

# **Police and Crime Commissioners: a corrosive exercise of power which destabilises police accountability?**

Simon Cooper<sup>1</sup>

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Abstract

*This article explores data obtained through interviews with senior stakeholders in policing at a regional and national level, and relevant persons in Government. It focuses on a striking feature of the present structure of police accountability, namely that Police and Crime Commissioners [PCCs] are solely responsible for holding Chief Constables to account while also having the exclusive power to remove them from office. Removing a Chief Constable involves a PCC activating a hard mechanism of accountability and exercising a broad discretion as the PCC alone decides when to remove a Chief Constable. Referring to a number of recent reports and reviews, the discussion examines why this power is controversial. The interviews show the PCC's power to remove Chief Constables to be contentious. They also reveal two new, unforeseen and possibly corrosive impacts on police accountability. First, a probable instability in police leadership. Second, a possibility that Chief Constables could be abstaining from questioning and challenging PCCs and risk becoming beholden to their PCC. As well as posing prominent questions about the governance of policing through PCCs, these potential effects also suggest that the PCC's power to remove Chief Constables might unintentionally empower PCCs and displace Chief Constables.*

## **Introduction**

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<sup>1</sup> Lecturer, Essex Law School, University of Essex, Wivenhoe Park, Colchester, CO4 3SQ. Email: [sicoop@essex.ac.uk](mailto:sicoop@essex.ac.uk) The author wishes to thank the Editor and the anonymous board members for their comments on earlier drafts

Often interpreted as a piece of constitutional reform<sup>2</sup> embodying the Big Society ideologies of ‘devolution’ ‘localism’ and ‘redistribution of power,’<sup>3</sup> Police and Crime Commissioners [PCCs] are the first directly elected<sup>4</sup> and non-collective structure of police accountability in the history of modern policing. The first collective structures of police accountability were Watch Committees, introduced for municipal boroughs in 1835<sup>5</sup> and Standing Joint Committees, established for the later County police forces in 1888.<sup>6</sup> Following the recommendations of the Royal Commission in 1959, Police Authorities, another collective structure of police accountability, replaced Watch and Standing Joint Committees in 1964.<sup>7</sup>

Police Authorities completed the ‘tripartite’ model of police accountability, whereby responsibility for policing was shared between the Home Secretary, Chief Constable and the relevant Police Authority. The Home Secretary was made responsible to Parliament for the overall efficiency of the police service.<sup>8</sup> Chief Constables were responsible for operational effectiveness<sup>9</sup> and required to submit annual reports on policing to the Home Secretary<sup>10</sup> and the Police Authority.<sup>11</sup> Police Authorities in theory held Chief Constables to account, maintained an efficient police force for the area,<sup>12</sup> appointed the Chief Constable<sup>13</sup> and with the approval of the Home Secretary, called upon the Chief Constable to retire in the interests of efficiency.<sup>14</sup> However, Police Authorities were considered the weakest link and were widely condemned as ineffective, unwilling and ultimately a failure.<sup>15</sup> PCCs, described by the then

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<sup>2</sup> See for example (i) Loader, I, *Why do the police matter? Beyond the myth of crime-fighting* in J.M. Brown (ed) *The Future of Policing*, Routledge (2014) pg 48 (ii) Brain, T, *A Future for Policing in England and Wales*, Oxford University Press (2013) pg (s) 94, 100 (iii) Lister, S and Rowe, M, *Electing police and crime commissioners in England and Wales: prospecting for the democratisation of policing*, *Policing and Society* (2015) pg (s) 358, 359 and 360.

<sup>3</sup> See for example (i) *Building the Big Society* (2010) (ii) *Invitation to join the Government of Britain, The Conservative Manifesto* (2010). Hereafter cited as *The Conservative Manifesto 2010* (iii) *The Coalition: our programme for Government* (2010). Hereafter cited as *The Coalition: our programme for government* (iv) *The 2010 Comprehensive Spending Review*, HM Treasury.

<sup>4</sup> See s. 50 *Police Reform and Social Responsibility Act 2011* [PRSRA].

<sup>5</sup> See s. 76 *Municipal Corporations Act 1835*.

<sup>6</sup> See s. 9 (1) *Local Government Act 1888*.

<sup>7</sup> See s. 12 *Police Act 1964*.

<sup>8</sup> See s.28 *Police Act 1964*.

<sup>9</sup> See s. 5 *Police Act 1964*.

<sup>10</sup> See s.30 *Police Act 1964*.

<sup>11</sup> See s.12 *Police Act 1964*.

<sup>12</sup> See s. 4 (1) *Police Act 1964*.

<sup>13</sup> See s. 4 (2) *Police Act 1964*.

<sup>14</sup> See s. 5 (4) *Police Act 1964*.

<sup>15</sup> See for example (i) Lambert, L, *J Police Powers and Accountability*, London: Croom Helm (1986) pg 39 (ii) Graville, J, & Rogers, C, “Commissioning Accountability: change to governance and the police” *Police Journal* (2011) pg 320 (iii) Reiner, R, “Policing a Postmodern Society” *Modern Law Review* (1992) pg 761 (iv) Jones, T, & Newburn, T, Smith, D.J, *Democracy, the police and local accountability*, London: Policy Studies Institute (1994)

Policing and Criminal Justice Minister as “a landmark in the Government’s agenda to decentralise control and return power to the people”<sup>16</sup> and by the Home Secretary as “central to our proposals to replace bureaucratic accountability with democratic accountability,”<sup>17</sup> replaced Police Authorities in 2012<sup>18</sup> and the ‘tripartite’ model established by the Police Act 1964 disbanded.

Although the core functions of PCCs have been described as similar to their predecessor,<sup>19</sup> the most notable aspect of the new structure’s wide ranging governance and executive functions<sup>20</sup> is that PCCs are singularly responsible<sup>21</sup> for holding Chief Constables to account<sup>22</sup> while retaining the power to appoint,<sup>23</sup> suspend,<sup>24</sup> and remove<sup>25</sup> them from office in accordance with s. 38 PRSRA.

The s.38 power to remove Chief Constables from office has been identified as the most contentious of these powers by academics,<sup>26</sup> practitioners,<sup>27</sup> the House of Commons Home

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(v) The Scarman Report, *The Brixton Disorders*, Harmondsworth: Penguin (1981) (vi) Home Office Report 38/03, *Public Perceptions of Police Accountability and decision making* (2003) (vii) House of Commons Home Affairs Committee, *Policing: Police and Crime Commissioners* (2010).

