

# Police relational accountabilities: The paralysis of police accountability?

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**Abstract** This article examines the new relational accountabilities of Chief Constables, Police, and Crime Commissioners (PCCs) and Police and Crime Panels (PCPs) in England and Wales. Referring to a number of recent reports and reviews, the discussion initially focuses on the effectiveness of these relationships and, in particular, the inefficiency of PCPs. Using new empirical data obtained through interviews with senior stakeholders in policing at regional and national levels, and relevant persons in Government, this research shows PCPs are impotent and ineffective. This article develops current understanding, showing that PCPs may cause a new unforeseen consequence. Namely, the exercise of accountability and the governance of policing may be unusually reactive to the ‘one-to-one’ accountability relationship between PCCs and Chief Constables. This research is all the more important in light of [Her Majesty’s Inspector of Constabulary and Fire & Rescue Services finding in 2021](#) that there is an ‘atmosphere of mistrust and fear’ between PCCs and Chief Constables and The Police Foundation reporting ‘a crisis of confidence’, recommending ‘root and branch reform’ ([Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services 2021](#)). Such recommendations are made to strengthen the exercise of accountability and the governance of policing. Specifically, the Home Secretary is encouraged to review [the Policing Protocol Order \(2011\)](#) and issue a Memorandum of Understanding to ensure ‘effective, constructive working relationships’ are not just a quixotic pursuit but a practical reality that safeguards the governance of policing.

## Introduction

This article examines the relational accountabilities introduced into the governance and accountability of policing in England and Wales by the Police Reform and Social Responsibility Act [[PRsRA \(2011\)](#)] and [the Policing Protocol Order \(2011\)](#), defined by The House of Commons Home Affairs Select Committee

(HASC) and the Government as the ‘statutory foundation’ of the relationship between PCCs and Chief Constables. The research presented here shows PCPs to be entirely impotent and infective. Moreover, the impotency and ineffectiveness of PCPs are argued to cause a new unforeseen consequence. Namely, for the first time in the history of modern policing,<sup>1</sup> the exercise of accountability and the governance of

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<sup>1</sup> Since the formation of modern policing by Sir Robert Peel in 1829 Chief Constables have been held to account by collective structures of police accountability, namely (i) Watch Committees, see s. 76 Municipal Corporations Act (1835). (ii) Standing Joint Committees, see s. 9 (1) Local Government Act (1888). (iii) Police Authorities, see s. 12 Police Act (1964). Therefore, PCCs are the first non-collective and directly elected structure of police accountability in the history of modern policing. For a detailed breakdown of these functions and responsibilities and how PCCs, PCPs, and Chief Constables should exercise them in relation to each other please see [The Police Reform and Social Responsibility Act, 2011](#), c.13 and [The Policing Protocol Order \(2011\)](#), SI 2011/2744.

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policing may be unusually reactive to the 'one-to-one' accountability relationship between PCCs and Chief Constables.

This research is all the more important in light of *Her Majesty's Inspector of Constabulary and Fire & Rescue Services (HMICFRS) finding in 2021* that there is an 'atmosphere of mistrust and fear' between PCCs and Chief Constables and The Police Foundation reporting 'a crisis of confidence', recommending 'root and branch reform' (*Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services 2021*).

This research makes recommendations to strengthen the exercise of accountability and the governance of policing. Specifically, the Home Secretary is encouraged to review *the Policing Protocol Order (2011)* and issue a Memorandum of Understanding to ensure 'effective, constructive working relationships' are not just a quixotic pursuit but a practical reality that safeguards the governance of policing.

Accountability seems to have a commonly understood meaning of answerability (*Onions, 1966; Day and Klein, 1987; Schlenker et al., 1994*). This traditional meaning appears to be present when one institution, person, or organization is answerable and gives accounts or explanations to another institution, person, or organization (*Day and Klein, 1987; Chan, 1999*). Being answerable and giving accounts or explanations have led some to define accountability as an explanative relational concept that can create a two-branch relationship (*Sengupta, 2014*). The first branch, usually defined as the accountor or governor, is vested with certain powers over which accountability is sought and is therefore asked to inform or explain decisions. The second branch, normatively defined as the accoun-tee or governed, owes accountability to the accountor or governor and must therefore explain or justify action or inaction (*Oliver, 2013*).

Examining the relational accountabilities of Chief Constables, PCCs, and PCPs is important as accountability has been consistently viewed by academics (*Reiner, 1992; Fyfe et al., 1997; Kirby, 2013*), practitioners (*Orde, 2012*), inquiries (*The Stephen Lawrence Inquiry, 1999*), and reviews (*A New Beginning, 1999; Review of Policing, 2008;*

*The Stevens Review, 2013*) as the very lifeblood of policing.

Questioning the impact of the new police relational accountabilities is also valuable as police accountability has been considered a contested territory and defined as a complex, elusive, and elastic concept lost in a complicated mesh of obligations and responsibilities. (*Lambert, 1986; McLaughlin, 2007; Brogden and Ellison, 2013; Jones and Lister, 2019*).

