach to learning lessons.

8.18 The commitment of chief officers remains crucial to professional standards and to ensuring that organisational learning is captured and shared and customer service improved.

*Ensuring that learning is captured and used to improve customer service*

8.19 Crucial to being able to learn from lessons is being able to identify them in the first place. Whether at a national or local level, it is important that clear systems are in place to encourage staff and managers to put forward examples of good and – equally importantly – bad practice for the benefit of individual and organisational learning. Of course, this is not as easy as it sounds, and individuals and forces will need to have a significant degree of confidence that such sharing of information, 'warts and all', will produce positive results rather than blame or stigmatisation.

**National level**

8.20 In 2001 there was a national 'learning the lessons' committee, chaired by the Association of Chief Police Officers (ACPO), with the Police Complaints Authority acting as secretariat, and with members including the Home Office, HMIC, Centrex, the Crown Prosecution Service and police staff associations. There were few tangible products from the work of this committee – forces appeared to be loath to provide details of their individual bad experiences or mistakes for national discussion. The IPCC was asked, at the time of its inception in April 2004, to take over lead responsibility of the committee, but before this happened it was decided that the committee was not fulfilling its aims and it was therefore disbanded.

8.21 The intervening period, during which there has been no dedicated group, has seen advances in individual cases but not in any structured

way. The absence of a single focal point has had two adverse impacts. First, the key stakeholders have not been involved in any structured exchange about or consideration of lessons, and so opportunities for service improvement have undoubtedly been missed. Second, an unintentional message has been sent that the Service does not regard organisational learning as an important issue.

8.22 Since April 2004, the IPCC has indicated its intention to bring forward proposals for the re-establishment of the committee, but is yet to deliver. This intention is seen as a positive and necessary step in ensuring that organisational learning and good practice are shared across the Service and it should be followed through. It is suggested that any new committee will need to have all the relevant stakeholders represented, including the Home Office, the IPCC, ACPO, the Association of Police Authorities (APA) and HMIC.

8.23 In the absence of a specific national committee, ACPO's Counter-Corruption and Advisory Group (ACCAG) and its Complaints and Discipline Advisory Group have, to their credit, been committed to sharing organisational learning. It is particularly encouraging that ACCAG recently began to include case studies at its meetings. There is also evidence of regional forums attempting to share lessons across forces, and recently meetings have been held in the Eastern and South West regions, and this too is encouraging.

8.24 Reconvening a forum that is dedicated solely to learning lessons across the whole professional standards arena is, however, still seen as a vital step in ensuring that organisational learning is properly captured, considered and disseminated across the Service **and** that the subject is seen as important. HMIC looks forward to the IPCC's proposals to take this forward.

**Force level**

8.25 As previously stated, it is disappointing that no force is able to show that it has a systematic and structured approach to organisational learning across the whole professional standards spectrum. Most forces do have structures in place to capture organisational learning from complaints, but forces vary as to whether or not they capture learning from ETs and civil actions. This means that many forces may be missing opportunities to learn from some of the elements of the wider definition of professional standards.

8.26 There are areas of good practice, however, as illustrated in the quotes below relating to the West Midlands force and a regional training centre.

> **"To capture, analyse and learn from complaints concerning 'direction and control' of the force, a quality of service (QOS) database was established in April 2004 with the introduction of the IPCC. The system allows for real-time recording, monitoring and finalisation of complaints where service delivery has fallen short of public expectations..."**
>
> **Head of the PSD, West Midlands**

> **"There has been clear evidence of organisational learning following issues highlighted in the earlier TV documentary *The Secret Policeman*, which focused around racial discrimination within the Police Service. Recent events at a training centre in the South East of England have demonstrated the Service's ability to move forward using this learning opportunity, and there is reported to have been excellent liaison between Centrex, seconding forces and those appointed to investigate the allegations of racism."**
>
> **HMIC staff officer**

8.27 The MPS is also expanding its consideration of a wider range of sources for lessons learnt, as shown in the examples of good practice below.

**Good practice: Video training in the MPS**

In the **MPS**, learning opportunities have been picked up by the civil litigation unit. One example of organisational learning is the production of a video to train officers about giving evidence in court. The video, which is shown to all officers who are to give evidence in civil litigation hearings, was produced after it was ascertained that many officers were being easily led by legal representatives.

**Good practice: The MPS's performance and learning manager**

The **MPS** has introduced the post of 'performance and learning manager', based in the human resources (HR) department. The performance and learning manager's role is to ascertain learning outcomes from ETs and forward these to HR departments, boroughs and other directorates that have responsibility for policy formulation. The performance and learning manager also produces a monthly newsletter, which is displayed on the HR website and contains the latest ET learning and other relevant HR issues.

At the conclusion of an ET, a debrief is held involving the learning and performance manager, the solicitor and the caseworker to review outcomes and learning points for the future. These findings are included in the closing report and forwarded to relevant policyholders as required. In addition, caseworkers sit in the ET to monitor progress and identify issues as they become apparent during the hearing.

Every week the HR department completes a risk return, placing the reports in categories: category A is for national issues, B is for those that might involve a senior police officer, and C is for more tactical issues. The risk return is prepared for the deputy commissioner and the Metropolitan Police Authority to identify any emerging issues and problems.

*Structured use of performance data*

8.28 As well as learning lessons from individual incidents, the analysis of performance and management information is crucial. Effective monitoring and analysis has the potential to flag up threats to the organisation and highlight performance or knowledge deficiencies before such problems become a serious issue. Failure to do this leaves the organisation highly vulnerable.

**National level**

8.29 Before the IPCC was introduced in April 2004, the Home Office was responsible for collating and publishing annual statistics in relation to complaints. The statistics produced by the Home Office included a huge range of categories:

- total number of complaints received by forces in England and Wales;
- number of recorded complaints by reason for complaint;
- number of completed complaints by outcome;
- number of substantiated complaints by reason for complaint;

- number of retirements and resignations among officers facing criminal or disciplinary proceedings;
- number and result of appeals to the Home Secretary;
- number of complaints received by the police and complaints per 1,000 officers by police force area;
- outcome of all completed complaints;
- outcome of all investigated complaints;
- percentage of completed substantiated complaints by police force area;
- number of substantiated complaints by reason of complaint;
- number of substantiated complaints by type of proceedings that resulted;
- number of police officers convicted of criminal offences;
- number of police officers against whom disciplinary charges or misconduct allegations were brought and completed;
- number of disciplinary punishments or misconduct sanctions awarded;
- results of appeals by nature and result of appeal; and
- results of appeals by most serious punishment involved.

8.30 From this plethora of measures, HMIC traditionally gauged forces' PSD performance primarily from trends ascertained from the total numbers of complaints (and key categories), the proportion of informal resolutions[63] and the proportion of complaints finalised within a 120-day period.

8.31 All the previous categories of data are now collated by the IPCC, and its publication of the national statistics for 2004/05 is scheduled for May 2006. The categories identified for publication differ somewhat from the previous list and include:

- number of and type of complaints per force;
- how complaints were dealt with by police forces (ie how many were locally resolved or investigated);
- the profile of people who made complaints (by age, gender and ethnicity); and
- the profile of those subject to complaints (by age, gender and ethnicity and by whether they are a police officer, member of police staff or otherwise employed by the police).

8.32 The reduction in the breadth of data published and the concentration on categories relating to complaints against both police officers and police staff – as well as the status of people complaining and issues of ethnicity – reflect (in part at least) the changes in legislation, emphasis and focus in the field of professional standards in the past two to three years. The changes

[63] Now replaced by local resolutions – see Chapter 3.

also reflect a move towards focusing data on the issues of greatest importance and on areas where improvement of service through performance comparison can have the most impact.

8.33 However, whether the original categories or the newer ones are used, the problem remains that any analysis aimed at learning lessons from the statistics is constrained by disparities among forces' recording practices and policies. No national standard of complaint recording exists, and in its absence forces vary in what they record as a complaint, how and when they record, and whether such records feature fully in the national statistics. In respect of timeliness – the 120-day timescale for resolving complaints[64] – each force appears to have interpreted differently when to start and stop the clock. In one force, for example, the clock stopped if the officer dealing with the complaint went on leave and started again on their return to duty.

8.34 Clarity and consistency of definitions are needed. The IPCC defines a 'complaint' in Appendix D of its statutory guidance. This is a helpful start, but it falls short of a 'recording standard' that will satisfy the current need. As the Police Service has found in the past, the absence of a clearly defined and consistent recording standard – for example, in the recording of crimes and incidents – leads to major variations in practice and is a barrier to any meaningful comparison of performance.

> **"We need to produce meaningful performance data – the force needs to know from the IPCC what measurement is required and how it will be measured. A clear playing field for all is vitally necessary."**
>
> **A PSD detective chief inspector**

8.35 There have been widespread calls from police managers and leaders for greater parity and clearer standards and recording practices. The timeliness and qualitative standards set out in the IPCC statutory guidance provide a useful first step, but there also needs to be rigour in collection and inspection activities, which should ensure that data is collected and measured effectively by forces.

[64] The 120-day rule was agreed between ACPO and the Police Complaints Authority as a benchmarking device, but has not been used as a national comparative measure since the IPCC was established.

**Recommendation 17**

The Independent Police Complaints Commission (IPCC) should, in consultation with ACPO, the Home Office, the Association of Police Authorities (APA) and key stakeholders, agree a national standard for the recording of complaints and a programme of implementation and monitoring of compliance, without adding unnecessary layers of bureaucracy or other impediments to improving police performance.

8.36 A national complaint-recording standard is undoubtedly needed so that a level playing field within the professional standards arena can be established and to enable more accurate analysis of national patterns and trends. However, it is important that the lessons of achieving the National Crime Recording Standard and the National Incident Recording Standard are fully considered to avoid the pitfalls of delay and unnecessary bureaucracy. In addition, in designing an appropriate standard, the full implications need to be identified by way of an equalities impact analysis.

**Force level**

8.37 Many forces blame the IT provision for difficulty in measuring and analysing performance data relating to complaints. However, there are cases highlighted elsewhere in this report where, with investment and expertise, these problems have been overcome.