<sup>16</sup> See Home Office Press Release, *New Act puts public at the heart of policing*, 15<sup>th</sup> September 2011.

<sup>17</sup> See *Policing in the 21<sup>st</sup> century, reconnecting police and the people: consultation* pg 22. Hereafter cited as *Policing in the 21<sup>st</sup> century*.

<sup>18</sup> See s.1 (9) PRSRA (2011).

<sup>19</sup> See for example (i) House of Commons Research Paper 12/73, *Police and Crime Commissioner Elections*, (2012) pg 2 (ii) House of Commons Standard Note (SN/HA/6014), *Police and Crime Commissioners*, pg 1.

<sup>20</sup> Examining all of the PCC’s functions and responsibilities is beyond the scope of this article, but see generally s. 1, 5, 6, 7 and 17 PRSRA 2011 and *The Policing Protocol Order 2011*, SI 2011/2744.

<sup>21</sup> Police Authorities were arguably constrained in their ability to arbitrarily remove a Chief Constable as the Home Secretary also had to consent to the removal, see s. 5 and 29 Police Act 1964 and s.11 Police Act 1996.

<sup>22</sup> See generally s. 1 (7) (a -b), s.1 (8) (a-h), s.11 PRSRA 2011 and *The Policing Protocol Order 2011*.

<sup>23</sup> See s.38 (1) PRSRA 2011 and s. 17 *The Policing Protocol Order 2011*.

<sup>24</sup> See s.38 (2) PRSRA 2011.

<sup>25</sup> See s.38 (3) and s.38 (4) PRSRA 2011 and s.17 *The Policing Protocol Order 2011*.

<sup>26</sup> See for example (i) Reiner, R, *Power to the people? A social democratic critique of the Coalition Government’s police reforms* in S. Lister and M. Rowe (eds) *Accountability of Policing*, Routledge (2016) pg 138 (ii) Loader, I, *Why do the police matter? Beyond the myth of crime-fighting* in J.M. Brown (ed) *The Future of Policing*, Routledge (2014) pg 41 (iii) Brain, T, *A Future for Policing in England and Wales*, Oxford University Press (2013) pg (s) 105, 106, 107 (iv) Caless, B and Owens, J *Police and Crime Commissioners The transformation of police accountability*, Policy Press (2016) pg (s) 82, 177 (v) Newburn, T, “Police and Crime Commissioners: The Americanization of policing or a very British reform?” *International Journal of Law, Crime and Justice* 40 (2012) pg (s) 39, 40, 43 (vi) Rogers, C, “The Commissioner cometh: The challenge for democratic policing in England and Wales” *International Journal of Law, Crime and Justice* (40) 2013 pg 138.

<sup>27</sup> See for example Association of Chief Police Officers [ACPO] *Response to Policing in the 21<sup>st</sup> Century: Reconnecting Police and Public* pg 11.

Affairs Committee [HASC]<sup>28</sup> and the Independent Police Commission [the Stevens Review].<sup>29</sup> In terms of removal powers, and in accordance with the PRSRA: ‘the PCC for a police area may call upon the Chief Constable of the police force for that police area to resign or retire.’<sup>30</sup> Further: ‘the Chief Constable must retire or resign if called upon to do so.’<sup>31</sup>

When this scenario arises, the Police and Crime Panel [PCP], a committee or joint committee of relevant local authorities charged and responsible for scrutinising, providing and maintaining a regular ‘check and balance’ on PCCs,<sup>32</sup> holds a scrutiny hearing which the PCC and Chief Constable are ‘entitled to attend for the purpose of making representations relating to the proposal to call upon the Chief Constable to retire or resign.’<sup>33</sup> After the scrutiny hearing, and in accordance with the Act, the PCC simply ‘considers the Panel’s recommendation’ and ultimately decides whether to ‘accept or reject it.’<sup>34</sup> Therefore, importantly, the role of the PCP appears to be purely advisory. In addition to holding a scrutiny hearing, the PCP can ask Her Majesty’s Inspector of Constabulary and Fire & Rescue Services [HMICFRS]<sup>35</sup> for a ‘professional view’ when a PCC decides to remove a Chief Constable.<sup>36</sup> However, notably, HMICFRS has only been consulted on one occasion since 2012.<sup>37</sup>

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<sup>28</sup> See (i) The House of Commons Home Affairs Committee, *Police and Crime Commissioners: Register of Interests, First Report of Session 2013 – 2014*. Hereafter cited as *Police and Crime Commissioners: Register of Interests* (ii) The House of Commons Home Affairs Committee, *Police and Crime Commissioners: power to remove Chief Constables, Sixth Report of Session 2013-2014*. Hereafter cited as *Police and Crime Commissioners: power to remove Chief Constables* (iii) The House of Commons Home Affairs Committee, *Police and Crime Commissioners: progress to date*. Hereafter cited as *Police and Crime Commissioners: progress to date* (iv) The House of Commons Home Affairs Committee, *Policing for the future, Tenth Report of Session 2017-2019*. Hereafter cited as *Policing for the future* (v) Written Submission from National Crime Agency, National Police Chiefs’ Council and the Metropolitan Police (PFF0021) (vi) The House of Commons Home Affairs Committee, *Oral evidence: Policing for the future*, Tuesday 19<sup>th</sup> June 2018, Qu 636. Hereafter cited as *Policing for the future, Oral Evidence*.

<sup>29</sup> Report of the Independent Police Commission, *Policing for a Better Britain*. Hereafter cited as the Stevens Review.

<sup>30</sup> See s. 38 (3) PRSRA 2011.

<sup>31</sup> See s.38 (4) PRSRA 2011.

<sup>32</sup> See s. 28 (2), s. 28 (6) PRSRA 2011 and s. 14 The Policing Protocol Order 2011.

<sup>33</sup> See s.15 (9) and Schedule 8, Part 2 PRSRA 2011.

<sup>34</sup> See s.16 (1) (a), (b) and Schedule 8, Part 2 PRSRA 2011.

<sup>35</sup> HMICFRS aims to promote improvements in policing and is responsible for independently assessing the effectiveness and efficiency of police forces, see <https://www.justiceinspectors.gov.uk/hmicfrs/> [Accessed 18<sup>th</sup> July 2018].

<sup>36</sup> See Schedule 8, Part 2, s.15 (4) (a) PRSRA 2011 and s.24 (c) Policing Protocol 2011.

<sup>37</sup> See ‘High Court judgment on David Crompton v Police and Crime Commissioner for South Yorkshire’ available at <https://www.justiceinspectors.gov.uk/hmicfrs/news/news-feed/high-court-judgment-on-david-crompton-v-pcc/> [Accessed 18<sup>th</sup> June 2018].