## Police relational accountabilities

The 'tripartite structure' of police accountability, whereby the governance of policing was until 2012 a responsibility shared between the Home Secretary, Chief Constable, and the relevant Police Authority, was disassembled by the *PRSR (2011)* following widespread criticism. The deficiencies of the tripartite structure were inflamed by the strong and persistent criticisms directed at Police Authorities, widely considered the weakest link. Analysts, such as Jones, Newburn, and Smith, asserted Police Authorities lacked expertise and were undermined by the Home Office (*Jones et al., 1994*). With parity, and conceivably at the expense of local accountability, Oliver underlined how the Home Office set the strategic direction for policing through the use of informal and bureaucratic Home Office circulars (*Oliver, 1997*). Police Authorities were also considered inherently weak and unable or unwilling to use their statutory power to hold Chief Constables to account (*Lambert, 1986*). Arguably, this was evidenced by Chief Constables failing to report regularly to Police Authorities and a failure of Police Authorities to use their power to call for reports from Chief Constables. Further, the annual reports that Chief Constables were required to provide to Police Authorities were considered a very weak form of accountability as no consultative duty was placed on Chief Constables. Such reports were considered an informative document but not a real mechanism that Police Authorities could use to hold Chief Constables to account. Ultimately, the failure of Police Authorities led some to conclude that Chief Constables were virtually autonomous (*Lambert, 1986*).

'Public Perceptions of Police Accountability' (*Home Office Report 38/02, 2003*) heaped further

criticism on Police Authorities, finding a very low level of democratic dialogue between the policed and their Police Authority. The Home Office also found that the majority of the public were sceptical as to whether Police Authorities were effective, largely because of their low public profile. Moreover, Jones and Newburn (2006) observed a notable decline in the popular legitimacy of the police, so crucial to public consent and compliance, and others suggested Police Authorities lacked any form of transparency and legitimacy (Graville and Rogers, 2011). Supporting this, it was highlighted that although members of Police Authorities were appointed representatives, the majority were not directly appointed by the public. Conceivably, this led Police Authorities to be invisible, which further eroded the public's disconnection with the police and increased the democratic deficit in police accountability.

The frailties of the tripartite structure combined with the repeated criticisms directed at Police Authorities led to the adoption of 'calculative and contractual' accountability (Reiner and Spencer, 1993) and New Public Management (NPM) in the 1990s (Brain, 2013). However, 'calculative and contractual' accountability and NPM were widely critiqued as speculative, unworkable, and ultimately unsuccessful.

The perceived failure of Police Authorities combined with the criticisms directed at the tripartite structure and the unsuccessful adoption of 'calculative and contractual' accountability and NPM propelled the perceived necessity for reform and the birth of PCCs in 2012 (Going Local, 2003; Fitting the bill, 2007; Policing for the People, 2007; Partners in Crime, 2009; Power Down, 2013).

Appearing to embody the ideologies of 'direct democracy', 'localism', and 'redistribution of power' (Carswell et al., 2005; Building the Big Society, 2010; HM Treasury Spending Review, 2010; The Coalition: our programme for Government, 2010; The Conservative Manifesto, 2010), the present structure of police accountability introduced wide-ranging and significant transformative

changes to the governance and accountability of policing in England and Wales. Indeed, the then Home Secretary described the establishment of PCCs as being 'the most radical reform to policing in at least 50 years' (Policing in the 21st Century, 2010).

In a move described by the HASC in 2019 to be contentious, the Home Secretary has retreated from day-to-day policing matters, leaving the responsibility for police governance and accountability between the PCC, PCP, and Chief Constable. Every PCC, PCP, and Chief Constable in each police area in England and Wales is required to have an 'effective, constructive working relationship.' Further to detailing these relational requirements, the PRSRA and the Policing Protocol set out the functions and accountability responsibilities of PCCs, PCPs, and Chief Constables and how they should be exercised.<sup>2</sup>

PCCs are required to secure the maintenance of the police force and ensure it is efficient and effective. In carrying out their functions, PCCs are required to have regard for the views of local people within their policing area. The PCC is also required to issue a Police and Crime Plan and keep it under review. The PCC's Police and Crime Plan sets out a number of matters including police and crime objectives and the means by which the performance of Chief Officers will be measured. In issuing their Police and Crime Plan, the PCC must have regard for any strategic policing requirement set by the Home Secretary. The Home Secretary can also give guidance to PCCs about the matters to be dealt with. In forming their Police and Crime Plan, the PCC is also required to take account of a number of issues including consultation with the Chief Constable, taking regard of any report or recommendation from the PCP and sending the draft Police and Crime Plan to the PCP. The PCC holds the Chief Constable to account, not only for the exercise of their functions but also for eight specified criteria including having regard to the PCC's Police and Crime Plan and the Strategic Policing Requirement. Notably, 77% of current PCCs across England and Wales are Conservatives (The House

<sup>2</sup> For a detailed breakdown of these functions and responsibilities and how PCCs, PCPs, and Chief Constables should exercise them in relation to each other, please see the [Police Reform and Social Responsibility Act, 2011](#), c.13 and [The Policing Protocol Order \(2011\)](#), SI 2011/2744.

of Commons Library, PCC Elections, 2021). Many may not have the background experience or skills to undertake such an important role. Further, many potentially could exercise a dominant political allegiance and influence (Bailey, 2015; Loveday, 2018).

Of the PCC's wide-ranging governance and administrative responsibilities, one of the most striking is that the PCC is solely responsible for holding the Chief Constable to account. The Policing Protocol makes clear this notable responsibility, stating PCCs have a 'statutory duty' and an 'electoral and democratic mandate' to hold Chief Constables to account. Therefore, in terms of the above-defined two-branch accountability relationship, PCCs are the accountors in a vital 'one-to-one' accountability relationship with Chief Constables, who in turn, are the accountees.

