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This submission of evidence focuses on The Home Affairs Committee Inquiry, Police and Crime Commissioners: 10 years on – in particular:

- (1) The impact of PCCs since 2012.**
- (2) The efficacy of Police and Crime Panels (PCPs) at scrutinising PCCs.**
- (3) Relationships between PCCs and Chief Officers.**
- (4) Any reform needed to the PCC Model – included within responses to (1), (2), (3).**

Summary

This submission draws upon my research, involving elite research interviews with some of the most senior stakeholders in policing at a regional and national level, see:

Cooper, S., [2022]. *Police Relational Accountabilities: The Paralysis of Police Accountability?* Policing: a journal of policy and practice.

Available at: <https://academic.oup.com/policing/article/doi/10.1093/policing/paac081/6772611>.

Cooper, S., [2021]. *Police and Crime Commissioners: A Dislocated Expectation?* Policing: a journal of policy and practice.

Available at: <https://academic.oup.com/policing/article/15/3/1916/6253137>.

Cooper, S., [2020]. *Police and Crime Commissioners: a corrosive exercise of power which destabilises police accountability?*

Available at: Criminal Law Review. 2020 (4), 291-305.

(1) The impact of PCCs since 2012.

Cooper, S, *Police and Crime Commissioners: A Dislocated Expectation?* examined the ability of PCCs to hold Chief Constables to account; finding the accountability of Chief Constables to PCCs may have significant strengths such as enhanced visibility, increased frequency and improved scrutiny. However, the accountability of Chief Constables was also found to be potentially frustrated and possibly compromised. Indeed, accountability might be exercised inconsistently, susceptible to significant variance and contingent on the calibre and vagaries of PCCs. Such, recommendations are made to strengthen governance arrangements to ensure Chief Constables are robustly held to account. Specifically, the Home Secretary is encouraged to review The Policing Protocol Order and issue an Accountability Code of Practice.

Can the accountability of Chief Constables by PCCs be effective?

This research finds that PCCs can hold Chief Constables to account effectively. Some Chief Constables argue that accountability by PCCs has a number of significant strengths. For example, Chief Constable A outlined how PCCs have increased the visibility of accountability and led accountability to be more direct, instantaneous and continual:

“I am grilled, and that’s probably the best word for it. The simple optic of the PCC sitting next to me means accountability is very visible. The accountability is instant, direct, visible and quite personable ... it’s a more continual, rolling accountability [with] a higher level of scrutiny and a greater level of detail, a greater level of understanding because of the way that the organisations now work together getting that oversight right. Fundamentally, the PCC provides a quicker, slicker, more straight forward process.” [Chief Constable A]

The argument that PCCs can lead the accountability of Chief Constables to be more frequent was also evident from a number of interviews with PCCs. For example, PCC D highlighted how accountability is now on-going:

“Police Authorities were wrapped around the little fingers of Chief Constables because they never really knew what was going on ... Chief Constables were barely accountable to their Police Authorities, it was lip service ... it was always Chief Constables that were always the Kings of their Kingdom. Every Chief Constable was the King in their Kingdom. Locally Chief Constables could do what the hell they liked and boy did they do it! We are in the organisation all the time, accountability is on an on-going basis.” [PCC D]

The increased frequency of accountability was also highlighted by PCC E. This interviewee asserted that PCCs have removed the constant backlog associated with Police Authorities, leading accountability to be instant and more robust:

“It [accountability] is instant, with recognition of difficulties or successes whereas with the Police Authority it was a constant backlog. Chief Constables are held more robustly to account because there is just one person steeped in it.” [PCC E]

The removal of the backlog highlighted by PCC E was also acknowledged by Chief Constable C, contending that PCCs can be accessible and can provide a more effective means of decision making compared to their predecessor, Police Authorities:

“Police Authorities were a blinking nightmare to get a decision ... whereas with PCCs you do get a decision. The relationship I have with my PCC is a good relationship where we can have access to each other whenever we need too.” [Chief Constable C]