8.38 There is some truth in the expression 'what gets measured gets done'. Formal and regular external inspection and audit by agencies such as HMIC and the Audit Commission have proved their worth in other aspects of police activity over the years. This has provided stakeholders and the public with data that can be relied on and trusted. It has also provided an incentive to forces to achieve and compete on a level playing field where they too have confidence in the data. Good performance is highlighted and high-performing forces are able to share with their peers the means by which service improvements have been made.

8.39 The overlap in oversight and inspection is a developing issue which currently affects the IPCC, HMIC and police authorities, all of which have statutory responsibilities in respect of complaints against the police. This area will be developed in the coming years, but the need for independent oversight and inspection is clear, as is the importance of valid and meaningful performance measures.

8.40 Work sponsored by the ACPO complaints subcommittee is under way to devise a commonly agreed template of performance indicators. This, together with improved guidance from the IPCC in Appendix D of the statutory guidance document, should go some way towards achieving corporacy in recording and measurement across the country. HMIC will continue to contribute directly to this work.

**Recommendation 18**

ACPO should work in partnership with the IPCC, the APA, HMIC and other stakeholders in the design and implementation of a robust and transparent performance framework which is subject to routine internal and external oversight and monitoring.

*Monitoring ethnicity*

8.41 Section 95 of the Criminal Justice Act 1991 requires the collection and publication of ethnic monitoring information in relation to police complainants. The Police Reform Act 2002 widened this legislation to include monitoring the ethnicity of officers and staff who are the subject of complaints. The importance of self-defined ethnicity monitoring led to the 2001 national census introducing a wider range of ethnic codes than had been used before – the '16+1' codes (see Appendix D). It is the intention of the Home Office that all criminal justice agencies in England and Wales should collect information on self-classified ethnicity using these codes. The IPCC encourages chief police officers to ensure that all appropriate members of the Service are aware of the importance of collecting this information. For further information, see ACPO's *Guide to Self-defined Ethnicity and Descriptive Monitoring*, which is published on ACPO's website at www.acpo.police.uk.

8.42 The Race Relations Amendment Act 2000 has conferred further duties on public bodies, such as police forces, to record and monitor a range of issues to ensure that they are not acting disproportionately and that the rights of minority groups are being preserved. There is a responsibility for police forces to ensure that they are recording the ethnicity of those making complaints against the police.

8.43 It should be noted that legislation is going to be enacted during 2006 to widen the scope of recording and monitoring to include all six strands of diversity: age, disability, gender, sexual orientation and religion as well as race.

8.44 It is of concern to note that many forces are failing to comply with the current statutory obligation. Reasons given include the difficulty in identifying ethnicity when people report through third parties; the fact that many report by telephone, so their ethnicity is not readily apparent; and the fact that staff are reluctant to call back complainants for the purpose of establishing their ethnicity, as the response is often an angry one.

8.45 These reasons are not acceptable and forces must ensure that the ethnicity of complainants is recorded and monitored, not only in order to comply with legislation but also to understand the needs of these communities and to maximise any opportunities for organisational learning, as well as ensuring proportionality of policing.

**Good practice**

In **Cheshire**, as elsewhere, the complaint form has been amended to make it easier to record the ethnicity not only of the complainant but also of the member of staff who is the subject of the complaint. This information is recorded on the Centurion database so that any disproportionality can be identified. The force's ethnic monitoring review group meets on a quarterly basis and examines statistics for disproportionality. This scrutiny includes arrests, stop searches and HORT/1s[65] as well as complaints. Any issues raised of a professional standards nature are then fed back to the PSD. The department has a commitment to ensure that fair and equitable treatment is afforded to everyone involved in the complaints process. The department has appointed two diversity champions and all members of staff have undergone diversity training.

8.46 Another force, in the South East, has been proactive by checking not only arrests but also other instances where the police come into contact with ethnic minorities. Research has included assessing PACE stop and account forms, HORT/1s and vehicle defect rectification scheme documentation, all of which should include details of ethnicity. While not targeted specifically at complaints issues, this monitoring also checks for areas, teams or individuals who have a greater propensity to stop people from ethnic backgrounds, with a view to understanding whether this is proportionate or whether any management interventions are appropriate. The effective recording of the ethnicity of police officers and staff has an implicit importance (which perhaps should be made explicit) in that it also helps identify disproportionality in relation to complaints against the police.

[65] HORT/1 – a form issued to a person driving or suspected of driving a motor vehicle on a road when they are unable to provide their driving documents at the time of a request by a police officer. They have seven days to produce these documents at a police station specified by them.

**Key issues and findings**

8.47 The importance of individual and organisational learning cannot be overstated. It is therefore worth reiterating the key issues and findings:

- Forces need to ensure that they have formal communication links in place between the various professional standards processes to ensure that organisational learning is captured.
- Forces are moving towards a culture of learning, but this is slow and often unstructured.
- There is clear evidence of a high level of commitment at chief officer level.
- A national forum dedicated to sharing learning across the Service is needed.
- Many forces believe that they have good mechanisms in place to capture organisational learning, but closer scrutiny shows that gaps exist.
- Systematic and structured learning from complaints, ETs and civil actions is not routinely captured.
- Any analysis of performance data is constrained by a lack of a national complaint recording standard.
- Nationally agreed performance measures need to be determined for professional standards.

**Conclusion**

8.48 The vast majority of PSDs are well run departments with committed and capable staff, and there is clear evidence of a desire to capture organisational learning. This desire is hampered, however, by a lack of national consistency and of any national forum for learning the lessons.

8.49 At the local level, there is much good practice in identifying lessons but there are significant gaps in evaluation and recycling of those lessons into genuine service improvements.

8.50 The capture and analysis of relevant performance information is not well founded, with major disparity in recording practices, or well structured, with little Service-wide analysis or comparison.

# 9. Oversight and corporate governance

# 9. Oversight and corporate governance

## Introduction

9.1 Oversight in the Police Service is provided by various stakeholders whose role it is to ensure that police forces remain independent but accountable and operate efficiently and effectively in all respects. The ultimate goal is to provide a Police Service that has the trust and confidence of the communities it serves. The systems that underpin and make this possible are most usually described as corporate governance. Defined in its broadest sense:

> **"Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals. The corporate governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interests of individuals, corporations and society."**
>
> Sir Adrian Cadbury, Global Corporate Governance Forum (World Bank, 2000)

9.2 The organisation of governance in the Police Service in England and Wales is often described as 'tripartite', the principal players being the Home Office, police authorities and chief officers. Legislation (principally the Police Act 1996) sets out the respective roles of each. This tripartite system has been described as the constitutional bedrock of policing and has existed in broadly the current form since the Royal Commission of 1962. It is acknowledged to be a tried and tested mechanism that provides a healthy and at times challenging tension between the three stakeholders. It ensures that checks and balances exist to prevent any one of the stakeholders, in isolation, exerting unfettered authority over the Police Service, and that the Service continues to operate in the best interests of communities.

## The key stakeholders in professional standards

9.3 In relation to professional standards, this tripartite system has been enhanced by the introduction of the Independent Police Complaints Commission (IPCC) to provide independent oversight and to exercise 'guardianship' of the police complaints system. The following paragraphs outline the agreed responsibilities of the key stakeholders in the field of police professional standards.

*Chief officers*

9.4 Too often the role of chief officers in oversight and inspection within police forces is overlooked. The primary role in ensuring that

professional standards are upheld and that high-quality service is delivered to the public sits squarely with chief officers. It is important that chief officers, and indeed supervisors and managers at all levels within the police, provide leadership by example and a robust measure of quality assurance and challenge.

9.5 Section 15 of the Police Reform Act 2002 sets out the general responsibilities of chief police officers in the area of professional standards, which are to:

- keep themselves informed about complaints and discipline matters within their force;
- ensure a timely response to complaints;
- ensure that complaints and conduct matters are properly handled and recorded;
- act as an 'appropriate authority' in recording and investigating complaints against officers (up to chief superintendent level), police staff and staff of designated contractors;
- ensure that matters are properly referred to the IPCC and provide the IPCC with relevant information and documents;
- provide assistance to any person appointed to investigate a complaint, including ensuring access by the IPCC or a nominee to relevant premises and documentation during an investigation;
- ensure that complainants, officers and staff are kept regularly informed of progress;
- ensure appropriate use of dispensations and local resolution;
- ensure the identification and recording of conduct matters arising from civil claims or other proceedings; and
- comply with any requirements from another force or police authority to assist with an investigation.

9.6 Regulation 26 of the Police (Complaints and Misconduct) Regulations 2004 allows the Chief Constable to delegate all or any of the powers and duties imposed under section 2 of the Police Reform Act 2002. In many forces this delegation will be to the deputy chief constable (DCC), but it may also be to an assistant chief constable, depending on the portfolio allocation in each force.

9.7 Although the police authority is the 'employer' of police staff, in practice day-to-day responsibility for the management, supervision and discipline of police staff is delegated to a chief officer (commonly to the chief officer with responsibility for human resources (HR) and personnel matters, who may himself or herself be a member of police staff). The Police (Complaints and Misconduct) Regulations 2004, which are concerned with public complaints, apply to police officers, police staff and members of the Special Constabulary.

9.8 Section 14 of the Police Reform Act 2002 provides a power for the Secretary of State to issue guidance to chief officers and police authorities on the handling of complaints relating to the direction and control of a police force by a chief officer. Home Office Circular 19/2005 requires chief officers to have in place by 1 August 2005 a formal procedure for dealing with such complaints. The management of such local procedures may be delegated to an appropriate senior person.

*Police authorities*

9.9 Police authorities provide strategic oversight of their respective forces and accountability to local communities. Each authority has an overarching responsibility to maintain an efficient and effective police force in its area (section 6(1) of the Police Act 1996). It sets the annual budget and, together with the Chief Constable, sets the strategic priorities for the force in the annual policing plan.

9.10 Under section 22(3) of the 1996 Act the police authority may require the Chief Constable to submit to it a report on such matters as the authority may determine relate to the efficiency and effectiveness of the force. In professional standards matters, police authorities have a duty under section 15 of the Police Reform Act 2002 to keep themselves informed of matters relating to complaints about the conduct of police officers. They are also the 'appropriate authority' for recording complaints against chief officers and (with the IPCC) for dealing with them. Together with chief officers, they are also responsible for dealing with complaints relating to the direction and control of the police force.