PCPs, seemingly an afterthought pushed by Liberal Democrat Coalition members onto their reluctant Conservative Coalition partners (The House of Commons Home Affairs Committee, 2014; Bailey, 2015; Loveday, 2018), are a committee or joint committee of relevant local authorities and a statutory requirement for each police area. PCPs have a pivotal role in the current model of police accountability; they are solely responsible for supporting, scrutinizing, providing, and maintaining a regular 'check and balance' on the PCC (Local Government Association, 2019). Indeed, outside the current 4-year election cycle, PCPs are exclusively responsible for holding PCCs to account. Therefore, PCPs are the accountor in their accountability relationship with PCCs, who in turn, are the accountee.

In addition to these important accountability responsibilities, PCPs are responsible for reviewing, making, and publishing reports. PCPs can also make recommendations to the PCC which the PCC must respond to. Additionally, PCPs review and veto the PCC's precept and certain senior appointments in the police. Furthermore, PCPs have the power to require the PCC's attendance in order 'to answer any questions which appear to the Panel to be necessary in order for it to carry out its functions'. This attendance power can also be extended to the Chief Constable, meaning Chief Constables can also be required to appear before the PCP to answer questions at the same time as the PCC. Moreover,

PCCs are required to provide PCPs with any information the PCP reasonably requires in order to carry out their functions in accordance with the Act. However, this requirement can be vetoed in certain circumstances including national security and the prevention or detection of crime. Finally, the PRSRA places an obligation on PCCs to provide their PCP with any other information considered appropriate.

The role of Chief Constables is largely unchanged, remaining in charge of 'operational policing'. However, for the first time, Chief Constables are accountable to a single and directly elected accountor: the PCC. Indeed, the Policing Protocol makes clear the Chief Constable's accountee responsibilities, stating: 'the accountability of the Chief Constable remains firmly to the PCC'.

Examining the practical impact of the new relational accountabilities of Chief Constables, PCCs and PCPs on the exercise of accountability and the governance of policing was an important question asked by this qualitative study.

After summarizing this study's methodology, PCPs are found by this research to be entirely impotent and ineffective. Moreover, this research finds the impotency and ineffectiveness of PCPs might cause a new unforeseen consequence. Namely, the exercise of accountability and the governance of policing may be unusually reactive to the 'one-to-one' accountability relationship between PCCs and Chief Constables.

## Methodology

Interviews with senior officials (Gillham, 2005) at the 'top' of the stratification system (Victor, 2006) (defined as 'elite research interviews') were conducted with Chief Constables, PCCs, and Chairs of PCPs across five police force areas. Three measures were used to select police force areas. First, police force areas were differentiated as urban or rural; second, the size of the population of the policed area; and third, whether the PCC was associated with a political party or whether they were an independent PCC. Therefore, importantly, five different police force areas were used in this qualitative study.

In addition to interviews with Chief Constables, PCCs, and PCPs across five police force areas

interviews were conducted with, a 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, 17 interviews were conducted.

Organizations such as the police are generally considered to be reluctant to grant access to researchers as they are subject to overwhelming requests and can sometimes see academic research as unproductive (Bryman, 1998). An important part of the successful recruitment procedure for this study was a personal approach and the identification of appropriate gatekeepers, defined as those who can grant or deny access (Warren and Karner, 2010). Thus, some letters of invitation were sent directly to contacts made during the course of this research while others were recruited by asking initial interviewees for recommendations or introductions to specific persons or bodies within the police force area and beyond: the snowball research approach (Webley, 2010).

All interviews were conducted over a period of 9 months from 2016 to 2017. Ethical approval was received, and each interview lasted approximately 90 min. All were carried out face to face (McNabb, 2010). There were two main benefits to conducting interviews in person. First, interviewees were motivated to answer questions, and second, the interviews were more personal (Chatterjee, 2000). With prior permission, all interviews were audio recorded.

All interviews were semi-structured (Beamer, 2002) and open questions were 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 (Burton, 2013).

Due to the sensitive nature of this research, all interviewees are anonymized with reference to each policing area by letter. This method of citation by office and police area was used for all Chief Constables, PCCs, and PCPs. Data from the interview with a 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 cited as Person Z. Thus, all interviewees are quoted anonymously, in a gender-neutral way and no

further information is offered to avoid identification (Warren and Karner, 2010).

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 (Ritchie et al., 2003). Finally, thematic charts were analysed and themes identified. The author invites further contact for a more detailed breakdown of how raw interview data were managed and analysed.

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 force areas provides important and indicative insights. 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 role of PCPs and their apparent ineffectiveness

PCPs have a critical role; they are solely responsible for supporting, scrutinizing, providing, and maintaining a regular 'check and balance' on PCCs. Notably, the Local Government Association and the Centre for Public Scrutiny have observed that PCPs are primarily a scrutiny body created to 'proactively scrutinize the PCC' (Local Government Association, 2019). The National Audit Office has also said that PCPs are 'the most important check in the accountability system' (National Audit Office, 2014).

Yet, given their key role, a number of reports and reviews have questioned the effectiveness of PCPs (The House of Commons Home Affairs Committee, 2014; Police Accountability: Landscape Review, 2014; Tone from the Top, 2015). Of particular note, the HASC in 2014 noted there was no national standard as to how PCPs work and warned that some struggled to understand their powers and role. Indeed, PCPs were highlighted as powerless and condemnably likened to 'crocodiles

with rubber teeth' ([The House of Commons Home Affairs Committee, 2014](#)). Despite the then Minister of State for Policing and Criminal Justice insisting that PCPs were 'developing a rhythm of being quite a good scrutiny mechanism over PCCs',<sup>3</sup> a number of recommendations were made to strengthen and develop the role of PCPs to help them exercise 'more proactive scrutiny'. The HASC also recommended that PCPs should conduct themselves 'less in the style of the former Police Authorities and operate more in the mode of Select Committees'.