This argument was also made by Chief Constable D, emphasising that the single point of decision making that PCCs can bring to the governance and accountability of policing can also provide an effective platform for policing. With a significant caveat, it was also argued that PCCs do have the ability to constantly question, continually challenge and therefore hold Chief Constables to account effectively. Indeed, this research respondent highlighted that PCCs can be more open, engaging and challenging of Chief Constables:

“The good thing with the PCC is that single point of decision making allows me to not have to convince sixteen politicians from different backgrounds. I have a single point of contact to explain the context of what is going on, the challenges, the opportunities that exist. That has provided a more dynamic environment for us to try and move policing forward. I am saying it’s a positive model because I have had a value driven, bright public service individual. My colleagues don’t all have the same experience. In [this police area] someone has come in from outside policing with a history of operating in the private sector at a strategic level and therefore questions that have been asked have been robustly put. However, not all PCCs are as bright and as well informed as [my PCC]. I think the other really valid role from an engaged thoughtful PCC like I have is because [the PCC] is constantly asking questions, constantly challenging, constantly checking there have been occasions where [the PCC] has provided me with another set of lenses or another view which I might not have had otherwise. [The PCC] has challenged me on a range of positions and that has constantly pushed the quality of what we are doing. For me that is exactly what meaningful scrutiny is, not some cheap headline or posturing in a newspaper. At their best PCCs have presented a more open way of engaging, challenging and holding to account Chief Constables.” [Chief Constable D]

In addition to identifying that PCCs can lead to the accountability of Chief Constables to be more frequent, instantaneous and visible this research also finds efficiency to be an additional strength. While stressing that the model was not “always perfect” Chief Constable A considered accountability to be more efficient as “the current model is a much quicker way of doing things.” The accountability of Chief Constables was also asserted to be more efficient by a number of PCCs. For example, PCC C considered accountability to be more effective and more transparent while also providing greater clarity:

“It [the accountability of Chief Constables] has improved a huge amount. In the past you had the Chief Constable as King or Queen of all they surveyed ... who actually held the Chief Constable to account beforehand? I’m not sure anybody did really. Police Authorities were hardly effective. The Police can make much quicker decisions. It’s open and transparent, you go to one person. It provides much greater clarity. It

[accountability] is less bureaucratic, it [accountability] is much more efficient.” [PCC C]

The argument that PCCs can provide greater clarity was also made by PCC A. Additionally, this research respondent highlighted how the PCC structure can improve dialogue within the branches of police governance:

“What we have achieved through this model is much greater clarity about who is responsible for what, where the buck stops and specific decisions ... it promotes, if you get it right, a better dialogue.” [PCC A]

Robustness was identified as a further strength. For example, PCC E argued that PCCs can lead to Chief Constables being held to account more robustly:

“There is just one person steeped in it ... Chief Constables are held more robustly to account.” [PCC E]

This argument was also acknowledged by Chief Constable D, highlighting that when they are effective PCCs can establish a new found grip on policing which could lead accountability to be more effective:

“In terms of grip and understanding of the details going on in a force, it’s a significant step forward. I guarantee that my PCC has a far deeper understanding of what this force is dealing with in countering and falling short on than any Police Authority.” [Chief Constable D]

The argument that PCCs can provide qualities that would have been inconceivable for Police Authorities was further highlighted by Chief Constable A, emphasising that when PCCs are effective they can provide an efficacious and productive “grip” that would have been near impossible for Police Authorities to achieve:

“[The PCC] knows more about the budget and how the organisation works than the Police Authority ever did. [The PCC] has that level of grip in a way that would have been very hard for a Police Authority to do.” [Chief Constable A]

Some PCCs stated that Chief Constables are unquestionably held to account effectively and others argued that PCCs have led to difficult and challenging questions being asked:

“There are certain questions that we have now established and sometimes they are quite difficult questions for [the Chief Constable] to answer.” [PCC A]

With no hesitation PCC D asserted that PCCs have improved the accountability of Chief Constables, highlighting that Chief Constables are effectively held to account through questioning and the ever-present threat of PCCs having the statutory power to dismiss Chief Constables:

“Undoubtedly there is more accountability now than there was before. Chief Constables were barely accountable to their Police Authorities, it was lip service. Chief Constables are week by week, month by month being asked hard questions. That’s what accountability is. Some Chief Constables have been sacked and rightly so and others have been put under the cosh, accountability is more biting.” [PCC D]

This research finds evidence that PCCs can hold Chief Constables to account effectively. Indeed, accountability driven by PCCs may have a number of significant strengths. In addition to being transparent and visible, the accountability of Chief Constables may no longer be sporadic as PCCs can hold Chief Constables to account on an on-going basis. The accountability of Chief Constables is also highlighted by this research to be instant with recognition of difficulties and successes. Therefore, the bureaucratic backlog that haunted accountability through the medium of Police Authorities has conceivably eased as PCCs can provide direct and accessible decision making which can bring greater clarity and improved efficiency. This research also finds that PCCs can provide a continual check on Chief Constables.

As highlighted above, the inherent weakness and inability of Police Authorities led some to conclude that Chief Constables were virtually autonomous. This research indicates that PCCs can make Chief Constables accountable as they can be continually asked difficult and challenging questions that require Chief Constables to explain or justify action or inaction. In addition to evidencing the exercise of accountability’s soft mechanism, as well as its traditional meaning of answerability, PCCs conceivably have the ability to ordinarily ask Chief Constables difficult questions on a rolling basis which can lead accountability to be instantaneous. As such, the responsibilities set by The Policing Protocol appear achievable as Chief Constables can be made answerable as accounts and explanations are given to PCCs. Therefore, the requirements of the Protocol can be adhered to as PCCs can provide robust challenge.

Has the accountability of Chief Constables weakened?

This research also finds that the accountability of Chief Constables by PCCs could be subject to a significant anomaly; namely, it might be predisposed by the relationship between Chief Constables and PCCs. In turn, this may lead accountability to be inconsistently administered and subject to significant variance. The accountability of Chief Constables could also be contingent on the calibre of PCCs, subject to their vagaries and hinge on luck. Therefore, not only might the duties set by The Policing Protocol be unfulfilled in some police areas, the accountability of Chief Constables could also be impaired. These important developments are now considered.

Person Z highlighted that current governance arrangements have potentially created inconsistencies that could impact how effectively Chief Constables are held to account. The cause was argued to be the strength or weakness of the PCC. More broadly, it was suggested that prior to their introduction PCCs lacked sufficient examination and with reflection may even be “a blunder”:

“For one person, even though they are elected, to replace the wisdom and contribution of 19 [Police Authority members] is a tall ask. There’s only one person [the PCC] providing scrutiny [of Chief Constables] and that’s a heavy responsibility, so in terms of scrutiny of course it’s a lot less. Palpably has it worked? No. In the absence of stress testing, thinking it through, why do we want this, what’s the problem we are trying to solve I suspect PCCs might, in hindsight, be regarded as a blunder.” [Person Z]

Some Chief Constables were candid in their assessment of accountability from PCCs. For example, Chief Constable B highlighted that the reality is that they are not facing a thorough examination:

“Am I facing difficult questions from the PCC on a daily basis? Absolutely not.” [Chief Constable B]

While contending that PCCs are likely to be considered more transparent for the public, Chief Constable E expressed concern that there is likely to be no, or very limited, additional accountability of Chief Constables:

“Do I feel more held to account than I did to a Police Authority before? No. Do I feel it’s a little better and more transparent with the public? Yes.” [Chief Constable E]

This was acknowledged by others. For example, PCC D gave a frank assessment, warning that some PCCs are “completely useless” and likely subject to “lip service” from Chief Constables:

“I know there are some completely useless Police and Crime Commissioners. There are some PCCs that I absolutely wouldn’t go and work for. The question is can a PCC be played by a Chief Constable? They clearly could be and some I suspect are. I am quite sure that there are some Chief Constables who just play lip service to their PCC.” [PCC D]