9.11 The IPCC's statutory guidance sets out police authorities' role in dealing with complaints as forming part of their core duties in promoting the efficiency and effectiveness of local policing. Section 15 of the Police Reform Act 2002 sets out the responsibilities of police authorities to:

- keep themselves informed about complaint and discipline matters in their force;
- provide the IPCC with the information and documentation to carry out its functions (including inspection);
- ensure that the IPCC or person nominated by the IPCC has access to any police premises and materials or documentation within those premises during the course of an investigation;
- ensure that officers carrying out investigations are given all the assistance they may reasonably require;
- refer complaints or misconduct matters to the IPCC, where the chief police officer has decided not to; and

- act as the 'appropriate authority' in the recording and investigation of complaints and conduct matters against chief officers – this includes a statutory requirement to obtain and preserve evidence in such cases.

*The Independent Police Complaints Commission*

9.12 The IPCC was set up in April 2004 to ensure that suitable arrangements were in place for dealing with complaints or allegations of misconduct against any person serving with the police in England and Wales. These arrangements aim to increase public confidence by demonstrating the independence, accountability and integrity of the complaints system, and so to contribute to the effectiveness of the Police Service as a whole. The statutory powers and responsibilities of the IPCC are set out in the Police Reform Act 2002 and the regulations made under it. The new systems cover all staff under the direction of a chief officer, including police officers, special constables, police staff and designated contracted escort and detention officers.

9.13 The IPCC may choose to investigate the most serious incidents independently, manage an investigation carried out by police officers or supervise a police investigation. The majority of complaints and allegations of misconduct continue to be investigated by the police. Complainants have a right of appeal to the IPCC in cases handled by local resolution, local investigation and supervised investigation.

9.14 The IPCC, by directly intervening in individual investigations and through its broader 'guardianship' activity (see paragraph 9.15 below), looks to deliver this improvement in confidence by focusing on:

- opening up access to the complaints system;
- ensuring that complaints are dealt with in a proportionate and timely manner;
- ensuring learning from complaints; and
- developing confidence in the process itself among those directly involved – both the police and the public.

9.15 The basis of the IPCC's guardianship role is its general duty under the Police Reform Act 2002 to increase confidence in the police complaints system and, in so doing, to contribute to increasing confidence in policing as a whole. The IPCC has identified four key elements to its guardianship role:

- setting, monitoring, inspecting and reviewing standards for the operation of the police complaints system;
- promoting confidence in the complaints system as a whole among the public and police;

- ensuring the accessibility of the complaints system; and
- promoting policing excellence by drawing out and feeding back learning.

9.16 The IPCC's functions, including its oversight responsibilities, are set out in sections 10, 17 and 18 of the Police Reform Act 2002. The IPCC is currently developing its position on oversight in full consultation with stakeholders. The IPCC's oversight functions are part of its wider guardianship function.

9.17 Currently the IPCC consists of a chair, a deputy chair and 15 commissioners. Each commissioner is responsible for guardianship work and cases in specific police forces. Four commissioners share responsibility for the Metropolitan Police Service (MPS), and the remainder are located in regional offices. There are four regional directors who have responsibility for managing regional teams of case workers and investigators and advising commissioners.

**The findings of the thematic inspection**

9.18 It is important to emphasise that the thematic inspection team had no remit or intention actually to 'inspect' either police authorities or the IPCC. However, in the course of the inspection the contributions of each of the key stakeholders became relevant and visible to some extent, and the following paragraphs seek to highlight the issues that emerged and which were most significant to the core subject of the thematic inspection.

*Chief officers*

9.19 One of the main themes to emerge is that clarity and accountability are vital elements and that the best way to ensure them is to have a single strategic leader with clear overall accountability for the function. Without exception, every force has a nominated chief officer lead with responsibility for professional standards. In the vast majority of forces this lead is the DCC, although in metropolitan forces this differs, reflecting the size of the force and personnel involved – eg in the MPS the lead is an assistant commissioner (equivalent to Chief Constable) and in other large metropolitan forces the role may be split between chief officers.

**Case study: Joined-up responsibilities**

In one force in the South East, an assistant chief constable who is responsible for personnel and training is being considered for the lead responsibility for professional standards. This dual role may be an issue worthy of wider consideration in the light of current developments promoting closer alignment of the disciplinary processes for police staff and police officers.

9.20 Pleasingly, it is no longer unusual to find the words 'ethics' and 'integrity' in forces' strategic plans. In a number of forces these strategic statements of intent in public documents have been followed up by chief officers staging high-profile events to engage with staff, such as the example below from Surrey. Such events can help chief officers reinforce their personal commitment to corporate missions and values and state categorically how they expect their staff to share and adhere to them.

**Good practice: Command team commitment**

A **Surrey** police authority member cited the following strengths of their force's approach:

- The Chief Constable and his command team sent clear messages to the workforce with the launch of the Surrey Police Standard. The Chief Constable and his top team personally presented the subsequent roadshow to all members of staff throughout the force. They followed this up with a number of robust disciplinary decisions that have emphasised the command team's expectations of its workforce.
- The command team has clearly articulated an ethos of quality, discipline and customer service through the roadshow and other avenues such as its Project X and LISTEN – two projects aimed at recognising and improving customer service.
- The professional standards department (PSD) has seen a dramatic increase in resources and now occupies a more mainstream position in the force, both structurally and organisationally.
- Recruits receive the command team's messages early on, and the recent move to local training under the Initial Police Learning and Development Programme has allowed closer monitoring by the force of new recruits and has resulted in dismissals under police regulations that might not have otherwise occurred.
- There are good relations between the force, the police authority and the IPCC. The authority feels that it is empowered to challenge constructively and that it has had a positive impact on aspects of service delivery, including changes made to letters to complainants and other issues such as file management.

9.21 During the thematic inspection, inspection staff found evidence of a number of similar approaches to those shown in the examples above.

*Police authorities*

9.22 Police authority members perform a vital scrutiny role on behalf of the community. This role is important as it relates to an area of policing that has the potential to influence the public's confidence, whether positively or negatively. Members need to be in sufficient possession of the facts and to have sufficient timely information to hand in order that they may hold chief officers to account, challenge performance or request further information relating to any particular area of concern. Their ability to address these responsibilities depends primarily on positive, constructive and open relationships with the force and other stakeholders.

**Good practice**
In **Dorset** and **Gloucestershire**, the PSD produces a detailed report for the police authority giving narrative details of all complaints and misconduct under investigation. The authority finds this very helpful in supporting its governance arrangements. The IPCC has recommended this model to other forces as 'good practice'.

9.23 Generally the thematic inspection identified productive working relationships between police authorities and the other stakeholders. There was, however, some variation in the methods used to achieve oversight and corporate governance. This reflects to a great extent the make-up of police authorities, comprising locally elected councillors, independent members and magistrates. Perhaps unsurprisingly their levels of skill, knowledge and experience vary in relation to specific and specialised areas of police work and are even more likely to be limited in the early stages of their appointment. As a regional HMIC staff officer reports:

> **"Police authority scrutiny roles vary in depth and scope. Most are developing their routines – often alongside the force – but few have any real comprehension of professional standards unit activities other than by specific input from the DCC in high-profile cases. Capacity of chair/members of scrutiny panels appears an issue."**

9.24 There are, of course, good examples to balance the areas of concern.

**Good practice: Thames Valley Police**
An IPCC commissioner described **Thames Valley Police** as a model force in respect of the PSD and rated it "exceptionally good". She listed strong leadership, openness to change, willingness to learn from experience, good relationships with basic command units (BCUs), the Police Federation, the police authority and herself and her staff. She saw the PSD as being part of the force's business – with good linkages through BCUs, training and PSD staff in the field all helping to link the PSD directly to service delivery.

9.25 One of the inevitable consequences of having 43 separate police authorities is the variety of practice in relation to scrutiny of performance and other corporate governance issues. Currently there is a national debate on the merit of having full access to all professional standards files and the necessity or otherwise of checking all or a random sample of files. In an attempt to address this polarity of views the Association of Police Authorities (APA) is drafting guidance that will, it is hoped, bring a greater degree of corporacy to scrutiny processes. This will, however, depend in the final analysis on the extent to which authorities around the country follow the guidance once it is published. The guidance is commended to police authorities as it is felt that it will assist them in the exercise of their statutory responsibilities.

> **"The big question is, 'What does appropriate oversight mean?' Should it be strategic at the top level or detailed tactical engagement?... In my view police authorities waste inordinate amounts of time reading files ... we should be in possession of timely, detailed performance information and analysis which allows us to identify trends and ask the appropriate questions ... there is nothing then to prevent us focusing on identified areas of risk."**
>
> A police authority chair

9.26 The APA has issued written guidance on oversight responsibilities: this is currently being revised. Although the guidance has not been formally tested, inspecting officers report distinct variation in knowledge and use of it. Consequently, local practice also varies considerably.

**Case studies: Different approaches to scrutiny**

In **Thames Valley**, there is extensive police authority oversight of complaints procedures through the complaints and professional standards committee. At each committee meeting all abbreviated files are examined and one case is selected for full review, leading on occasion to investigations, policy or procedure being challenged.

In **Surrey**, the police authority has until recently been dip-sampling complaint files and checking where there were allegations of racial or homophobic discrimination. In a recent change of policy it was decided that the authority will see all completed complaints before they are filed.

In **Merseyside**, collaboration with the police authority's professional standards and complaints committee is good. Training is currently being provided to representatives to give guidance on dip-sampling of files.

In **Humberside**, the police authority enjoys a positive working relationship with the professional standards board (PSB) and adopts a proactive, 'critical friend' role in terms of monitoring complaints issues. The force is committed to ensuring that authority panel members have the appropriate skills and knowledge to carry out their scrutiny responsibility. The current head of the PSB invests his time in training and equipping new authority panel members to carry out their scrutiny role.