The then Home Secretary presented the Government's response to the HASC's report to Parliament in December 2014 ([The Government response to the Sixteenth Report from the Home Affairs Select Committee 2014](#)). The Government argued that PCCs were held to account through a range of mechanisms including 'the ballot box' and operating in the 'full glare of the media'. The Government also highlighted the intended 'light touch' and 'vital role' PCPs perform in scrutinizing PCCs. Concluding, the current system of accountability provided by PCPs was argued to be 'effective' and the powers of PCPs were considered significant. Indeed, PCPs were encouraged to use their powers 'to ensure scrutiny was effective' ([Home Office, 2015](#)).

Following the HASC's progress review and the Government's response in 2014, the Committee on Standards in Public Life (CSPL) heaped further criticism on PCPs in 2015. In particular, the CSPL observed that PCPs lack diversity and skill and their dual statutory requirement to support and scrutinize the PCC was seen to create an inherent conflict. Significant risks, including insufficient challenge and scrutiny of PCCs' decisions, were highlighted and the CSPL warned PCCs were not subject to constructive challenge as the 'checks and balances' were wholly insufficient (Tone from the top, 2015). Concluding, it was made clear that PCCs must be subject to more effective day-to-day scrutiny; a more robust set of 'checks and balances' was

considered essential. The CSPL also urged that the accountability of PCCs be tested between elections and verified by independent scrutiny, with any failure addressed in a timely manner and with appropriate sanctions. Referring to the Home Office's argument that 'PCPs have a wide remit to review or scrutinize decisions made, or other actions taken, by the PCC' ([Home Office, 2015](#)), the CSPL did not recommend legislative change. Instead, and aligned with the 'Seven Principles of Public Life (The Nolan Principles)',<sup>4</sup> the CSPL proposed greater public emphasis on the PCCs declaration of office<sup>5</sup> and an Ethical Checklist supported by a common standard framework and a minimum code of conduct to give PCPs 'more leverage'.

The Government's response to the CSPL's report was presented to Parliament in November 2015. The Government addressed the recommendations, in turn, leaving the option of implementation to 'individual PCCs'. The need for urgent review was emphatically rejected and the Government re-asserted that current governance arrangements were 'effective'. The Government maintained that PCCs were subject to 'checks and balances' and scrutiny by PCPs. Indeed, the scrutiny of PCCs by PCPs was termed central to the PCC system as it underpinned 'the PCC's democratic accountability to the public' ([Home Office, 2015](#)).

Various authors have also highlighted how members of PCPs may lack time and resources to perform their roles. Further, some have questioned the effectiveness of PCPs, highlighting how PCPs may lack authority, might have limited power and could be considered ineffectual ([Chambers, 2014](#); [Lister, 2014](#); [Bailey, 2015](#); [Lister and Rowe, 2015](#); [Loveday, 2018](#)).

## Are PCPs ineffective?

Given their vital role and the initial concerns raised by the HASC, the CSPL, and authors to date, this

<sup>3</sup> Police and Crime Commissioners: progress to date, Oral Evidence, The Right Hon. Damian Green MP, Ev 105 Qu 696.

<sup>4</sup> The Seven Principles of Public Life, also known as the 'Nolan Principles', are the basis of the ethical standards expected of public office holders, see <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2> [Accessed 1 May 2022].

<sup>5</sup> The Police and Crime Commissioner Elections (Declaration of Acceptance of Office) Order (2012), SI 2012/2553.

study also examined the effectiveness of PCPs. The overwhelming view expressed by interviewees was that PCPs are entirely impotent and ineffective. This important finding is evident from interviews conducted with PCCs, Chief Constables, and, perhaps strikingly, PCPs. For example, PCC B asserted PCCs are simply not concerned or fearful of their PCP due to their lack of power which can lead PCCs to 'dominate' PCPs and give 'lip service'. It was also contended that PCPs fundamentally fail to understand their role:

The PCP doesn't really understand their role and what's expected of them. If you have a strong character as a PCC they can dominate the PCP. This affects police accountability. PCCs aren't concerned or fearful of their PCP in any way because PCCs know PCPs don't have any teeth. PCPs don't have any power so PCCs just play lip service. There needs to be a more robust process above PCPs otherwise you have no reassurance (PCC B).

Further to expressing surprise that the PCP fails to scrutinize their Police and Crime Plan, PCC A noted how PCPs have a potential starting point of weakness. It was argued that this not only creates difficulties but could also lead PCCs to be instinctively defensive:

What surprises me is that I would expect the PCP to take the Police and Crime Plan and scrutinise us on elements of it and work through it; What have you done on this? What are you doing on that? The PCP is a body that's set up to scrutinise, that's a really, really hard thing to do well. Also, it makes the PCC defensive, it creates a difficult environment (PCC A).

The possibility that PCCs could be unconcerned of their PCPs resonated with other research respondents. In addition to displaying a lack of respect for the statutory function of the PCP, PCC E stressed PCPs have no authority over PCCs describing the PCP as a 'blight' and 'pest':

The PCP are a blight on my landscape, a pest who frankly have no authority over me at all (PCC E).