A number of Chief Constables also asserted that the relationship between Chief Constables and PCCs could be administered inconsistently. While some strengths were identified, the risks PCCs bring to the accountability of Chief Constables conceivably dominate and may even overshadow the governance of policing:

“Whilst it brings clarity, it brings timeliness, it reduces political infighting there is a significant risk that the relationship either becomes excessively hostile, excessively friendly or because of the weaknesses between the two, particularly where one has been selected by the other, there isn’t the balance, additional questioning or informing of the debate that a wider group would give. When it is operating at its pure best it has brought clarity about the ‘one to one, ’eye to eye, explain where we are, why are we here, what are we doing, what is the plan but

because of poor safeguards and governance arrangements it too quickly descends into personalities and subjectivity in which accountability becomes likeability, becomes re-electability. Accountability becomes all of those things it shouldn't." [Chief Constable D]

This research respondent also highlighted that while their relationship with their PCC was conducive to them being held to account effectively, this was not a true reflection across police areas:

"The relationship I have is a strong one, it is one based in mutual professional courtesy and respect. It is one based on an understanding on both sides and a distinction between our roles. There is strong accountability process in place. I have a value driven, bright public service individual. My colleagues don't all have the same experience and it concerns me enormously. I don't think all the PCCs are as bright and as well informed as mine. It is crucial that we do find a model that properly challenges and holds Chiefs 'to account because that drives better policing. In my County policing is better because of the arrival of PCCs but that's not true in every County across the Country and what we should have is a set of governance arrangements that ensures policing is improved and that it is robustly held to account." [Chief Constable D]

These inconsistencies and concerns were reinforced by other key informants. For example, Chief Constable C highlighted that some PCCs are incompetent and lack basic skill. It was also observed that some Chief Constables can be obstructive to PCCs and some Chief Constables have failed to adapt to the PCC model:

"I have seen evidence of PCCs who are ill equipped and ill prepared and actually don't have the skills to understand big organisations making sweeping statements and making assumptions about individuals without any basis what so ever. I have also seen Chief Constables that do not want to adapt to a new way of working and will be very obstructive towards PCCs. Chief Constables that have failed to adapt have lost it completely." [Chief Constable C]

Others questioned the inherent abilities of some PCCs. Indeed, it was suggested that some operate with the driving force of personality and ego:

"There are a lot of PCCs out there that operate on the subjective, the personality, the ego rather than objectivity, the clarity, the best evidence base." [Chief Constable D]

Equally, Chief Constable E outlined how personalities can become destructive, which in turn, may have a detrimental impact on the accountability of Chief Constables:

“I know in other areas that individual egos have got in the way of truly being accountable.” [Chief Constable E]

A number of PCCs also noted how luck was critical to success. For example, PCC D considered it to be essential:

“I was lucky and it’s a major factor ... I think the Chief [Constable] does genuinely feel that he is being held to account to me. Some of my staff would say am I sure but I am sure because it’s not quite as apparent to them as they don’t see the fisty [sic] cuffs, the stand ups.” [PCC D]

With parity, PCC E acknowledged that luck was a key facet of the relationship between PCCs and Chief Constables:

“I was very lucky when I became PCC as right at the beginning my existing Chief Constable left and he was one of the old School. He kept the Police Authority at arm’s length, when I became PCC [the Chief Constable] kept me at arm’s length. There wasn’t a battle but it wasn’t a marriage made in heaven.” [PCC E]

These findings also signal that the PCC model can risk a lack of moderating thought, individualism, limited scrutiny and a possible dilution of accountability:

“The overall weakness with one elected representative [the PCC] is that there is no moderation of thought. With a Police Authority you had a Chair and if they had a particular view or may have got anxy [sic] over something you always had a group of people who would sit down and discuss and provoke discussion. It would moderate the thought. Now you have one individual who has no moderation apart from perhaps their own staff and may go out on a particular course of action without having the additional value of having colleagues discussing what the implications of a particular decision may be.” [Chief Constable C]

The frailties of the relationship between PCCs and Chief Constables were also noted by Chief Constable E, highlighting that PCCs can risk narrowness of single thought:

“The former Chief Constable put up every barrier they could. The PCC battled against the barrier. 90% of my job at the time as then Deputy Chief Constable was to wade through the politics of them rowing all of the time. The PCC hasn’t got a pool of different views, there is risk of individualism and single thinking.” [Chief Constable E]

Further, PCC A acknowledged that PCCs might dilute accountability. Moreover, it was hinted that the strengths PCCs bring to the accountability of Chief Constables are likely illusory:

“People like it because they know who is in charge and who is responsible. Thoughtful people find it implausible because what you are expecting one person [the PCC] to do is to embody in themselves the oversight of far too much and therefore in some ways it is less accountable because that person is going to need advisors, thoughts, ideas and inputs which are not always sensible. If you take the old system you see people wrestling with a paper, with single person accountability structures you see the decision that one person has taken. Presumably if it’s something they didn’t know a lot about they talk to a lot of people about it but you don’t see any of those conversations played out.” [PCC A]

It was also highlighted that PCCs may result in less scrutiny of Chief Constables compared to Police Authorities. Further, PCC E observed that some PCCs might limit their potential as they may be conscious that they themselves could be subject to damning and persistent criticism:

“We have gained in terms of visibility but lost in terms of detailed scrutiny that the Police Authority was capable of. PCCs are not able to get in to the depth of detail required to be that check and balance, they can’t do the scrutiny in depth that the old Police Authority could do. You’ve lost a bit of the check and balance. You will find a lot of Police and Crime Commissioners haven’t done very much actually, if you put your head above the parapet and you do new things and sometimes they don’t work you get coconuts thrown at you but that shouldn’t stop you!” [PCC E]

Recommended reforms needed to the PCC Model

Cooper, S, *Police and Crime Commissioners: A Dislocated Expectation?* recommends that the Home Secretary exercises their power and urgently review The Policing Protocol Order. The Protocol’s current overly broad, presumption based, loosely worded and generic approach to the accountability of Chief Constables needs refinement. The Protocol needs to be clearer, more direct and its working principles need clarity. Simply stating ‘the Chief Constable is accountable to their PCC’ is insufficient, especially at a time when there is an ever-increasing pressure for accountability.

In addition to the Home Secretary’s recently launched review that will consider the relationship between PCCs and Chief Constables and examine how PCCs can deliver consistently across the Country, this research recommends that the Home Secretary consults the parties bound by the Policing Protocol and issue an Accountability Code of Practice to ensure best practice. This Code needs to set out clearer terms of reference and give accessible and detailed examples of mechanisms that PCCs can use to hold Chief Constables to account. Further, a more hands on approach by the Home Office is recommended. However, as noted by the Policing Protocol, any intervention or direction by the Home Office must not ‘interfere with the democratic will of the electorate.’ Accordingly, a delicate and likely difficult balance

needs to be struck to ensure that there is no retreat from the localising direct democracy agenda that underpinned the introduction of PCCs in 2012.

Far from threatening the PCC model, these recommendations should be viewed as a means to improve the working relationships prescribed by the Policing Protocol and as a way to strengthen the accountability of Chief Constables. Finally, these recommendations could be of particular relevance to this inquiry and the proposed Accountability Code of Practice could benefit the new cohort of PCCs that take office Spring 2024.

(2) The efficacy of Police and Crime Panels (PCPs) at scrutinising PCCs.

Cooper, S, *Police relational accountabilities: The paralysis of police accountability?* finds PCPs to be impotent and ineffective. Importantly, this research develops current understanding, showing the impotency and ineffectiveness of 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.

Such, this new 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 new 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.

PCPs

PCPs have a critical role; they are solely responsible for supporting, scrutinising, 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 scrutinise the PCC.’ The National Audit Office has also said that PCPs are ‘the most important check in the accountability system.’ Yet, given their key role, a number of reports and reviews have questioned the effectiveness of PCPs. 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.

Are PCPs effective?