In **Norfolk**, the PSD is subject to rigorous oversight and scrutiny by the Norfolk police authority. The main forum for this is the professional standards and human resources committee, whose meetings are attended by the assistant chief constable and the head of the PSD. The police authority is briefed on specific cases, and it dip-samples files regularly to keep abreast of emerging issues. Both Norfolk Constabulary and the police authority acknowledge a close but challenging relationship in their work on professional standards.

In **Essex**, the police authority has a standing professional standards and complaints panel that meets quarterly. This panel reviews trends in complaints, internal investigations, employment tribunals, civil actions and grievances. Members of the panel have free access to the PSD and visit it to review cases and meet staff. The findings of these visits are discussed at the panel's meetings. Panel members are provided with confidential briefings about sensitive or critical complaints in closed sessions. In addition, formal reports about such matters are taken to the panel (and, if necessary, to the full police authority) at the conclusion of the investigation to ensure that costs and associated issues are transparent and identified.

9.27 In some areas, police authority members acknowledge that some of the differences in practice are potentially detrimental to the Service, and they are taking remedial action:

> **"As an authority we have fallen down in terms of dip-sampling and quality-assuring individual complaints, but have begun to remedy the situation. A professional standards officer has been appointed, and expertise has been brought to bear from elsewhere in the authority in order to begin the dip-sampling process."**
>
> Chair of a large metropolitan professional standards panel

9.28 Forces are being encouraged to apply the National Intelligence Model to all aspects of their business. This model affords the opportunity for analysis of intelligence and risk assessment together with the prioritisation of effort required to address the strategic priorities. It should follow, therefore, that those involved in corporate governance should work according to the principles governing the model. An intelligence-based approach requires the strategic assessment of vulnerabilities and emerging threats. It includes effective monitoring and analysis of complaints, complaints management and consideration of other related issues, such as actual and potential vulnerability to corruption.

> **"There is a need to ensure prioritisation and regulation of file checking and oversight – ie some authority members see them all and in no particular order, some see what the force gives them and some dip-sample but prioritise based on discrimination-related complaints as a priority for inspection. Some don't make a special point of seeing any categories such as these."**
>
> Police authority chair

9.29 Systems and processes should be refined so that police authority members and officers are fully engaged and are privy to timely management information that enables them to make these strategic decisions and to challenge them, where appropriate. If trends emerge, then there is always the option for more tactical engagement in a focused manner, such as file sampling. Such engagement may, for example, entail a strategic decision to inspect all complaints involving discrimination or to focus on those involving racial or homophobic allegations. If that is the case, those conducting the inspections will need to be properly trained and to understand what they are looking for.

*Training of police authority members*

9.30 Another variable picked up nationally in the inspection was the depth and level of police authority members' training in relation to the PSD. It must be remembered that police authority members are essentially members of the public and that their knowledge of policing may be limited, especially when they are first appointed. When it comes to effecting corporate governance in this bespoke area, it is not surprising that new members will need to be trained.

9.31 The two main methods of training adopted by forces and police authorities are shadowing more experienced members and being provided with information by the PSD. Although there are variations on the theme, these are the two most common approaches. The first presupposes the transmission of knowledge and sound advice from those already doing the job – but it leaves tremendous potential for disparity in working practices and for poor or inefficient practices to be passed on. The second approach, again, depends on the ability and willingness of staff delivering the training and could allow flaws to be built into the system, in that those who are appointed to provide external and independent scrutiny are being trained by those they are about to inspect.

9.32 Although both these training approaches are potentially valid, a better solution would be for the relevant external audit leads, namely the APA, the IPCC and HMIC, to collaborate to devise a nationally accredited training package. This issue could also be explored and developed by the newly formed National Policing Improvement Agency (NPIA).

**Suggestion 3**

Stakeholders, including the APA, the IPCC, HMIC and NPIA, should devise a nationally accredited training package for members, chairs and officers of police authority professional standards panels, to ensure that they are fully equipped to deal with the complex issues surrounding professional standards and related issues such as civil litigation.

9.33 Given that most police authority members have regular contact with communities, authorities should not overlook the opportunity to promote confidence in professional standards. Police authorities, having addressed the above training and policy issues, will have a real opportunity to engage better with members of the public and build trust and confidence in professional standards and, ultimately, in the local police:

> **"I'm not quite sure that authorities make the most of the opportunity to market their oversight role in increasing public confidence, by telling the public about how they monitor complaints."**
>
> Police authority member in the South West

*Vetting of police authority members*

9.34 Currently police authority members are elected local authority councillors, magistrates and independent members. The councillor members of police authorities are appointed by their local authority on an annual basis. All magistrates are asked if they wish to apply to become members of a police authority, and a selection process involving an independent selection panel is then applied. Independent members are appointed by the councillor and magistrate members of the police authority, after a selection process involving an independent selection panel and the Home Secretary. Once appointed, police authority members in most forces are placed in a privileged position and as such have access to sensitive information that is sometimes untested and potentially politically damaging to the police force or its membership.

9.35 The issues regarding the threat to the Police Service from poor vetting are expanded on above in Chapter 4. Currently no vetting process is applied to members of police authorities, and considerable reliance is placed on their standing in the community and established good record of conduct, which have afforded them the position from which they apply or are nominated to become police authority members. There are issues that might make vetting across the board difficult, because some are political appointees and, as such, any attempt to bar them from aspects of their work could be seen as unconstitutional. However, there may well be a case for asking police authority members and possibly their officers to undergo a vetting process before they gain access to certain specialised types of information, such as in covert professional standards enquiries:

> **"Possibly a national issue is that of our oversight; we are seeing very sensitive material, and there is an issue to be addressed in respect of vetting of police authority members."**
>
> Police authority panel member

*The Independent Police Complaints Commission*

9.36 The IPCC came into being in April 2004 under the auspices of the Police Reform Act 2002, which set out a statutory framework for the new police complaints system. The IPCC derives its powers from the Act and has featured in a number of high-profile cases since then. The majority of its cases are, however, devoted to what might be described as 'volume issues' or less serious complaints against police. The IPCC's statutory responsibilities are clearly stated in the statutory guidance published in August 2005 and are mentioned elsewhere in this document.

9.37 The IPCC has achieved much in its first two years and has been broadly welcomed by the Police Service. It has recently undertaken a survey of public confidence which suggests that, with notable exceptions, this welcome extends to the general public:

> **"The survey found that the majority of people were willing to complain, [were] aware of the IPCC, and believed it to be independent of the police, impartial in its decision making, and fair in its treatment of complainants. However, it also emerged that there were a number of key groups who were either sceptical about the complaints system or disinclined to use it. These groups were ethnic minorities, those who had a previous negative experience of the police, those from socio-economic groups D and E, those who were less willing to complain in general, and to some extent young people."[66]**

9.38 The IPCC's monitoring role extends to the gathering of a range of performance data from police forces, data that should be available for the first time in mid-2006. The opportunity to set standards in terms of data gathering is a positive move that will permit forces to be benchmarked against each other. The publication of this data is eagerly awaited.

9.39 The IPCC has, among its other achievements, driven improvements in timeliness, notably in the investigation of deaths during or following police contact.[67] Its role is expanding to include oversight of complaints against the Serious Organised Crime Agency and HM Revenue and Customs. The overarching 'guardianship' principles are explained in the first chapter of the IPCC's statutory guidance, and although the elements are clearly set out it is obvious that the IPCC is still developing aspects of its oversight that entail (briefly) the promotion of learning, the development of a police complaints good practice system, the implementation of guidance and the development of the monitoring and oversight functions so as to add value to policing.

9.40 There have been individual examples where learning from serious incidents has been identified and fed back to police forces. Furthermore, the Commission has assisted Centrex in devising a training package for custody staff in a bid to reduce the number of deaths in police custody.[68]

9.41 Police practitioners and senior managers are widely appreciative and supportive of the core beliefs espoused by the IPCC and its general duty to increase confidence in the complaints system. Many have said that it is still early days and that relationships are

[66] *Confidence in the Police Complaints System: A Survey of the General Population*, Maria Docking and Tom Bucke, IPCC Research and Statistics Series, Paper 2, January 2006.

[67] *Deaths During or Following Police Contact: Statistics for England and Wales 2004/05*, Rebecca Teers and Tom Bucke, IPCC Research and Statistics Series, Paper 1, November 2005. Available in PDF form at www.ipcc.gov.uk/index/resources/research/reports_polcustody.htm

[68] *Guidance on the Safer Detention and Handling of Persons in Police Custody*, Association of Chief Police Officers (ACPO), Home Office and Centrex, 2006.

developing. It is clear, though, that the regional commissioners are actively engaging with their forces and that open and constructive dialogue prevails. Some senior police managers have called for greater clarity and guidance on standards that, once fully implemented, will support reliable benchmarking.

9.42 The 'early days' syndrome referred to above has manifested itself in some mixed messages and issues such as delays. It is also too early to tell how the IPCC's statutory guidance will contribute to improvements in outcomes.

9.43 A number of PSD leads and chief officers have raised concerns that the IPCC's level of oversight is inconsistent. They gave examples of cases where the head of the PSD expected a decision from the IPCC that it would 'supervise' an enquiry, but a decision had come back that the enquiry would be 'managed'.[69] They also quoted examples of a complaint that the head of the PSD deemed serious enough to be a 'managed' investigation being, to their surprise, deemed a 'supervised' investigation:

> **"Some [complaint investigations] are supervised when they should be managed and some are managed when they should be supervised."**
>
> **Head of a PSD**

9.44 Concerns were also raised among practitioners at the mixed messages coming from IPCC caseworkers, who they felt were causing more work than was required in terms of a proportionate response, which overall the IPCC claims to support:

> **"The IPCC appeals system needs to be streamlined because of the length of time it takes for them to finalise appeals. This relates to the lengthy reports required before the IPCC would consider the appeal. We also get frustrated at disproportionate requests to take statements which duplicate evidence. They have also on occasion demanded statements from people who were not mentally fit or appropriate to give them."**
>
> **Investigator focus group in a metropolitan force**

9.45 Other issues relate to the necessary change of mindset among police professionals in response to the Police Reform Act 2002, the new complaints ethos and the messages from the Taylor, Morris and Commission for Racial Equality reports. These early relationship issues have also resulted in some tension, exacerbated perhaps by a lack of understanding among some police.