Removing a Chief Constable involves the PCC activating a hard mechanism of accountability.<sup>38</sup> Moreover, the statutory process a PCC uses demonstrates the exercise of discretion, defined as the power to make a choice between alternative causes of action or inaction.<sup>39</sup> Indeed, in accordance with their conferred statutory power, a ‘broad discretion’<sup>40</sup> and perceived “unfettered power”<sup>41</sup> appears to be exercised as the PCC alone decides when to remove a Chief Constable. This discretionary power is further evidenced as the PCC alone decides whether to accept or reject the PCP’s recommendation following the required scrutiny hearing.

The PCC’s s.38 power to remove Chief Constables has proved highly contentious. Within one year of the first cohort of PCCs being elected to office, the HASC referred to the power as “radical” arguing it was “operationally disruptive, and costly, and damaging to the police and individuals concerned.”<sup>42</sup> The HASC also asserted “it should not have come as any surprise that the election of Police and Crime Commissioners was followed by a number of high-profile clashes between Commissioners and Chief Constables.”<sup>43</sup> The HASC cited clashes between PCCs and Chief Constables in three police areas, namely Avon and Somerset, Lincolnshire, and Gwent.<sup>44</sup> The then Chief Constable of Avon and Somerset, Colin Port, refused to re-apply for his position after being told by the PCC that they wanted to recruit a new Chief Constable

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<sup>38</sup> See for example: Malleson, K, *The New Judiciary: the effects of expansion and activism*, Aldershot: Ashgate (1999) pg (s) 37, 39 and 41; Sengupta, A, “Judicial accountability: a taxonomy” *Public Law* (2014) at 253.

<sup>39</sup> See for example: Davis, K.C *Discretionary Justice: a preliminary inquiry*, Westport, Conn.: Greenwood Press (1969) pg 4 ; Dworkin, R, *Taking Right Seriously*, London: Bloomsbury (1977) pg 31 and Woolf, H, Jowell, J, Donnelly, C, Hare, I, *De Smith’s Judicial Review*, Sweet & Maxwell, Eighth Edition (2018) pg 247.

<sup>40</sup> See: Dworkin, R, *Taking Right Seriously*, London: Bloomsbury (1977) pg (s) 31 to 39 and Sunstein M, *Ground for Judicial Review: Illegality in the Strict Sense in D. Feldman* (ed) *English Public Law*, Oxford University Press (2004) pg 717.

<sup>41</sup> See *Police and Crime Commissioners: power to remove Chief Constables*, Home Affairs Select Committee: Evidence, Carmel Napier, Former Chief Constable for Gwent, EV 9 Qu 85.

<sup>42</sup> See: *Police and Crime Commissioners: Register of Interests* pg 4; *Police and Crime Commissioners: power to remove Chief Constables* pg 4.

<sup>43</sup> *Police and Crime Commissioners: power to remove Chief Constables* pg 5.

<sup>44</sup> Further, see the resignation of the Chief Constable of Gloucestershire, Tony Melville, see ‘Chief Constables resigns over grave concerns about elected Commissioners’ available at <https://www.telegraph.co.uk/news/uknews/law-and-order/9232361/Chief-constable-resigns-over-grave-concerns-about-elected-commissioners.html> [Accessed 16th May 2018]. See also the early retirement of the Chief Constable of Suffolk, Simon Ash, see ‘Suffolk Police Chief Constable Simon Ash to retire’ available at <http://www.bbc.co.uk/news/uk-england-suffolk-20461742> [Accessed 16th May 2018] and the 2017 removal of the Chief Constable of South Yorkshire Police, David Crompton, see ‘Ex-South Yorkshire Police Chief: I was stabbed in the back’ available at <http://www.bbc.co.uk/news/uk-england-south-yorkshire-40299745> [Accessed 23rd May 2018] and ‘South Yorkshire chief constable’s resignation-call unlawful’ available at <http://www.bbc.co.uk/news/uk-england-south-yorkshire-40219092> [Accessed 23rd May 2018] appear to demonstrate the ongoing nature of clashes between PCC and Chief Constable.

to cover their entire tenure<sup>45</sup> while the Chief Constable of Lincolnshire, Neil Rhodes, was suspended by the PCC.<sup>46</sup> The suspension was reviewed and referred to as a “near nuclear option”<sup>47</sup> in the High Court when the Lincolnshire PCC’s actions were judged “unlawful, irrational and perverse.”<sup>48</sup> Accordingly the suspension was quashed and Rhodes was re-instated as Chief Constable. Additionally, the headline grabbing clash between the Chief Constable and PCC of Gwent demonstrates the practical power and authority of PCCs.<sup>49</sup> Indeed, the then recently deposed Chief Constable, Carmel Napier,<sup>50</sup> stated:

“PCCs [have] unfettered powers to appoint, suspend, and remove Chief Constables. Therefore no matter what process I went through with the Police and Crime Panel, the outcome would be the same because the PCC is the ultimate decision-maker.”<sup>51</sup>

The HASC concluded its 2013 report in strong terms, declaring the reasons given by PCCs for removing Chief Constables had “so far been unpersuasive.”<sup>52</sup> Furthermore, the HASC stated “it is very easy for a PCC to remove a Chief Constable ... the statutory process provides little safeguard since there is nobody – not the Police and Crime Panel, not even the Home Secretary herself – can over-rule a Commissioner who has set his face to dismissing a Chief Constable.”<sup>53</sup>

Published the same year, the Stevens Review also recognised the PCC’s s.38 power to remove Chief Constables as controversial. Although of questionable political independence,<sup>54</sup> Stevens

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<sup>45</sup> See statement, Office of Avon and Somerset PCC: Chief Constable, Avon & Somerset Police and Crime Commissioner, 22 November 2012 available at <https://www.avonandsomerset-pcc.gov.uk/ARCHIVE-2012-April-2016/News-and-Events-2012-Apr-2016/News-archive-2012/Statement-Chief-Constable.aspx> [Accessed 30th July 2018].

<sup>46</sup> *The Queen on the Application of Rhodes v Police and Crime Commissioner for Lincolnshire*, [2013] EWHC 1009 (Admin).

<sup>47</sup> [2013] EWHC 1009 para 59.

<sup>48</sup> [2013] EWHC 1009 para 114.