The perceived frailties of the PCP were further highlighted by PCC D, insisting that there is simply no need for PCCs to take PCPs seriously. Further, and in a possible contradiction to Parliament's very intention, PCC D acknowledged that they actually help the PCP perform their statutory duty of holding them to account. In strong terms, it was also questioned if PCCs should be answerable to PCPs given PCCs are ultimately accountable to the electorate:

PCCs don't need to take PCPs seriously. I have had to make all the running in enabling the PCP in holding me to account. I help the PCP scrutinise me. I could walk rings around them but I have chosen not to. There's a very strong argument to say why PCCs should be accountable to a PCP who look just like the old Police Authority. My mandate is from the people who elected me so sod the PCP, I'll be answerable to the electorate! (PCC D).

The impotency and ineffectiveness of PCPs were reinforced by PCP B. In a frank exercise of self-assessment, it was conceded that PCPs are powerless, and they currently fail to effectively scrutinize and therefore provide the intended and essential 'check and balance' on PCCs:

We can't hold the PCC properly to account. The veto is not a veto, to describe it as a veto is to reinvent the word. We are toothless. We do the best we can with the powers we have. We can require the PCC to answer questions but have no sanctions if the answer is self-evidently inadequate (PCP B).

Advancing this, PCP E insisted PCPs are unable to effectively scrutinize the PCC due to their lack of sanctioning power. While acknowledging that it is a weak form of sanction, yet the strongest currently available, it was emphasized that the only sanctioning power available to PCPs was to publicly

shame PCCs. In addition to hinting that current governance arrangements may lead PCCs to be unaccountable between elections, it was also argued that PCPs could be an abhorrent structure that's resented by PCCs:

We have very few powers. Once we have scrutinised we can do little or nothing with the results, we can express a view or call for further reports but that's about it. We've got no sanctions, we've no one further to report to. The only power is to show the PCC up in public. That is a weak form of sanction but it's the strongest weapon we've got. PCPs can't do anything, there are no checks and balances at all. No one can stop the PCC internally. The PCC resents the PCP. The PCC views the PCP as an unnecessary after thought (PCP E).

It was also emphasized that the limited power of PCPs may mean PCCs lack a 'check and balance' and external sanction:

I just don't think there is enough of a check and balance on the PCC. The PCP are strictly limited to what they can achieve. There should be some form of overarching executive authority over PCCs. There is a lack of external sanction. Once a PCC always a PCC! (PCP E).

The ineffectiveness of PCPs was also acknowledged by a number of Chief Constables. For example, Chief Constable E agreed the current impotency of PCPs could lead PCCs to give lip service to PCPs. Additionally, this interviewee warned that the impuissant nature of PCPs means PCCs can in reality walk away from the body charged by statute to scrutinize them knowing PCPs are insignificant:

My PCC views the PCP as a pain in the back side, they can't harm the PCC, they can't cause the PCC any aggravation, they can't get rid of the PCC. Therefore, its lip service. PCPs are toothless. The most PCPs can do is shout and scream, make the PCC look embarrassed, give the PCC some poor media publicity

but the reality is that the PCC can walk away from the PCP and say they don't matter (Chief Constable E).

Chief Constable B also recognized the impotency of PCPs, stating the reality is that the PCC can simply ignore the PCP:

The PCP have no teeth and they should have teeth. The PCP don't have any remit. They could say we have no confidence in the PCC and the PCC could turn around and say 'Yeah OK, Next' which doesn't feel right. There needs to be some form of bolstering the power of the PCP otherwise what's the point in having them (Chief Constable B).

PCPs were also condemned by Chief Constable C and considered to be entirely unnecessary, highlighting how PCPs add nothing to the governance of policing as they fail to scrutinize PCCs, leading to a possible conclusion that PCCs are 'unchallengeable' and 'uncensored' between elections:

There is no point in a PCP, they add no value at all to governance in the Police. What I need as a Chief Constable is a PCP that did have the ability to robustly challenge the PCC, not ask questions and make recommendations. PCPs result in no additional scrutiny at all. We must ensure PCPs do have a legislated ability to be able to robustly hold the PCC to account. PCCs are unchallengeable and uncensored up to the point of the next election (Chief Constable C).

This argument was also acknowledged by Chief Constable D, observing the ineffectiveness of PCPs means PCCs are currently not effectively exposed to accountability. In a broader context, it was also highlighted how current governance arrangements lack clarity, could be inconsistently exercised and may even impact the governance of policing:

PCPs are not effective in exposing the strengths and weaknesses of the accountability of PCCs. PCPs lack



judgement. Who is the PCC responsible to and how do we ensure that the standards are being maintained consistently throughout and there is some type of consequence should PCCs fall short. This should be a natural part of any governance process. When we are protecting something as precious as the governance of policing it has to be clear, and it has to be solid. Currently, it lacks rigour, it lacks clarity (Chief Constable D).

Findings from these interviews develop the observations made by the HASC, the CSPL, and authors to date as PCPs are seen to be entirely impotent and ineffective. PCCs state they are unconcerned, unafraid, and give PCPs lip service safe in the knowledge that the PCP is an unnecessary and toothless entity with no power. Indeed, PCC E apologetically described the PCP 'a blight' and 'a pest who frankly have no authority' while PCC D highlighted that PCCs don't need to take PCPs seriously and PCC B asserted PCCs can in reality dominate PCPs.