[69] The term 'managed investigation' describes one that is carried out by the police but under the direction and control of the IPCC. A 'supervised investigation' is one carried out by the police but supervised by the IPCC.

**Case study: Difficulties in relationship between police and the IPCC**

In one force a staff member made the comment, "The force view and the IPCC view is not always the same." This had led, the staff felt, to extra and unnecessary work. One example they cited concerned a complaint from a persistent complainer. In their view it would have been normal for this not to have been recorded as a complaint. They complained that the IPCC had insisted that it be recorded as a complaint and that an assessment be made. They blamed this requirement for an increased workload. This example clearly indicates that staff in the force concerned had not grasped the change of ethos promoted by the IPCC, in that all complaints must be recorded, then an assessment made and, if necessary, a dispensation[70] sought.

*Liaison at strategic levels*

9.46 There is generally a good relationship between police authorities' professional standards committees, forces' PSDs, staff associations and the IPCC. Police authority members generally meet with heads of PSDs at quarterly meetings and have further informal contact when issues arise. The IPPC's regional director attends some of these meetings.

**Good practice**

**Norfolk Constabulary** is forging a strong relationship with the IPCC, particularly the regional commissioner, who attends meetings with the assistant chief constable and PSD staff. The IPCC is also routinely given advance warning of emerging issues, which demonstrates the force's appreciation of the IPCC as an agent beneficial to professional standards. This example typified the positive relations identified during the HMIC inspection.

9.47 External oversight in the form of independent and experienced senior investigating officers attending at the scene of deaths following or during police contact has proved to be useful. This early engagement with forces after these tragic events provides the opportunity for independent advice and guidance, if appropriate, to staff on the ground or staff who are managing the post-incident investigation. Geography has, however, proved to be a challenge in terms of timeliness of attendance at scenes, as the IPCC seeks to meet its 24-hour call-out standard. The benefit of this oversight facility can also be reduced by delays in decisions by the IPCC as

[70] A dispensation is an exemption, granted by the IPCC to a force, from the need to take further action or any action at all about a complaint.

to whether incidents will be independently investigated, managed or supervised. This has caused much frustration for police investigators, especially in terms of media handling.

*Liaison at a tactical level*

9.48 Both the IPCC and forces are keen to achieve efficiencies and time savings by not undertaking lengthy investigations or producing large files of evidence simply to achieve either a dispensation or a discontinuance.[71] However, there are regular reports of mismatches between what some practitioners and caseworkers consider sufficient – this is a frustration that needs local resolution through better awareness of each other's expectations and a joint recognition of the impact of such outcomes on complainants.

9.49 Delays are also an issue cited by some PSD practitioners. Some delays are believed to be resource-related, but others are perhaps more avoidable. A case in point is the delays built into processes such as the agreement to discontinue cases. An example is where forces send in files seeking discontinuance that clearly state the steps taken to get to the point where it was clear that this was a sensible solution. It has been found that caseworkers will then often duplicate the work undertaken, by writing to complainants and verifying the assertions of the force's PSD. This can result in a delay of as much as a month and also has the potential to damage the reputation of the police force concerned by raising doubts in the mind of complainants that perhaps more could have been done.

9.50 Tensions between practitioners and guardians of the police complaints system are inevitable – and many would agree that these are not only necessary but healthy. But there is also a developing spirit of cooperation; and as the IPCC evolves and continues to grow there is every reason to expect that the confidence of the public will grow as a result. The IPCC is actively engaged with other stakeholders in the 'post-Taylor' work to revise the misconduct arrangements for police officers and police staff, and is moving to implement a more progressive model to ensure that lessons are learnt from police complaints.

9.51 The IPCC has also recently installed a case-tracking management system that allows far greater transparency as to its own performance and will assist both the IPCC and forces in identifying and addressing blockages or causes of delay.

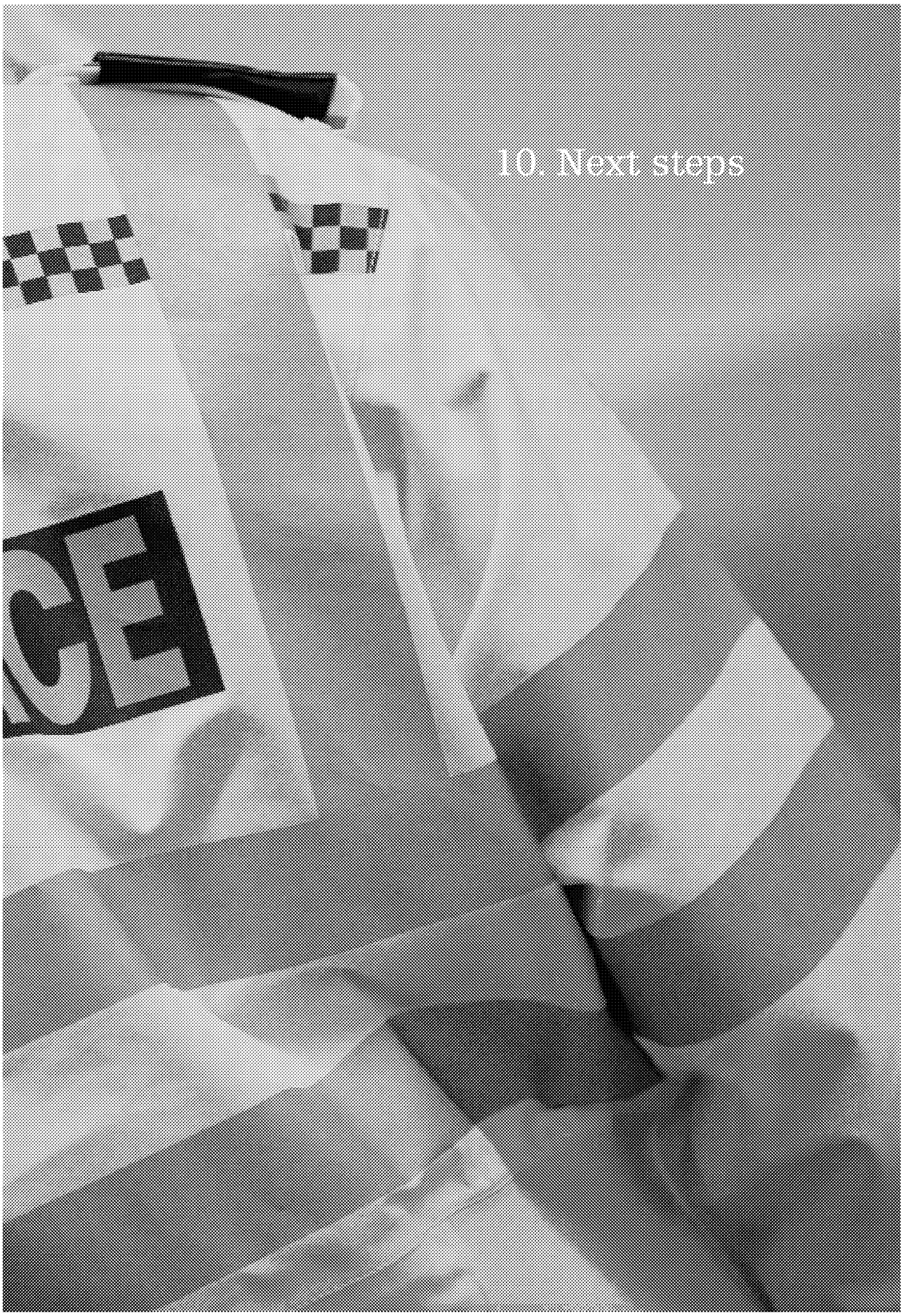
[71] A discontinuance is the stopping of an investigation once it is already under way.

**Conclusion**

9.52 The parties involved in corporate governance of the police complaints system have demonstrated excellent and mature relationships that have permitted critical challenge as well as support for modernisation following the enactment of the Police Reform Act 2002. All have been – and continue to be – active participants in the work of the strategic reviews mentioned above and the working groups that are now taking this modernisation agenda forward.

9.53 From the point of view of police forces, oversight and inspection can be more of a burden than a boon, and it is acknowledged by all parties involved, including HMIC, that every effort must be made to minimise this burden and to ensure that every element of oversight or inspection adds value to the service under scrutiny.

9.54 Collaborative work is ongoing between the IPCC, the APA, the Association of Chief Police Officers and HMIC to update and coordinate the various sets of individual organisational guidance. It is important that the resulting documents are complementary and fully clarify the respective roles of those engaged in this crowded landscape.



# 10. Next steps

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**Introduction**

10.1 The professional standards landscape has had a particularly high profile in recent years, not least because of a succession of public inquiries and media revelations. When HMIC commenced this substantial programme of inspections in 2005, there were many who said the timing was all wrong. Some felt it should have waited until such changes as will emerge from the Independent Police Complaints Commission (IPCC) statutory guidance, and inquiry recommendations have had the chance to become embedded; others suggested it should follow the completion of other police reform elements, such as neighbourhood policing teams; and yet more felt it could distract attention and resources from the restructuring of the Police Service and the focus on level 2 capacity and capability.

10.2 It is easy to see how any one, or combination, of these views could hold sway and result in the reduction of effort in a single functional policing activity, to the benefit of other functions or activities risk-assessed as more important to the strategic health or progress of the Service as a whole. However, HMIC is strongly of the opinion that to do so in respect of professional standards would be both conceptually wrong and indeed detrimental to the very services that would be expected to benefit from the focus of attention. As other key stakeholders have recognised:

> **"Professional standards is about more than how complaints are handled, it is at the core of the way police forces ensure public confidence to deliver the current policing agenda, which includes neighbourhood policing and citizen focus."**
>
> **Deputy Chief Constable David Lindley, Vice Chair of the ACPO Professional Standards Committee**

10.3 Professional standards activities are absolutely key in maintaining and improving performance delivery of core policing services and to protecting and enhancing the integrity and reputation of the Service as a whole. Far from reducing focus and resourcing in this important area, there is a strong case for increased activity and, in particular, an increased emphasis on prevention and proactivity and recognition of professional standards as a genuine 'protective service'. As such, the future emphasis needs to reflect the importance of:

- **intelligence** – what a force knows about the health of professional standards;

- **prevention** – how a force improves standards and prevents abuse and misconduct; and
- **enforcement** – effectiveness in identifying and dealing with emerging problems.