<sup>49</sup> See (i) BBC News, 2<sup>nd</sup> July 2013, ‘Ian Johnston: Carmel Napier did not accept PCC’s role’ available at <http://www.bbc.co.uk/news/av/uk-wales-23147339/ian-johnston-carmel-napier-did-not-accept-pcc-s-role> [Accessed 11th May 2018] and (ii) BBC News, 2<sup>nd</sup> July 2013, ‘Carmel Napier bullied into retiring’ available at <http://www.bbc.co.uk/news/av/uk-wales-23154307/carmel-napier-says-she-was-bullied-into-leaving-gwent-police> [Accessed 11th May 2018].

<sup>50</sup> In a prepared statement the PCC of Gwent argued that the Chief Constable had poor management styles and was openly opposed to the very concept of PCCs, see *Police and Crime Commissioners: power to remove Chief Constables* pg 4.

<sup>51</sup> See fn 41.

<sup>52</sup> *Police and Crime Commissioners: power to remove Chief Constables* pg 5.

<sup>53</sup> *Police and Crime Commissioners: power to remove Chief Constables* pg 6.

<sup>54</sup> the Stevens review was relied upon by the Labour Party in their 2015 election manifesto see *Britain Can Be Better, The Labour Party Manifesto* pg 52 (2015).

concluded that giving PCCs the power to remove Chief Constables risked undermining the relationship between the two and “exerting a damaging chilling effect over the leadership of the police service.”<sup>55</sup> Just six months later, the HASC re-examined the relationship between PCC and Chief Constable in their 2014 ‘progress review.’ Although the relationship was described “a key aspect of the new governance model for policing” the HASC acknowledged it had attracted concern since its formation, particularly where it had “broken down.”<sup>56</sup> The Government’s response was presented to Parliament in December 2014.<sup>57</sup> The Home Secretary addressed specifically the PCC’s power to remove Chief Constables, insisting:

“It is entirely a matter for PCCs ... the Government does not consider any centralised control or guidance appropriate.”<sup>58</sup>

The PCC’s s.38 power to remove Chief Constables is clearly contentious and problematic. In practice, it appears capable of being exercised without an effective ‘check and balance’ and could, possibly, be abused. Exploring this power and assessing its impact on police accountability were important questions asked by a qualitative study involving interviews with a selection of the most senior stakeholders in policing, and relevant persons in Government. After summarising this study’s methodology, the new, unforeseen, and possibly corrosive impacts this research reveals are examined.

## **Methodology**

Interviews with senior officials<sup>59</sup> at the ‘top’ of the stratification system,<sup>60</sup> (defined as “elite research interviews”) were conducted with Chief Constables, PCCs and PCPs across five police test areas. Four measures were used to select test areas. First, test areas were differentiated as urban or rural.<sup>61</sup> Secondly, the size of population of the policed area.<sup>62</sup> Thirdly, whether the

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<sup>55</sup> Stevens Review pg 83.

<sup>56</sup> Police and Crime Commissioners: progress to date pg 21.

<sup>57</sup> The Government response to the Sixteenth Report from the Home Affairs Select Committee, *Police and Crime Commissioners: progress to date*. Hereafter cited as The Government’s Response.

<sup>58</sup> The Government’s response pg 14.

<sup>59</sup> Gillham, B, *Research Interviewing*, Open University Press (2005) pg 14.

<sup>60</sup> Victor, J, *The Sage dictionary of social research methods*, Sage Publications (2006) pg 85.

<sup>61</sup> See 2011 area classifications available at

<http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/geography/products/area-classifications/ns-area-classifications/ns-2011-area-classifications/index.html> [Accessed 23rd May 2016].

<sup>62</sup> See Census data available at <https://www.ons.gov.uk/census/2011census/2011censusdata> [Accessed 24th March 2016].

PCC was associated with a political party.<sup>63</sup> Finally, the geographical position of the police test area. Due to limited financial means, selection was also based on a reasonable distance from the University of Essex. Therefore, importantly, five different police test areas were used in this qualitative study.

In addition to interviews with Chief Constables, PCCs and PCPs across five test areas interviews were conducted with, the person directly involved with introducing the present structure of police accountability and one of the most senior persons in policing at a national level. Therefore, in total, seventeen interviews were conducted.

Organisations such as the police are generally considered to be reluctant to grant access as they are subject to overwhelming requests and can sometimes see academic research as unproductive.<sup>64</sup> All interviews were conducted over a period of nine months from 2016 to 2017 and each lasted approximately ninety minutes. All were carried out face to face.<sup>65</sup> There were two main benefits to conducting interviews in person. First, interviewees were motivated to answer questions, and second, the interviews were more personal.<sup>66</sup> With prior permission all interviews were audio recorded on a digital audio recorder.

All interviews were semi structured<sup>67</sup> and open questions<sup>68</sup> used with topic areas identified, but not disclosed to interviewees in advance. Access to all interviewees was unrestricted and no restrictions were placed on the publication of findings.<sup>69</sup>

Due to the sensitive nature of this research all interviewees are anonymised. So, for example and where cited, data from the interview with the Chief Constable of Police Area E will be cited as Chief Constable E and data from the interview with the Police and Crime Commissioner of Police Area E will be cited as PCC E.<sup>70</sup> This method of citation by office and police area was used for all Chief Constables, PCCs and PCPs. Data from the interview with the person directly involved with introducing the present structure of police accountability will be cited as Person Y and interview data from one of the most senior persons in policing will be

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<sup>63</sup> See <http://www.apccs.police.uk/find-your-pcc/> [Accessed 19<sup>th</sup> May 2016].

<sup>64</sup> Bryman A, *Doing Research on Organisations* Routledge: Oxon (1998) pg 15.

<sup>65</sup> McNabb, D, *Research Methods for Political Science*, 2<sup>nd</sup> Edition, Armonk, N.Y (2010) pg 111.

<sup>66</sup> Chatterjee, C, *Methods of Research in Law*, 2<sup>nd</sup> Edition, London: Old Bailey Press (2000) pg 31.

<sup>67</sup> Beamer, G, 'Elite Interviews and State Politics Research' *State Politics and Policy Quarterly*, Vol 2, No.1 (Spring 2002) pg 86.

<sup>68</sup> See fn 66 pg 7.

<sup>69</sup> Burton, M, *Doing empirical research in D. Watkins and M. Burton (eds) Research Methods in Law*, Routledge (2013) pg 59.