These research interviews also show that PCPs may currently fail to understand their role and further to presenting themselves as an entity which the PCC 'resents' and 'views as an unnecessary after thought', PCPs acknowledge that they are unable to scrutinize the PCC as they possess no sanctioning power. Indeed, PCP E described ominously how PCPs are powerless contending there are no checks and balances and no one can stop the PCC. PCPs may currently fail to hold PCCs to account, leading PCP E to candidly conclude 'once a PCC always a PCC'.

Reinforcing these concerns, Chief Constables highlight how PCPs are ineffective and add no value to the governance of policing, resulting in PCCs being perceived by research respondents as unchallengeable, uncensored, and unaccountable between elections. Further, Chief Constables considered PCPs toothless meaning in practice PCCs can give lip service, ignore, and walk away from PCPs. This argument was also acknowledged softly by Person Y, admitting: 'in between elections every four years there is a problem, that is a weakness.' This research

also finds the governance arrangements introduced by the PRSRA and Policing Protocol may lack consistency, clarity, and consequence.

Therefore, this research suggests that PCPs could be fulfilling nothing more than a symbolic function as they may not be discharging their scrutiny role. If PCCs are not benefiting from scrutiny by PCPs, there may indeed be limited accountability of PCCs between elections as current governance arrangements make PCPs exclusively responsible for scrutinizing and providing the coveted 'check and balance on the PCC'.

Importantly, this research also finds that the impotency and ineffectiveness of PCPs may cause a new unforeseen consequence. Namely, for the first time in the history of modern policing, the exercise of accountability and the governance of policing could be unusually reactive to the 'one-to-one' accountability relationship between PCCs and Chief Constables. This new, unforeseen risk is now examined.

### **Is the exercise of police accountability and the governance of policing unusually reactive to the 'one-to-one' accountability relationship between PCCs and Chief Constable?**

This research develops the CSPL's observation in 2015 that 'the personal dynamic between PCC and Chief Constable could impact on accountability' finding the exercise of police accountability and the governance of policing may currently be unduly reactive to the influence of the 'one-to-one' accountability relationship between PCCs and Chief Constables. Therefore, this research suggests the impact of the 'one to one' on the accountability and governance of policing may be far greater than previously thought.

This new finding is evident from the interviews conducted for this research with a number of PCCs, Chief Constables, PCPs, and Person Z. For example, Chief Constable B argued police accountability is overly reactive to the accountability relationship between PCC and Chief Constable, pin-pointing ineffective PCPs as the cause. The 'one to one' was also defined by this research respondent as

absolutely critical and a relationship that in practice can be both productive and destructive:

I am concerned that an organisation's future could be absolutely reliant upon how the PCC and the Chief Constable get on. That's not right. If there's a major falling out between the PCC and Chief Constable it's the organisation that then suffers. The relationship between the PCC and the Chief Constable is absolutely critical. PCPs are toothless. They have no remit. A lot will depend on who your PCC is. There are some parts of the Country where you could put a blue or red rosette on a donkey, and they'd get elected as the PCC! (Chief Constable B).

This interviewee also stressed that they considered themselves privileged and lucky, warning that the reality in some police areas is that some Chief Constables have 'awful' relationships with their PCCs:

Chief Constables around the country are not in the privileged position that I've been in. I am one of the luckier ones. I know some of my colleagues have awful relationships with their PCCs, incredibly difficult. The relationship between the PCC and the Chief Constable is incredibly important, the relationship between the two is absolutely critical (Chief Constable B).

The possibility that the exercise of police accountability may be overly reactive to the relationship between PCC and Chief Constable was further acknowledged by PCC A. This research respondent considered the relationship all-encompassing yet, perhaps concerningly, open to and conditional on the PCC and Chief Constable being able and willing to form a good accountability relationship, thereby avoiding a potentially deleterious one:

Everything is about relationships. At the moment there is a lot of willingness to have good relationships. What we can't have is one of those relationships

where you have sniping and warfare. If you have that all that happens is that everybody in both organisations tries to find a way through, everyone gets by-passed and nothing sensible gets done so we will not have that in [this police area] (PCC A).

PCC B also recognized how police accountability might currently be overly reactive to the 'one-to-one' relationship, insisting that while it shouldn't be, in reality it is. Further, the exercise of accountability was argued to be contingent on, and therefore unduly subject to, the influence of the PCCs or Chief Constables strength of character:

A lot depends on the individual and how strong they are ... police accountability comes down to the relationship and character of the people involved. Ultimately police accountability is about the relationship between Chief Constable and PCC (PCC B).

With parity, PCC E considered police accountability to be overly reactive to the accountability relationship between PCC and Chief Constable:

Police accountability has to be dependent on the people involved, the Chief Constable and PCC (PCC E).

The pragmatic influence of the PCC or Chief Constable's strength of character was also acknowledged by PCC A, insisting that PCCs should not be subservient to Chief Constables:

What I observe is that nobody ever says no if you are a very senior police officer. I sit in meetings and civilian staff who work with the police who are experts in their field say yes boss, yes sir. I am horrified by this. My job [as PCC] is not to be subservient to the Chief Constable. My job is not to agree that the Chief Constable is right. My job is to say, like I sometimes do say, you are not right. Otherwise, the Chief Constable will turn up at a meeting and say what they think and people won't think I exist (PCC A).