10.4 In addition, the subject is one where there are legitimate and indeed important contributions to be made by all the key stakeholders – chief officers, police authorities, the Home Office, IPCC and HMIC. Each have independent strands of work in progress that should contribute to the necessary improvements to the systems for professional standards. It is important, therefore, at a time of high activity and multiple potential distractions, for all parties to collaborate to ensure synergy rather than counter-productivity in their efforts.

**Strategic planning and structures**

10.5 The ACPO PSC (Association of Chief Police Officers Professional Standards Committee) has commissioned a working group to produce a definition of 'professional standards' and present the Service with proposals for a strategic template and structure for future operations. The work is seeking to take account of the progress of police reform and restructuring as well as adopting a 'protective service' perspective.

10.6 The early terms of reference of the group include to:

- define professional standards as the eighth protective service;
- populate the role of a strategic professional standards department in relation to capacity and capability;
- examine the impact of the Taylor report on professional standards;
- identify both core and peripheral roles in the light of the Taylor recommendations – areas of business and responsibility;
- examine the impact on the role of human resources;
- examine the impact on the role of the basic command unit; and
- identify considerations for partnership working ie with the Crown Prosecution Service (CPS), IPCC, communities, independent advisory groups and staff associations and networks.

10.7 HMIC fully supports this work and commends the progress made in the first half of 2006. Membership of the group has, perhaps understandably in its early stage, been predominantly made up from the police and HMIC; once the internal consultation has been supported via the national professional standards conference debate in June 2006, there is a clear opportunity, as suggested in the last term of reference, to involve a wider membership and thereby achieve greater sign-up to the proposals. HMIC remains committed

to contributing to this work, which will be vital to the establishment of standard structures, definitions and strategic objectives for the Service.

10.8 In addition to the ACPO PSC, the IPCC and the Association of Police Authorities (APA) both have long-standing strategic groups that will provide key inputs to the future shape and direction of professional standards. The IPCC Advisory Group provides a genuine forum for discussion with key stakeholders on the performance and activities of the IPCC as an organisation and its impact on the practice of professional standards. The APA Professional Standards Network brings together representatives from every police force in England and Wales to discuss key issues, update on overall progress and highlight good practice, and this represents a major opportunity to consolidate and standardise authorities' approaches.

**Guidance documents**

10.9 In parallel with the finalisation of the findings of the thematic inspection, both the IPCC and the APA have been considering the current and future form and content of their respective guidance documents. Although different in nature and legal status, the work of the thematic has provided both material for consideration and a framework and timeline within which to progress the work.

10.10 The IPCC statutory guidance was issued in August 2005 but understandably it has taken time for forces to embed its principles and adopt practices that meet its aims. The inspection of forces in October and November 2005 was too soon after publication to assess the degree or consistency of take-up of the principles, and the inherent 'standards' were, in any case, not brought into effect until April 2006. Work will be required at some stage to make an assessment of progress against the guidance and standards but it will probably be better achieved through some form of self-assessment supported by validation and focused testing. HMIC is committed to providing what assistance it can to the IPCC in deciding how and when best to make such an assessment.

10.11 The APA guidance to police authority members, while non-statutory, will be equally important in achieving a far greater degree of consistency of approach than currently exists. A redrafted version of this guidance is already progressing and has been considered and debated at the APA Professional Standards Network. Again, HMIC is keen to provide as much support to this work as possible and to contribute any relevant information from the work of the thematic inspection.

10.12 A core 'guide' to forces will be the HMIC baseline assessment Specific Grading Criteria (SGC). The SGC forms the focal point for all HMIC staff engaged in assessing the individual and comparative performance of forces against expected standards. Since 2004, the formulation of SGCs for individual policing service areas has moved from a wholly internal process of definition by HMIC, to a consultative exercise involving ACPO portfolio leads. In the case of professional standards, the work to provide a clear definition of what constitutes an *Excellent*, *Good*, *Fair* or *Poor* service is well under way, and forms an integral part of the work of the ACPO subgroup formulating the wider templates and definitions.

**Capacity and capability**

10.13 The work nationally on protective services and the subsequent progress towards strategic forces serve to reinforce the need within professional standards to address key issues of capacity, including the resourcing for wider proactivity – and capability – in particular the provision of accredited training and more structured career paths.

10.14 The general consensus appears to be that professional standards should be considered as the eighth protective service, and this is a view fully supported by HMIC and evidenced by the findings of the thematic inspection. The ACPO PSC working group is progressing on this basis and it is anticipated that this will be important work whatever the shape and size of police forces beyond the restructuring exercise.

10.15 This inspection has not attempted to identify the ideal size of a professional standards department (PSD) nor the acceptable or optimum proportion of resource that should be allocated within an overall force budget. This work will need to be addressed as part of the consideration of the strategic structure of PSDs and will also need to examine the internal proportional allocation to the key elements of intelligence, prevention and enforcement.

**Conclusion**

10.16 If the professional standards landscape was considered volatile and high profile at the commencement of the programme of HMIC inspections, little has happened since to reduce either aspect. In fact, the move to strategic forces, further media stories challenging Service members' integrity and the findings of this inspection have arguably combined to increase its profile.

10.17 As touched upon above, and in preceding chapters, there is a great deal of activity already under way to progress the Taylor recommendations, to examine and update current guidance, to address areas of overlap in oversight and to formulate the standardised structures and definitions that will be vital to achieving a sustainable framework within which to achieve the highest levels of professional standards as a central contributor to effective delivery of core policing business. It is absolutely vital that all this activity achieves a synergy rather than pulling in different directions and there is, therefore, a strong case for establishing a formalised structure to oversee and inform the various strands of activity.

10.18 In the case of previous major HMIC thematic inspections which have identified a need for a focused oversight of implementation, experience has shown the value of creation of a dedicated implementation forum at which representatives from the key stakeholders and working within the main strands of activity are able to meet, exchange details of progress and identify any barriers to progress. Without taking actual responsibility for existing work streams, nor duplicating or distracting from their work, such a group has the capacity to ensure all recommendations are progressed and that action in various areas remains complementary rather than counter-productive. See Appendix E.

**Recommendation 19**

ACPO, APA, IPCC, the Home Office and HMIC, as the key stakeholders in the implementation of this thematic's recommendations, should establish a dedicated implementation group to regularly review the progress of recommended action and address any barriers to implementation.

10.19 The format and membership of the PABEW working group progressing the Taylor recommendations provide a good template for implementation of this thematic's recommendations. There may be scope for consolidation of the two groups in due course.

# Appendices

# Appendix A: Taylor Review recommendations

The following six recommendations were made by the Taylor Review:

1 A new single code (incorporating ethics and conduct) should be produced to be a touchstone for individual behaviour and a clear indication of organisational and peer expectations. (Every effort should be made to make this code applicable to all police officers and staff – though there may need to be some differences). A possible code, which has been modelled on the Council of Europe Code of Ethics, is set out at appendix 'H' [of the Taylor Review].

2 Disciplinary arrangements should be established on the basis of the 13 key areas set out below. These key areas need to be seen as a whole as there is an obvious interdependence, and the impact of the proposals would be adversely influenced by inappropriate 'cherry picking' of the individual elements.

(i) The uniqueness of policing, the extraordinary powers of police officers and their role in society requires that, in the public interest, the disciplinary arrangements of police officers are most appropriately determined by Parliament after extensive consultation. Policing is an area that is too important to be left to the uncertainty of changes to and the case precedent decisions of mainstream 'employment law'. Conduct arrangements must be capable of control and shaping and this is best achieved by regulation. This will help secure a high level of democratic accountability, drive national consistency and, in the context of complaints by members of the public, ensure the system is citizen-focused.

(ii) Taking account of (i) above, the regulatory framework should be simple, minimal and meet the needs of modern policing by avoiding an overly legalistic or adversarial environment. It is accepted that the *ACAS Code of Practice on Disciplinary and Grievance Procedures* (September 2004) (hereafter shortened to ACAS code or model) should be the basis for the regulation. In this way the conduct arrangements can benefit from the experience of employment law and good employment relations practice, which touches on most people's life, but still be capable of management by Parliament in the public interest.

(iii) The intention is to encourage a culture of learning and development for individuals and/or the organisation. Sanction has a part, when circumstances require this, but improvement will always be an integral dimension of any outcome.

(iv) The language and environment for handling police discipline should be open and transparent. It should be much less quasi-judicial. Investigations need not be centred on the crime model, the style of hearing should be less adversarial and similarities with a 'military court marshal model' avoided.

(v) Initial reports (whether from members of the public or internally generated) must be formally 'assessed' with the full range of options available for responding. (For example, crime investigation, misconduct, gross misconduct, unsatisfactory performance, grievance and mediation.) While initial reports need to be formally assessed, they need not necessarily be dealt with by way of formal procedures. In some cases a simple apology may suffice.

(vi) Conduct issues should be separated into two distinct groups, namely 'misconduct' and 'gross misconduct' to promote proportionate handling, clarify the available outcomes and provide a better public understanding of the policing environment.

(vii) Conduct matters should be dealt with at the lowest possible line management level. Misconduct should not rise above basic command unit (or equivalent) level and gross misconduct should be reserved for the most serious behavioural issues. The latter are likely to be handled by professional standards departments.

(viii) Investigations and (where appropriate) hearings should be less formal and managed in a manner proportionate to the context and nature of the issue(s) at stake and in accordance with the ACAS code.

(ix) The appeal mechanisms (re-worked from the present) should be singular for the policing environment, including the capacity to consider the finding as well as the outcome. Job re-engagement should be a possibility. The experience of ACAS is to be harnessed in developing the mechanisms.

(x) The Police Service must manage the disciplinary arrangements dynamically and demonstrate this by actively engaging with all groups internally (including staff/staff support associations) to drive through the change to the internal culture of the organisation and promote the acceptance of responsibility at all levels of management.