<sup>70</sup> PCC A was the only research respondent who chose not to answer questions regarding the PCC's s.38 power.



cited as Person Z. Thus, all interviewees are quoted anonymously, in a gender neutral way and no further information is offered to avoid identification.<sup>71</sup>

This study does not purport to be nationally representative. However, rigorous analysis of data produced from in-depth interviews with Chief Constables, PCCs and PCPs across different and systematically selected police test areas provides important and indicative insights.<sup>72</sup> Moreover, given the integral influence of Person Y and Person Z, data produced from these in-depth interviews make a valuable contribution to this research field.

### **The PCC's vital yet corrosive power to remove Chief Constables**

The PCC's s.38 power to remove Chief Constables was argued to be imperative<sup>73</sup> by a number of influential reports,<sup>74</sup> the majority published by the Westminster think tank Policy Exchange.<sup>75</sup> The power was also underlined as essential to the role of PCC by Person Y. This interviewee highlighted that PCCs were given the power to remove Chief Constables, while also having sole responsibility for holding them to account, to ensure the PCC is answerable:

“There should be a consequence, if the PCC sets an objective and the Chief Constable completely ignores it, how can you have an elected representative go back to the people and say I knew what to do but he

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<sup>71</sup> Warren, C, and Karner, T, *Discovering Qualitative Methods*, Oxford University Press (2010) pg 38.

<sup>72</sup> Managing and analysing data had four phases. First, the manual transcription of data and the production of verbatim interview transcripts. Second, the identification of core themes using 'open coding.' Third, the incorporation of core themes and key quotes onto thematic charts using the framework analysis method. Finally, thematic charts were analysed and themes identified. The author invites further contact for a more detailed breakdown of how raw interview data was managed and analysed.

<sup>73</sup> See for example (i): *Going Local: Who should run Britain's Police?* Pg 60. Hereafter cited as *Going Local: Who should run Britain's Police?* (ii) *Fitting the bill: Local policing for the 21<sup>st</sup> century* pg 7. Hereafter cited as *Fitting the bill: Local policing for the 21<sup>st</sup> century* (iii) *Partners in Crime: Democratic Accountability and the Future of Local Policing* pg 6. Hereafter cited as *Partners in Crime: Democratic Accountability and the Future of Local Policing* (iv) *Power Down: A plan for a cheaper, more effective justice system* pg 12. Hereafter cited as *Power Down: A plan for a cheaper, more effective justice system*.

<sup>74</sup> In addition to Policy Exchange being credited as the first to seriously moot the idea of introducing an elected official to oversee policing [although arguably it was Jefferson and Grimshaw who were the first to suggest the model, see Jefferson, T & Grimshaw, R, *Controlling the Constable*, London: Federick Muller / The Cobden Trust, London (1984)], Policy Exchange reports found ongoing traction with the Conservative Party, see for example (i) the Speech by Shadow Home Secretary Oliver Letwin to the Conservative party conference (2003) (ii) The Conservative Election Manifesto 2005 pg 15 (iii) Speech by Shadow Home Secretary David Davis to the Conservative party conference (2004) (iv) Lecture by David Cameron to the Police Foundation (2006) (v) *Policing for the People*, Interim report of the Police Reform Taskforce (2007) pg (s) 23, 199 and 220 (vi) Speech by Chris Grayling 'Our plans for elected police Commissioners' (2009) (vii) The Conservative Manifesto 2010 pg 57 (viii) *Policing in the 21<sup>st</sup> Century* pg 3 (ix) *The Coalition: our programme for government* pg 13.

<sup>75</sup> Policy Exchange describes itself as the UK's leading think tank which develops and promotes new policy ideas which deliver better public services, see <https://policyexchange.org.uk/about-us/> [Accessed 1<sup>st</sup> May 2018].

didn't want to do it. The PCC has to have the power otherwise the PCC is not responsible." [Person Y]

Furthermore, this interviewee insisted PCCs must have the power to remove Chief Constables to ensure Chief Constables are encouraged to act, contending: "Police Authorities didn't give Chief Constables objectives and generally gingered them along." In addition to evidencing accountability's key facets of enforceability, sanctions and the possibility of being called to account,<sup>76</sup> this power was conceivably intended to be a mechanism of empowerment to embolden Chief Constables and also help PCCs hold Chief Constables to account:

"Empowering Chief Constables to do their job means holding them to account and that at the end of the day means firing them [Chief Constables] ... PCCs have a job to do, if they [PCCs] never fire Chief Constables they [PCCs] are not doing a good job." [Person Y]

Hence, it would seem PCCs were given the power to remove Chief Constables to ensure the PCC is both responsible and accountable.<sup>77</sup> Indeed, the power was described by the HASC as essential to the PCC's role as directly elected office-holders and vital to providing robust, critical challenge.<sup>78</sup>

However, and in furtherance of the risks reported by the HASC and Stevens, findings from these interviews suggest that the PCC's s. 38 power to remove Chief Constables may cause two new, unforeseen and possibly corrosive impacts on police accountability. First, a probable instability in police leadership. Secondly, the potential that Chief Constables could be abstaining from questioning and challenging PCCs and risk becoming inseparably connected to their PCC.

### **Is there an instability in police leadership?**

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<sup>76</sup> See for example: Schedler, A, in Schedler, A, Diamond, L, Plattner, M, (eds) *The Self Restraining State*, Boulder, Colo: Lynne Rienner Publishers (1999) pg 15; Sengupta, A, "Judicial accountability: a taxonomy" *Public Law* (2014) at 252 ; and, Mulgan, R, "Accountability: An Ever-expanding Concept?" *Public Administration*, Vol 78, No.3 (2000) pg 559.

<sup>77</sup> See for example: Onions, C.T (ed) *The Oxford Dictionary of English Etymology*, Oxford University Press (1966) pg (s) 8, 39; Day, P, Klein,R, *Accountabilities: five public services*, London: Tavistock (1987) pg (s) 4, 34, 37, 115; Sengupta, A, "Judicial accountability: a taxonomy" *Public Law* (2014) at 247 and 251; Chan, J, "Governing police practice: limits of the new accountability" *The British Journal of Sociology* (1999) pg 254; and, Barry R. Schlenker, Thomas W. Britt, John Pennington, Rodolfo Murphy, and Kevin Doherty "The Triangle Model of Responsibility" *Psychological Review* (1994), Vol. 101. No. 4. pg (s) 632 – 634.

<sup>78</sup> See *Police and Crime Commissioners: power to remove Chief Constables* pg 5.