A wider impact of a dysfunctional relationship between PCC and Chief Constable was argued by Chief Constable E. In addition to expressing concern that the accountability relationship between the two has in many police areas proved 'fractious', it was observed how a turbulent relationship could also impede the PCC's ability to scrutinize Chief Constables:

If you had a relationship with the PCC that was a bit fractious, and that's happened in many forces, I am not sure PCCs would have the ability in their day to day setup to get into the detail. My analytical team provides me with information about how we are doing against everything. We present that to the PCC. The PCC has one analyst who just has a quick look at what we present. So, so in effect, the PCC is trusting our analytical data as opposed to scrutinising it themselves (Chief Constable E).

The relationship was also acknowledged as having a consequential impact by PCC D, maintaining that police accountability is dependent on an effective accountability relationship between PCCs and the Chief Constables:

Police accountability will be more or less effective because of the relationship between Chief Constable and PCC (PCC D).

This influence was also noted by PCC C, recognizing how the relationship between the two is significant. Further, this interviewee highlighted how the 'one to one' should not be driven by personality but should instead be challenging and 'workmanlike':

The relationship between PCC and Chief Constable certainly has a very big influence, police accountability comes down to the PCC and Chief Constable ... ultimately police accountability is about relationships ... it's not meant to be a lovey dovey [sic] relationship, mutual respect, workmanlike. If there are things that are wrong say so ... what

you need is a relationship of mutual respect, very workman like but you have got to be challenging. There's no point being a wet sippy date (PCC C).

Chief Constable A also accepted that the 'one to one' carries the risk of personalization. This interviewee also underlined how the advent of PCCs made the actual people responsible for securing police accountability profoundly significant. Further, this research respondent contended that the 'one to one' imbeds a different and uncharted dynamic that potentially leaves the exercise of police accountability susceptible to the unorthodox relationship between PCCs and Chief Constables:

The relationship going to one person makes the nature of the relationship absolutely critical. It becomes difficult if individuals let it become personalised, it can easily become quite a bitter relationship. The people involved is [sic] absolutely critical... when you look at accountability models across the UK public sector there aren't many comparators to this ... there is no public sector model that works like this ... a lot of the work we did was putting the structure in place. There was no model at all. With almost wet towels over our heads we had to think: What is accountability? What does it look like? How does it work? We had to start from scratch. These new relationships have brought a completely different dynamic. Is police accountability open to the vagaries of individuals? Yes, absolutely (Chief Constable A).

Echoing this, Person Z recognized how the relationship between Chief Constables and PCCs is unusual, potentially problematic, and one that the exercise of police accountability is uncharacteristically subject to and overly dependent on:

There is a concern about the 'one to one' relationship ... police accountability goes from a collective form to a very focused. We are concerned about the

‘one to one’ and there have been those difficult relationships which are part of the ‘one to one’ issue. The ‘one to one’ is quite unusual actually and potentially quite problematic because if there are difficulties there is no one to mediate but also the potential for it to be too cosy as well. Yes, police accountability does fall, not just on the relationship but also on the calibre, experience and wisdom of the person elected as PCC and believe you me that varies enormously! (Person Z).

Further to highlighting that the exercise of police accountability is overly reactive on the ‘one-to-one’ accountability relationship, Chief Constable D broadened the argument by defining the dependency a significant anomaly of current governance arrangements that requires amendment:

Police accountability comes back to the individuals concerned, the PCC and the Chief Constable, and that’s a flawed system. There is significant risk that the one to one relationship becomes excessively hostile or excessively friendly. If you had an effective Police and Crime Panel, a PCC with values and a Chief Constable with sufficient character to recognise their responsibility to protect the independence of policing the model is a sound one, but there is quite a few ‘ifs’ in there! The model needs to be balanced and it can’t be argued that it has consistently delivered. Therefore, some form of change and rigour is required (Chief Constable D).

This potential flaw was also asserted by PCP E, outlining how the inability of PCPs to resolve a potentially strained relationship between PCCs and Chief Constables is an abnormality of current governance arrangements:

If [this police force] ended up, as some forces have done, with a real disconnect between the Chief Constable and the PCC then the inability of the PCP to do

anything about it would be significant (PCP E).

The potential for futile relational accountabilities was further asserted by PCP B, highlighting that a disconnect has developed in a number of police areas:

We hear in [police area X and police area Y] that the relationship between the PCC and their Chief Constable and indeed the PCC and the PCP is unproductive and that is not what Parliament intended (PCP B).

Specifically, this research develops the CSPLs finding that the personal dynamic between PCCs and Chief Constables could impact on accountability, showing that the current deficiencies and impotency of PCPs may cause the exercise of accountability and the governance of policing to be unusually reactive to the ‘one-to-one’ accountability relationship between PCCs and Chief Constables.

This research finds this accountability relationship to be absolutely critical to the exercise of police accountability yet problematic, fractious, possibly unpredictable, and potentially unproductive. This research also draws attention to how the unorthodox ‘one to one’ is unchartered and could be visceral as it carries the risks of personalization.

The relationship may also be conditional on the PCCs’ or Chief Constables’ calibre and their shared willingness and ability to form a conducive accountee–accountor relationship. When their accountability relationship fails, or becomes fractured as this research indicates it may already be in at least some police areas, the inability of PCPs to intervene, and if needed moderate, is a further highlighted anomaly of the governance arrangements introduced by the PRSRA and Policing Protocol in 2011.