(xi) In different but complementary ways, the Independent Police Complaints Commission (IPCC), police authorities and HMIC are the proactive guardians of public interest, accountability and transparency and must be robust in challenging poor practice and making change happen. Police authorities are accountable for local arrangements. HMIC examines national performance and the performance of individual forces. IPCC oversees the investigation of serious allegations and, in their guardianship role on complaints, are setting relevant standards eg on proportionate investigations. This role is likely to develop over time. Given the continued need for a regulatory framework the Home Secretary, advised by the Police Advisory Board for England and Wales (PABEW), will continue to set the standard for conduct of disciplinary proceedings.

(xii) For all parts of the process there should be designated time limits to which all parties must adhere – with consequences for unreasonable failure to do so. The details will need to reflect the different conduct environments and thus being too prescriptive is not realistic. However, it is important and necessary that timescales should exist in each case. This includes managing the absence through sickness of any of the key participants, and the ACAS model offers a handling methodology.

(xiii) Specific and further guidance is necessary to ensure that matters which are properly the domain of capability and performance are not inappropriately managed as matters of personal behaviour (ie misconduct). (Note, in the ACAS code that lack of ability rather than wilful conduct is the issue that would be referred to as a 'capability' matter whereas in the policing context it is more often referred to as a 'performance' matter. For this report they are usually interchangeable.)

3 Subject to any further Home Office consultation, a working group should be established to construct the detailed requirements for presentation to PABEW.

4 An early review of the unsatisfactory performance procedures should be instigated as they are a key part of the holistic management of public concerns about policing and the effective internal management of performance.

5 The disciplinary procedures under development by the Police Staff Council should be published as soon as possible in a drive to increase consistency both across police staff discipline arrangements nationally and with any revised arrangements for police officers.

6 Given that the approach to, and the processes for, police discipline will radically alter if the key proposals in this report are accepted, it is important that the issues of 'taint and disclosure' are reassessed.

**Benefits to derive from the Review recommendations**

It is the collective view of the programme board that changes to the present disciplinary procedures, in accordance with the six recommendations, will result in the following benefits and outcomes.

- Improvement in personal and professional standards – at an individual and an organisational level.
- Increased public and police (internal) confidence in the outcomes because they are quicker, more transparent and focused on modifying behaviour for the future.
- A proper balance between 'complainant' and officer interests where the rigours of policing are recognised and understood.
- A simplified process more likely to be understood and supported by the public.
- A reduction in the human and monetary costs associated with a lengthy and adversarial process.
- Greater management engagement and ownership in the process, supporting the modern police service in fostering innovation and promoting initiative.
- Promote decision making and responsibility at the lowest level of management, thus inhibiting the inappropriate upward referral of conduct issues which is debilitating for all parties and appears to have a particularly adverse impact on officers from black and ethnic minority backgrounds. Also, mediation has been shown to have a beneficial impact on the immediate parties involved but also on organisations.

# Appendix B: Objectives and terms of reference for the inspection

**Core inspection team membership**

Under the lead of HMI Jane Stichbury, the inspection team included Assistant Inspector Peter Todd, Superintendent Neville Pinkney, Superintendent John Sculthorp and Chief Superintendent Simon Martin, with administrative support from Inspection Support Manager Louise Ledger.

**Terms of reference**

Together with the key stakeholders in the inspection reference group, HMIC agreed the objectives for the inspection of professional standards as to:

- produce a comprehensive baseline assessment report and grading for all police forces in England and Wales;
- identify critical issues in professional standards within police forces to highlight performance trends in these areas;
- recognise examples of transferable good practice and barriers to good performance;
- produce a national report to inform stakeholders and to contribute to improvement of service delivery within professional standards; and
- comment on the respective management oversight and inspection roles of relevant bodies.

**Identifying thematic issues**

The main thrust of the thematic aspect of the inspection was to identify thematic issues, which according to key stakeholders were:

- accessibility to the complaints system, particularly in respect of groups such as people with a hearing or sight impairment and those with learning difficulties;
- inconsistency of service;
- proactivity in improving confidence in the complaints system to increase belief among the public and staff in the complaints process;
- early and ongoing assessment of complaints to ensure a proportionate and focused response that provides a timely and balanced outcome;
- learning the lessons inherent in trends in critical incidents and complaints and seeking continuous service improvement;
- the existence of robust and resilient proactive capabilities with adequate capacity and capability;

- establishing progress among forces against the recommendations of the Commission for Racial Equality, Morris and Taylor reports on discipline; and
- examination of consistency throughout forces in policy, practice and outcome of the discipline process.