The risk of volatility generated by the PCC's power to remove Chief Constables was emphasised by a number of PCCs, Chief Constables and Person Z. For example, PCC C asserted there has been a change:

“PCCs have changed police leadership. There has been a big change. The old-fashioned autocracy doesn't work ... too many Chief Constables thought they were the top of the tree, they [Chief Constables] need to get off their high horse.” [PCC C]

Further, PCC B contended PCCs are having a broader effect across police leadership as some senior police officers no longer have the desire to become a Chief Constable:

“In the public domain there have been lots of examples of PCCs and Chief Constables that don't get on. I know there are lots that don't aspire to be a Chief Constable now because they'll be tied to a PCC and they are not comfortable with that ... the introduction of PCCs has had a crescendo effect across police leadership.” [PCC B]

PCCs were also defined as a significant change to the governance of policing by PCC E and directly linked to the high turnover of Chief Constables:

“There has been a power shift, it's a significant change and it's no surprise that about half of the Chief Constables have gone.” [PCC E]

The significance of this change was also acknowledged by Person Z. Making the explicit connection between the s.38 procedure and the suggested current instability, this interviewee warned that Chief Constables are now constantly concerned that they will be removed from office:

“All Chiefs are too conscious about s.38, it is something in the back of Chief Constables' minds which it never used to be ... the relationship between Chiefs and the local accountability mechanism [the PCC] has been re-calibrated in a way which has the potential to destabilise leadership.” [Person Z]

While Person Z accepted that Chief Constables should of course not be immune from accountability, they considered the instability in police leadership to be a direct consequence of the PCC's ability to remove Chief Constables. The ability to capriciously remove Chief

Constables is also argued to have a collateral impact on the Police and the office of Chief Constable:

“I do fear that we might still or are in the process of bringing too much instability into the leadership of the [police] service. I don’t think that Chiefs should be bomb proof but if they’re constantly worried about s.38 I don’t think it’s good for the organisations they lead ... Chief Constables are internalising conflict and not sharing it because they don’t feel it would be wise to do so or feel able to do so.” [Person Z]

The current perception of instability caused by the PCC’s power to remove Chief Constables was also acknowledged by Chief Constable E. Ominously, this interviewee stressed that something as inconspicuous and unassuming as a difference of vision could now potentially lead to a Chief Constable being removed:

“If a PCC had a completely different vision to what I had as a Chief Constable then we’re not going to work too well together and one of us will end up going and it will be the Chief that gets the sack.” [Chief Constable E]

Discussing the ease with which PCCs are able to remove Chief Constables and their apparent sole responsibility for appointing a replacement,<sup>79</sup> one interviewee stressed that the newly appointed Chief Constable could be led to do exactly what the incumbent Chief Constable fundamentally failed to do, namely what the PCC wanted. Here, it was asserted that after removing a Chief Constable a PCC could:

“Appoint a bit of a puppet [Chief Constable] that does exactly what they [the PCC] want.” [Chief Constable E]

Importantly, the possibility that a PCC may adopt a self-serving appointment process after removing the incumbent Chief Constable was further contended as having the capacity to “de-stabilise the force and the leadership team” [Chief Constable E]. Additionally, the s.38 power the PCC uses to appoint a replacement Chief Constable was asserted to lack objective scrutiny

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<sup>79</sup> Although the PCP must be notified and can review, make a report, recommend and potentially veto [but by at least a two-thirds majority] who the PCC chooses to appoint as a Chief Constable, it appears that ultimately the PCC is responsible for appointing a new Chief Constable, see s.38 (1) PRSRA 2011, Schedule 8 Part 1 PRSRA 2011 and s. 24 (b) Policing Protocol 2011.

which may impede the ability of the PCC to be critical of the Chief Constable they chose to appoint:

“We need to have some objective level of scrutiny that ensures it’s the right people that are being selected and not the one that PCCs think is most easily managed. If a PCC appoints a Chief [Constable] and the Chief [Constable] is failing to deliver in some way it is quite difficult for the PCC to be critical of their own appointment.” [Chief Constable D]

On this basis, the PCC’s s.38 power to appoint a replacement Chief Constable may be as contentious as the power to remove, and further, may be seen to contribute to the probable instability in police leadership. Perhaps surprisingly, this has not been previously considered as the overriding focus of concern; reports and reviews have concentrated on the s.38 power to remove Chief Constables.<sup>80</sup> The impact of the PCC’s power to appoint a replacement Chief Constable of their choosing resonated with Person Z, who cautioned that the power gives the PCC the intrinsic ability to ‘steam roll’ the newly appointed Chief Constable:

“Of course, most Chiefs have now been appointed by the PCC. If someone appointed you it does put you in a slightly different relationship with them than if they inherited you.” [Person Z]

Whilst the contentious nature of the PCC’s s.38 power is well documented, this research unearths a probable instability in police leadership which conceivably leads to Chief Constables being concerned that they will be removed from office. Indeed, it appears that the metaphorical axe hanging over the head of a Chief Constable could swing into action for ostensibly modest reasons, which in turn, could lead to Chief Constables becoming risk averse in their day to day practice. In light of this, it appears prudent to question whether the PCC’s statutory power to remove Chief Constables achieves its intended empowering aims of emboldening Chief Constables and enabling PCCs to hold Chief Constables to account. While some might consider this issue too early to examine,<sup>81</sup> this research indicates the PCC’s s. 38

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<sup>80</sup> See Police and Crime Commissioners: Register of Interests. See also Police and Crime Commissioners: Power to remove Chief Constables; Police and Crime Commissioners: Progress to date; the Stevens Review.

<sup>81</sup> For example, in 2014 the HASC stated their report was to be considered a ‘progress review’ rather than a definitive assessment as it was too early to say whether the introduction of PCCs had been a success, see Police and Crime Commissioners: progress to date pg 24.

power to remove a Chief Constable may in practice be an instrument of deterrence which fails to encourage Chief Constables to act, and further, potentially, could disempower them.

Findings from interviews with some PCCs and some Chief Constables also reveal that perceptions of the calibre and experience of PCCs varies considerably. While some PCCs are identified as “value driven” and “well informed” [Chief Constable D] others are said to be “ill-equipped”, “ill-prepared” and “principally lack appropriate skills” [Chief Constable B]. Indeed, candidly, PCC D expressed concern that some PCCs are “completely useless.” Moreover, instead of “objectivity and clarity” [Chief Constable D], some are said to operate with the driving force of “arrogance” [Chief Constable C] “subjectivity, personality and ego” [Chief Constable E]. Placing these arguments within the context of the PCC being solely responsible for removing a Chief Constable, not only does it appear that a Chief Constable could be, or at least could be perceived to be, subject to the whims or mercy of the PCC; it seems that a Chief Constable could be removed by a PCC who might be inexperienced and unskilled. Certainly, it does seem perverse that a PCC elected with a small mandate,<sup>82</sup> whose office has been subject to relentless claims of a legitimacy crisis following expense revelations, allegations of cronyism and high profile dismissals,<sup>83</sup> has the conferred statutory power to activate a hard mechanism of accountability and impulsively remove a professional with the experience and knowledge of policing held by a Chief Constable.