The HASC and the Government concluded with both parity and vigour that the Policing Protocol is the ‘statutory foundation’ of the relationship between PCCs and Chief Constables. Yet, the High Court in 2017 described the Policing Protocol an ‘unusual’ piece of legislation (*R (Crompton) v Police and Crime Commissioner for South Yorkshire* [2017] EWHC 1349 (Admin), para 71) and the House of Commons in 2021 considered the Protocol vague

and open to interpretation (The House of Commons Library, Police and Crime Commissioners, 2021).

Importantly, this research shows the relational requirements that the Policing Protocol sets for the accountability and governance of policing may in reality be fanciful, certainly subject to a high degree of variance, and likely not achieved in at least some police areas in England and Wales.

Such amendments to the Policing Protocol are encouraged to ensure it fulfils its statutory function. Therefore, this research calls on the Home Secretary to take a more hands-on strategic role and exercise their duty to consult the parties bound by the Policing Protocol to examine if the Protocol needs to be revised or indeed replaced. If the Home Secretary conducts this recommended review as part of their Part Two Review into the role of Police and Crime Commissioners, the findings reported here could meet the Government's Consultation Principles and help the policy-forming process. Indeed, the findings of this research could enrich the process of formative consultation and meet the Government's stated requirement for a 'proportionate and targeted approach' (Cabinet Office, Consultation Principles, 2018).

Strengthening the role and powers of PCPs is an obvious and important recommendation. However, given the new corrosive risk that this article shows, this research calls on the Home Secretary to introduce a Memorandum of Understanding to bind PCCs and Chief Constables to ensure 'effective, constructive working relationships' are not just a quixotic pursuit but a practical reality that helps safeguard the accountability and governance of policing. This new Memorandum of Understanding should be a formal agreement that's practically accessible and prescriptive to PCCs and Chief Constables. Further, it needs to give clarity and terms need to be clearly stated to avoid any potential for misinterpretation—thereby bringing much needed consistency across England and Wales.

The findings reported here are important. Overlooking them and the recommendations this research makes at such a changing and challenging time for the accountability and governance of policing could be regrettable as policing is at a critical juncture. There is a pressing need for

reform; evidenced initially in 2019 by the calls for a Royal Commission (BBC News, 5 July 2019; *The Queen's Speech*, 2019; *The Times*, 5 July 2019), the HMICFRS finding in 2022 that there is an 'atmosphere of mistrust and fear' between PCCs and Chief Constables and the Police Foundation reporting in 2022 that there is 'a crisis of confidence'.

In addition to strengthening the role and powers of PCPs and calling on the Home Secretary to review or replace the Policing Protocol, this research recommends a new Memorandum of Understanding to promote and then embed a positive accountability relationship between PCCs and Chief Constables. The recommendations this research makes support the Police Foundation's call for 'root and branch reform' and should form part of the Government's forthcoming Levelling Up and Regeneration Bill (*The Queen's Speech*, 2022).

## Conclusions

While the reforms introduced by the PRSRA and the Policing Protocol conceivably streamline the operation of police accountability and would therefore appear to remove the historical criticisms highlighted in this article's introduction, namely that police accountability has been considered a complex, elusive, and elastic concept lost in a complicated mesh of obligations and responsibilities—this research finds that the relational accountabilities injected into the accountability and governance of policing in 2011 may be unbalanced, untested, and risky.

This research shows PCPs to be considered by those close to the system to be entirely impotent and ineffective, rendering the accountability and governance of policing unusually reactive to the 'one-to-one' accountability relationship between PCCs and Chief Constables.

This important finding develops the CSPL's proposition that the personal dynamic between PCCs and Chief Constables could impact on accountability. Notably, the interviews conducted for this research draw attention to how PCPs could in practice be symbolic, potentially leading the exercise of police accountability and the governance of policing to be unusually reactive to the 'one-to-one'

accountability relationship between PCCs and Chief Constables.

Therefore, this research shows that the impact of this relationship might be more significant than initially thought as the 'one to one' is found to be absolutely critical to police accountability, yet a relationship that can be easily strained, contingent on and therefore unduly subject to, a shared consensus whilst also carrying the risks of personalization and dysfunction.

The 'one to one' is also found to be problematic, possibly unpredictable, and, in the absence of PCPs being effective and credible, potentially unproductive. In a broader context, as currently formulated, this research shows the relational accountability between PCCs and Chief Constables could even be considered a flaw of current governance arrangements.

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 the unforeseen risks this research finds with the 'one to one' and the possible impact on the accountability and governance of policing suggests urgent review is needed.

Although the Government rejected review in 2015, the findings of this research show review is now needed. This need is further evidenced by the calls in 2019 and 2022 for a Royal Commission; the finding by HMICFRS in 2022 that there is an 'atmosphere of mistrust and fear' between PCCs and Chief Constables and the Police Foundation reporting in 2022 'a crisis of confidence', endorsing 'root and branch reform'.

In addition to recommending that the role and powers of PCPs be strengthened, a key conclusion of this research is that the Home Secretary must exercise their statutory power and consult with the parties bound by the Policing Protocol to examine if the Policing Protocol should be varied or possibly replaced. Further, this research calls on the Home Secretary to introduce a Memorandum of Understanding to bind PCCs and Chief Constables to ensure 'effective, constructive working relationships' are not just a quixotic pursuit but a practical reality that helps safeguard the accountability and governance of policing. Although some would likely consider a Memorandum of Understanding

an unnecessary reform, the risks that this research finds with the 'one-to-one' accountability relationship between PCCs and Chief Constables makes this proposal driven perhaps by necessity rather than choice.

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