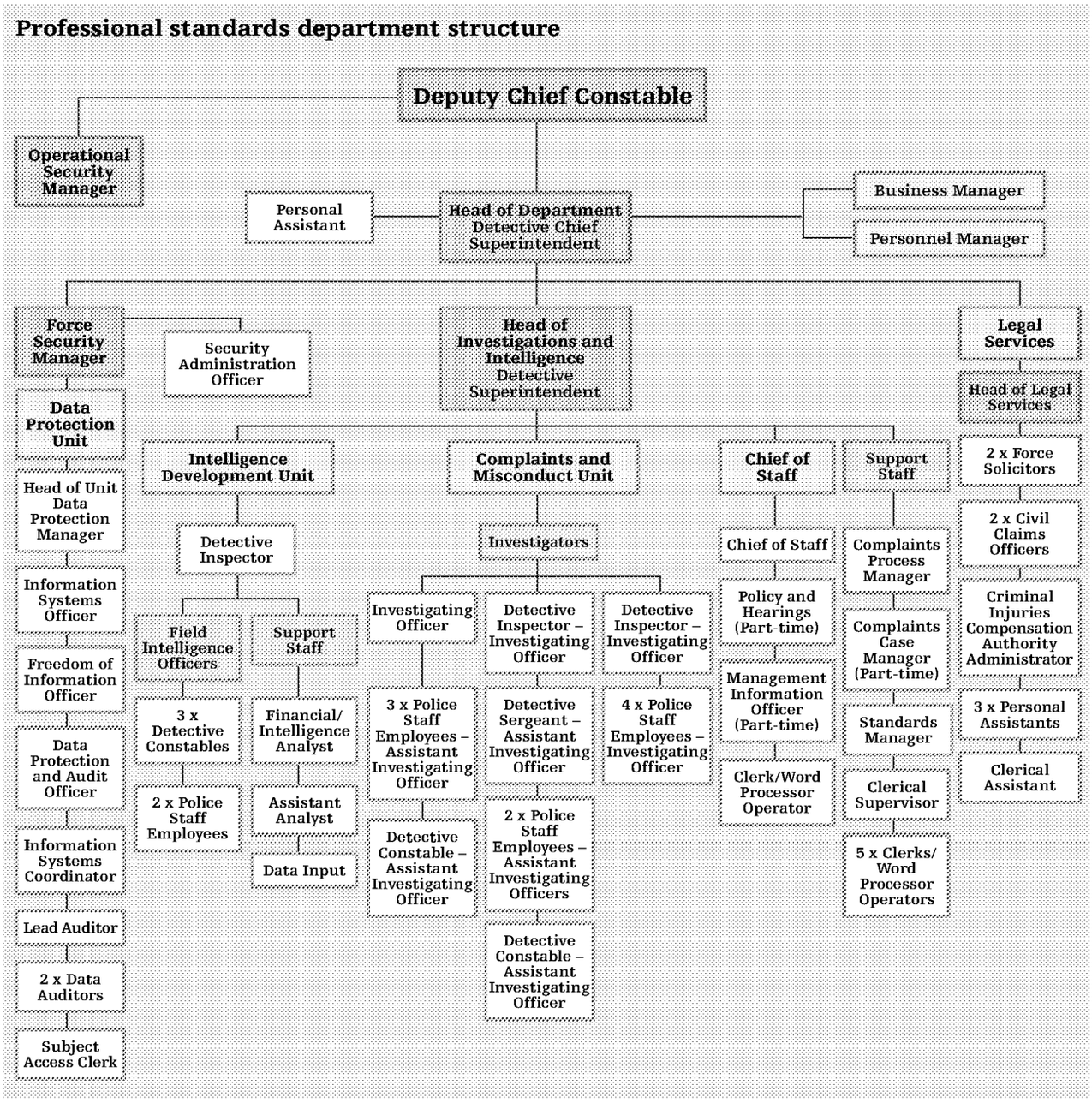
**Methodology**

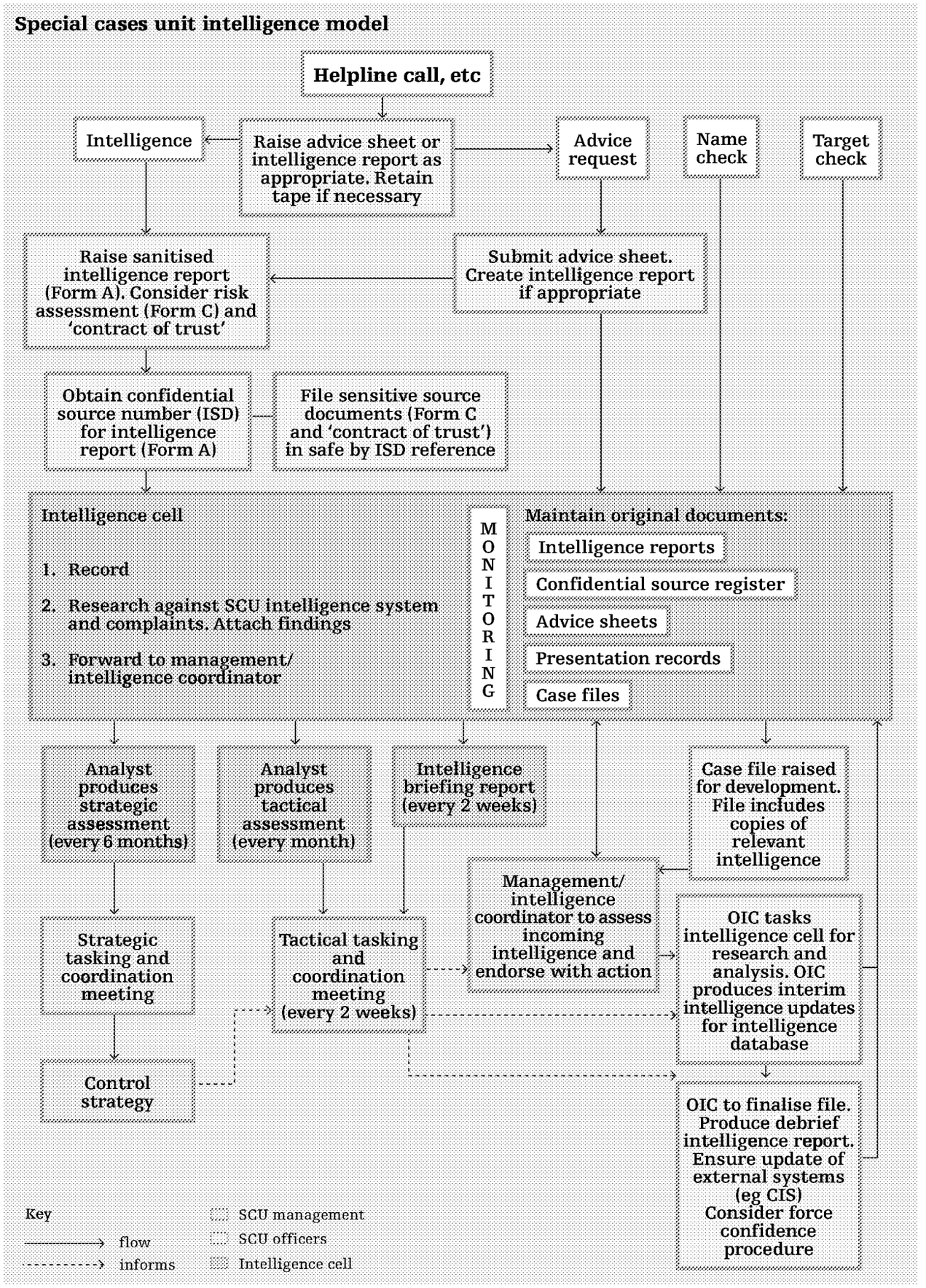
The inspection involved a comprehensive self-assessment questionnaire completed by forces, which was returned with supporting documentation. HMIC regional inspection teams then analysed the questionnaires and documentation, with support from specialist staff officers. The team's own detailed knowledge of the force, together with examination of the data received from the Independent Police Complaints Commission (IPCC) and interviews with the IPCC commissioners responsible for their respective forces, were then used to build a background picture of forces' performance. Fieldwork visits then took place, which for an average-sized force were about one week's duration. Visits involved interviews with key staff members such as the chief officer with responsibility for professional standards and the head of the professional standards department, focus groups, and interviews with police authority members with responsibility for overseeing complaints.

Data for all forces was gathered together on one database, from which the central specialist staff officers were able to draw out thematic issues and identify barriers to improving performance and examples of good practice. The individual baseline reports were also a fruitful source of information from which the team drew evidence.

In addition to the programme of interviews concerning professional standards conducted by regional teams, the central team interviewed representatives of national organisations with a stake in the business of professional standards, such as the Police Federation of England and Wales, the Superintendents' Association, the Gay Police Association, the Black Police Association, trade unions representing police support staff, UNISON and others, in order to identify key issues concerning national professional standards that affected their members.

# Appendix C: Professional standards department structure and special cases unit intelligence model





# Appendix D: The self-defined ethnicity code – 16+1

*Asian or Asian British*
- **A1** Indian
- **A2** Pakistani
- **A3** Bangladeshi
- **A9** Any other Asian background

*Black or Black British*
- **B1** Caribbean
- **B2** African
- **B9** Any other Black background

*Mixed*
- **M1** White and Black Caribbean
- **M2** White and Black African
- **M3** White and Asian
- **M9** Any other mixed background

*Chinese or other ethnic group*
- **O1** Chinese
- **O9** Any other ethnic group

*White*
- **W1** British
- **W2** Irish
- **W9** Any other White background

# Appendix E: Responsibility for recommendations

| No. | Chapter | Recommendation | Owner | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Home Office | ACPO | APA | Chief officers | HMIC | Supts' Assoc. | IPCC | Centrex |
| 1 | The structure of police professional standards<br>Page 42 | The Association of Chief Police Officers (ACPO) should lead a project to establish and promulgate a standard template for the structure, functions and terminology used within professional standards, having regard to, and in anticipation of, the restructuring of the Service into strategic police forces. | | x | | | | | | |
| 2 | The structure of police professional standards<br>Page 50 | All forces should embed the National Intelligence Model across every aspect of professional standards and have direct and robust links between professional standards departments and the core business processes of the force. | | | x | x | | | | |
| 3 | Complaints and misconduct<br>Page 69 | Chief officers should establish methods of testing processes, systems and staff, for example by using mystery shoppers, to ensure that they are able to record and process complaints against the police in a timely and efficient manner. | | | | x | | | | |
| 4 | Complaints and misconduct<br>Page 95 | Chief officers should review policy in relation to disciplinary sanctions and subsequent payment of competency-related threshold payments (CRTPs) and special priority payments (SPPs). They should ensure that the principles espoused in the Taylor Review are reflected in this policy and that disciplinary sanctions and the payment of CRTPs and SPPs are kept entirely separate. | | | | x | | | | |
| 5 | Anti-corruption<br>Page 108 | Strategic threat assessments, at both local and national levels, should be completed by all forces in accordance with the timescales and reporting periods set by the National Criminal Intelligence Service (NCIS) (or by NCIS's replacement, the Serious Organised Crime Agency). Assessments should draw on intelligence from, and subsequently inform, all the business areas within the professional standards environment, including complaints, civil actions, claims against the force, security issues and vetting. | | | | x | | | | |

| No. | Chapter | Recommendation | Owner | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Home Office | ACPO | APA | Chief officers | HMIC | Supts' Assoc. | IPCC | Centrex |
| 6 | Anti-corruption Page 111 | Subject to the findings from the pilot, Centrex,[72] in agreement with the ACPO PSC (ACPO's Counter-Corruption Advisory Group), should develop a nationally accredited course for anti-corruption staff to cover the skills areas specific to the role. | | x | | | | | | x |
| 7 | Anti-corruption Page 117 | ACPO and the Home Office should ensure that there is a coordinated approach to the ongoing research into the disproportionate number of investigations conducted into officers from black and ethnic minority backgrounds. | x | x | | | | | | |
| 8 | Anti-corruption Page 120 | Forces should cease to use executive authorities and – depending on the circumstances – either utilise the existing Regulation of Investigatory Powers Act 2000 (RIPA) legislation to authorise surveillance methods or use lawful business monitoring methods. | | | x | x | | | | |
| 9 | Anti-corruption Page 120 | Forces should apply the full effect of the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 to all monitoring or recording of transmissions on telecommunications systems used wholly or partly for Police Service business, unless authority for such action is granted by RIPA. | | | x | x | | | | |
| 10 | Anti-corruption Page 128 | Chief officers should review their operational security arrangements to guarantee that measures are in place to ensure the integrity and confidentiality of sensitive information and that operational security is thoroughly maintained. | | | | x | | | | |
| 11 | Anti-corruption Page 140 | Chief officers should carry out an analysis of current vetting structures within their force and, where gaps exist, move towards being fully compliant with ACPO's vetting policy no later than April 2007. | | | | x | | | | |

[72] Centrex – the Central Police Training and Development Authority.

| No. | Chapter | Recommendation | Owner | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Home Office | ACPO | APA | Chief officers | HMIC | Supts' Assoc. | IPCC | Centrex |
| 12 | Unsatisfactory performance, grievance, employment tribunals and civil actions Page 159 | The Home Office should determine a nationally agreed grievance procedure.[73] | x | | | | | | | |
| 13 | Welfare and support of staff Page 189 | Chief officers should review all forms used in misconduct proceedings and unsatisfactory performance procedures to ensure that they are fit for purpose, contain all the necessary information, and comply with employment legislation and police regulations. | | | | x | | | | |
| 14 | Welfare and support of staff Page 198 | The Police Superintendents' Association of England and Wales should, in collaboration with police forces, explore the option of introducing a cadre of retired superintendents whose services could be employed on a retainer basis as friends. | | | | x | | x | | |
| 15 | Welfare and support of staff Page 209 | Centrex should clarify its policies and procedures concerning seconded members and work to improve the information provided before induction and increase the level of awareness among staff of their personal and professional responsibilities following appointment. | | | | | | | | x |
| 16 | Welfare and support of staff Page 211 | The Home Office should review the legislation relating to officers on secondment to achieve transparency, clarity and consistency. Secondments should be subject to central registration and recording. | x | x | | | | | | x |

[73] This was also a recommendation in the Commission for Racial Equality report (recommendation 80).

| No. | Chapter | Recommendation | Owner | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Home Office | ACPO | APA | Chief officers | HMIC | Supts' Assoc. | IPCC | Centrex |
| 17 | Learning the lessons Page 226 | The Independent Police Complaints Commission (IPCC) should, in consultation with ACPO, the Home Office, the Association of Police Authorities (APA) and key stakeholders, agree a national standard for the recording of complaints and a programme of implementation and monitoring of compliance, without adding unnecessary layers of bureaucracy or other impediments to improving police performance. | x | x | x | | x | | x | |
| 18 | Learning the lessons Page 227 | ACPO should work in partnership with the IPCC, the APA, HMIC and other stakeholders in the design and implementation of a robust and transparent performance framework which is subject to routine internal and external oversight and monitoring. | | x | x | | x | | x | |
| 19 | Next steps Page 256 | ACPO, APA, IPCC, the Home Office and HMIC, as the key stakeholders in the implementation of this thematic's recommendations, should establish a dedicated implementation group to regularly review the progress of recommended action and address any barriers to implementation. | x | x | x | | x | | x | |

This report is available in alternative languages and formats on request.

Her Majesty's Inspectorate of Constabulary
Ashley House
2 Monck Street
London SW1P 2BQ

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