The self-serving practice, detected in interview, which a PCC might adopt when appointing a new Chief Constable could be as contentious and damaging as the power to remove, and further, may contribute to the perceived risks of instability in police leadership this research identifies. Significantly, in a broader context, the PCC’s s.38 power could lead to a different

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<sup>82</sup> At the first PCC elections in 2012 just 15.1% of the electorate voted. The Electoral Commission described this “a concern for everyone who cares about democracy” see The Electoral Commission, Police and Crime Commissioner elections in England and Wales, Report on the administration of elections held on 15 November 2012 pg 5. See also Lister, S and Rowe, M, “Electing police and crime commissioners in England and Wales: prospecting for the democratisation of policing” *Policing and Society* (2015) pg 364.

<sup>83</sup> See for example: Loveday, B, “The Police and Crime Commissioner Elections” *Police Journal* (2012) at 183; Power Down: A plan for a cheaper, more effective justice system; Paris Brown: Kent youth PCC resigns after Twitter row’ available at <https://www.bbc.co.uk/news/uk-england-22083032> [Accessed 7th August 2018] Statement from South Yorkshire Police and Crime Commissioner, available at <http://www.southyorkshire-pcc.gov.uk/News-and-Events/News-Archive/2014/Statement-from-the-South-Yorkshire-Police-and-Crime-Commissioner.aspx> [Accessed 31st July 2018] ‘Under fire South Yorkshire police chief cancels public surgery’ available at <https://www.bbc.co.uk/news/uk-england-south-yorkshire-29064419> [Accessed 31st July 2018] ‘Rotherham abuse: ‘No confidence’ in PCC Shaun Wright’ available at <https://www.bbc.co.uk/news/uk-england-south-yorkshire-29157337> [Accessed 31st July 2018] ‘Rotherham child abuse: Claims ex-PCC Shaun Wright lied to MPs’ available at <https://www.bbc.co.uk/news/uk-england-south-yorkshire-38000830> [Accessed 31st July 2018].

and far more concerning relationship between PCC and Chief Constable than previously concluded by the HASC<sup>84</sup> as in addition to potentially steamrolling a Chief Constable, the PCC may become unintentionally and improperly empowered and displace the Chief Constable. This possible concern is explored in greater detail after examining whether Chief Constables are abstaining from questioning and challenging PCCs and risk becoming inseparably connected to their PCC.

### **Are Chief Constables developing a practice of abstention and becoming indebted to their PCC?**

The interviews conducted for this research find that some Chief Constables lack the ability to question and effectively challenge the PCC, based fundamentally on their fearing the possibility of removal from office:

“The problem you have is that Chief Constables are given a contract. [The PCC] and I have had some fairly major bust ups and difficult conversations but have I ever thought [the PCC] is now going to sack me? No, I haven’t, but I have had the courage to do it but I know some Chiefs won’t. Some Chiefs haven’t.” [Chief Constable B]

Therefore, it appears that individual Chief Constables may be abstaining from questioning and challenging the PCC due to being conscious of, and possibly subject to, removal. Asked whether this was the cause, Chief Constable’s B answer was emphatic: “Yes, absolutely.” The PCC’s statutory power to remove Chief Constables was also argued to inadvertently create a considerable imbalance and over-concentration of power,<sup>85</sup> which in practice, conceivably, fractures the basic tenets of governance and might lead a Chief Constable to become inextricably connected to the PCC:

“There is a very strong risk that Chiefs, rather than talking about the good of policing and the balance that needs to be there, will become beholden to PCCs if their contract is not going to get them to their

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<sup>84</sup> See fn 56.

<sup>85</sup> For example, Chief Constable C expressed concern at the considerable power of the PCC: “It really worries me about the huge amount of power that one individual [the PCC] has. There is a significant imbalance of power” and Chief Constable A warned: “All sorts of things could play out that could make Chief Constables vulnerable.”

retirement age. There is a lot of power in the hands of one person.”

[Chief Constable D]

The argument that Chief Constables could in practice be bound to their PCC was further acknowledged by Chief Constable E. Additionally, it was emphasised that Chief Constables could become subject to the PCC’s significant influence:

“There is a risk ... I am not at risk of being influenced by being told if you don’t do what you are told you will lose your job but there’s a risk of that in the future. Most Chief Constables are in the same position, there are a lot of Chiefs with a lot of service who say I will do the best I can but I am not going to be influenced by whether or not you are going to keep me working so that I can get my pension. As time goes on that is going to change, a lot of Chiefs will come in who will have to work for 3, 4, 5, 10 years. I think they will be influenced. If the [Police and Crime] Commissioner tries to influence me I have no axe hanging over my head but you’re going to have to be a very strong individual, a very strong leader with 27 years’ service with 3 years to go until you get your pension if you don’t do a certain thing you’re gone.” [Chief Constable E]

The current statutory framework was also highlighted as inflexible and one which principally lacks a safeguard. Indeed, it was warned that the difficulty faced when the need arose to remove a PCC, compared to the relative ease with which a Chief Constable can be removed, could lead to Chief Constables being subject to political pressure and PCCs acting with the dominant interest of self-service:

“Not only is it quite easy for a PCC to manage their Chief out if they don’t want them but it’s pretty difficult to manage a PCC out if they are not delivering what is required. That’s a pretty rigid model ... this needs to be looked at to make sure Chief Constables aren’t subject to unwarranted political pressure and that PCCs have an effective set of safeguards to ensure that they are delivering according to public need and not self-service.” [Chief Constable D]



The lack of safeguards was further observed by Person Z, highlighting that the PCC's s.38 power is currently not subject to restriction which in turn could induce a concerning level of insecurity amongst Chief Constables:

“I have never been happy about s.38. This requirement to call upon the Chief Constable to retire or resign, full stop. The old law use to be in the interests of efficiency. That's all gone, so there is no qualification. I am concerned Chief Constables are looking over their shoulder all the time.” [Person Z]

This research indicates the PCC's statutory power to remove Chief Constables could lead to Chief Constables abstaining from questioning and challenging the PCC. Further, Chief Constables may become subject to influence and be removed with ease should they fail to do what the PCC directs. The over-concentration of power in the hands of the PCC might also cause Chief Constables and PCCs to become inseparably connected while the current lack of safeguards, and the comparable ease with which a Chief Constable can be removed, could see Chief Constables being subject to unwarranted pressure and PCCs serving with self-interest.