Given the vital role of PCPs and the initial concerns raised, this research 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. This finding is a grave concern especially in light of the additional checks and balances the Home Office plans for 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 scrutinise 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 affectively scrutinise 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 scrutinise 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 emphasised 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]

PCP E also emphasised 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 scrutinise 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, it’s 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]

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 scrutinise 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]

These findings develop previous observations as PCPs are seen to be entirely impotent and ineffective. PCCs state they are unconcerned, unfearful, and give PCPs lip service safe in the knowledge that the PCP is an unnecessary and toothless entity with no power.

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 scrutinise 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 research also finds the governance arrangements introduced by the PRSRA 2011 and Policing Protocol 2011 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 scrutinising 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, 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.

Cooper, S, *Police relational accountabilities: The paralysis of police accountability?* develops the CSPL 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 recognised 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]

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 scrutinise 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 ... 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 recognised 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 police 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]

This research develops the CSPL’s 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.

Cooper, S, *Police relational accountabilities: The paralysis of police accountability?* 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 personalisation.

The relationship may also be conditional on the PCCs’ or Chief Constables’ calibre and their shared willingness and ability to form a conducive 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 HAC 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.

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.

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 new 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.

In addition to strengthening the role and powers of PCPs and calling on the Home Secretary to review or replace the Policing Protocol, a new Memorandum of Understanding is needed to promote and then embed a positive accountability relationship between PCCs and Chief Constables.

Recommended reforms needed to the PCC Model

Cooper, S, *Police relational accountabilities: The paralysis of police accountability?* makes a series of conclusions and recommendations in relation to the efficacy of Police and Crime Panels (PCPs) at scrutinising PCCs.

While the reforms introduced by the PRSRA and the Policing Protocol conceivably streamline the operation of police accountability — 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.

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 personalisation 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. What is clear, 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.

In addition to recommending that the role and powers of PCPs be strengthened, a key conclusion of Cooper, S, *Police relational accountabilities: The paralysis of police accountability?* 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.

(3) Relationships between PCCs and Chief Officers.

In addition to the important and relevant issues and recommendations made in Cooper, S, *Police and Crime Commissioners: A Dislocated Expectation?* Cooper, S, *Police and Crime Commissioners: a corrosive exercise of power which destabilises police accountability?* examined the PCC’s controversial s.38 power to remove Chief Constables.

The interviews conducted for this research showed the PCC’s power to remove Chief Constables to be contentious. An important finding reasserted in 2022 by The Commission on the Resignation of the Commissioner of Police of the Metropolis, finding that the removal of the then Commissioner of the Metropolis, Cressida Dick, by London Mayor, Sadiq Khan, did not follow “due process” – concluding Commissioner Dick was “constructively dismissed.”

Significantly, *Police and Crime Commissioners: a corrosive exercise of power which destabilises police accountability?* reveals 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.

Is there an instability in police leadership?

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 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, 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 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. 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 it too early to examine this issue, this research indicates that the PCC’s s. 38 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, whose office has been subject to relentless claims of a legitimacy crisis following expense revelations, allegations of cronyism and high profile dismissals, 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.

Significantly, in a broader context, the PCC's s.38 power could lead to a different and far more concerning relationship between PCC and Chief Constable than previously concluded by the HAC 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, 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 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 noted 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, it appears that the PCC commands, overrules and maybe controls the Chief Constable:

“[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 in a crude manner 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]

Recommended reforms needed to the PCC Model

Police and Crime Commissioners: a corrosive exercise of power which destabilises police accountability? suggests that the PCC’s 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 HAC 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."

In addition to recommending that the Home Office "launch a transparent, root and branch review of policing" the HAC advised the Government to urgently review the relationship between Chief Constable and PCC. Citing 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.

Further to the HAC's previous concerns and 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 HAC's 2013 report was sadly 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.

(4) Any reform needed to the PCC Model.

Note: reform(s) included within responses to (1), (2) and (3).

I hope this written submission of evidence is useful to The Home Affairs Committee. If I can provide any further information and / or assistance, please do not hesitate to contact me.

November 2023