In a broader context, these two potentially corrosive impacts raise prominent questions for police accountability and possibly the monocratic governance of policing through the PCC. The possible instability in police leadership and the possible practice of Chief Constables abstaining and becoming indebted to their PCC could also lead to the unintentional and improper empowerment of the PCC and the subsequent displacement of the Chief Constable. At the extremities, it may be that a PCC could command, overrule and potentially even control a Chief Constable. While it is essential to emphasise that this does currently appear to be isolated, some of the interviews conducted for this research signal that this possibility may already be a reality. For example, Person Y highlighted that a PCC has already become unintentionally empowered and displaced their Chief Constable. Therefore, in practice and further to possibly countering the role prescribed for PCCs in Parliament and statute,<sup>86</sup> it appears that the PCC commands, overrules and maybe controls the Chief Constable:

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<sup>86</sup> See HC Deb, 13 December 2010, vol 520, cols 712, s.2 PRSRA 2011 and s.9, 18, 22 and 37 Policing Protocol Order 2011.

“[The PCC] runs the police, [the PCC] hasn’t let the Chief [Constable] get on with it at all. That’s not what you want from a PCC. [The PCC] regards them self as the Chief of the Chief!” [Person Y]

Equally, Chief Constable D warned some PCCs mistakenly consider themselves the “senior” or “boss” of the Chief Constable. This interviewee also contended that the possible practice of PCCs superseding Chief Constables would lead to the office and profile of Chief Constables being corroded:

“Some [PCCs] feel that they are effectively the senior Chief Constable or the boss of the Chief Constable and that’s not the way the model was set up. They [PCCs] don’t have the background and history that many Chiefs bring ... the profile of Chiefs is being eroded.” [Chief Constable D]

Further, Chief Constables could be held to account crudely by their PCC. This possibility might also be a reality as a PCC appears to currently instruct their Chief Constable and subject them to disparaging personal criticism:

“[The PCC] is holding [Chief Constable X] to account in a shallow, hollow way. This should be a concern for any Chief Constable. [The PCC] is a dogmatic and bombastic bull ... [the PCC] seems to take pride in belittling the role of the Chief Constable ... you have got a very bright, informed Chief Constable who is trying to manage a whole range of things being personally vilified by [the PCC].” [Chief Constable D]

## **Conclusions**

As the first directly elected and non-collective structure, the creation of the PCC is an unusual change for police accountability and the governance of policing. The structure’s most striking and contentious feature is the PCC’s s.38 power to remove a Chief Constable from office. This power was considered imperative to the role of the PCC as an elected officer holder and vital to providing robust, critical challenge. When used, the power displays the practical application of a hard mechanism of accountability. Seemingly, this power was intended to be a mechanism of empowerment to encourage Chief Constables to act while enabling PCCs to hold them to account.

The power to remove a Chief Constable, however, comes with risks. It is undeniably controversial and an ongoing practical concern, as initially asserted by the HASC, then Stevens and illustrated by the headline grabbing clash in 2017 between the PCC and Chief Constable of South Yorkshire.

The research reported here suggests that the s.38 power may be having two potential corrosive effects. First, there is a real risk that it may lead to an instability in police leadership. Second, there is also a possibility that the power may be encouraging Chief Constables to develop a practice of abstention such that they may become indebted to their PCC. In such a situation there is a danger that rather than empowering Chief Constables the new structure will diminish the role of Chief Constables in ways that were neither intended nor desirable.

The practical impact of these effects on police accountability could be profound. In addition to the accountability of Chief Constables possibly failing to be independent from the PCC's direct control, a Chief Constable might be subject to the PCC's command and instruction. Moreover, the potentially unforeseen empowerment of the PCC could lead to Chief Constables being held to account crudely, subject to deriding criticism and maybe controlled. This research suggests this possibility may already be a reality. Although this research has scrutinised carefully the PCC's s.38 power, further research is needed to test whether the findings of this limited study are indeed matters of general concern. What is clear, however, is that there are significant risks that the new structure of police accountability is having potentially adverse effects on police governance.

Whilst the addictive pull of accountability is of course difficult if not impossible to resist, it does seem necessary to make the PCC's s.38 power subject to a more effective 'check and balance.' Certainly, the present safeguards provided by PCPs, and if consulted, HMICFRS, appear to be ineffective and in the case of the latter, underutilised. Notably, the diminishing role of the Home Office, evident by their hands-off approach to policing since the inception of PCCs in 2012, attracted strong criticism from the HASC in October 2018. Declaring it the lead department for policing, the Home Office was encouraged to demonstrate "more leadership" and "step up to the plate and play a much stronger role."<sup>87</sup> In addition to recommending that the Home Office "launch a transparent, root and branch review of policing" the HASC advised the Government to urgently review the relationship between Chief Constable and PCC.<sup>88</sup> Citing

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<sup>87</sup> See Policing for the future pg (s) 10, 74.

<sup>88</sup> See Policing for the future pg (s) 78, 104.

evidence given by policing's leaders and Her Majesty's Chief Inspector of Constabulary, a "greater churn" of Chief Constables was observed and it was hinted that the introduction, reputation and challenges associated with PCCs and their s.38 power might be the cause.<sup>89</sup>

Further to the HASC's concerns and recent recommendations, the findings of this research indicate that there is a case for a select committee inquiry to re-examine the PCC's power to remove a Chief Constable and address the impact of the PCC's power to appoint a replacement. Appraising these significant powers is important. Not only is this call timely in view of the recent recommendation that the Government urgently review and take action, but also necessary given the HASC's 2013 report was limited in scope and failed to address the effect of the PCC's power to appoint a Chief Constable.

A useful outcome of an inquiry along these lines could be to strengthen the role and powers of PCPs beyond their limited advisory capacity, doing so would enhance current safeguards and ensure the PCC's s.38 power is more effectively scrutinised. Further, introducing a code of practice and amending the Policing Protocol to encourage PCPs to proactively engage the 'professional view' of HMICFRS might guard against the possible arbitrary removal of Chief Constables. These recommendations may also help contain concerns that PCCs might become unintentionally empowered and displace Chief Constables.

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<sup>89</sup> See fn 28 (v) and Policing for the future, Oral Evidence, Sir Tom Winsor, Qu 636. See also Policing for the future pg (s) 68, 69.