

Cheshire Police and Crime Panel submission to the second call for evidence by the Police Foundation Review of Policing by Sir Micheal Barber January 2020

Police and Crime Panels were formed following the implementation of the Police Reform and Social Responsibility Act 2011. This also saw the election of Cheshire's first Police and Crime Commissioner (PCC). The Cheshire PCC's responsibility is: "to ensure the police respond to local priorities and are directly accountable to the public." The PCC sets the strategic direction and aims of the police force and has responsibility for delivering community safety and reducing crime and delivering value for money. The PCC also has a statutory responsibility to appoint a Chief Constable as well as for their removal. The Act also provided for the establishment of the Cheshire Crime Panel who have a dual scrutiny and support role in respect of the PCC and have some powers of veto on budgets and on the appointment of a Chief Constable.

The statutory Policing Protocol sets out how the Cheshire PCCs, Chief Constables and Police and Crime Panels functions will be exercised in relation to each other. It makes clear that all parties will abide by the Seven Principles of Public Life – Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

In seeking to build a constructive and effective relationship with the Cheshire PCC we wish to influence a review of the legislation and the governance model. The Cheshire Crime Panel supports the serious concerns raised by the Home Affairs Select Committee in May 2013 and by the House of Lords Committee on Standards in Public Life (2015). These highlighted the barriers faced by police and crime panels in their scrutiny role. These included lack of support, inadequate resources and absence of timely, accessible information.

The Cheshire Panel notes that they were a late addition to the legislation by then policing minister Nick Herbert who agreed to the introduction of Police and Crime Panels (PCP) following pressure from the Liberal Democrats, coalition partners with the Tories. His view was that PCPs should be 'light touch' in their approach to PCC scrutiny. It is the Cheshire Crime Panel view that resulting rushed legislation has proved to be ambiguous.

In respect of the Cheshire PCC, there is no formal central guidance available that sets out the desired skills and relevant background or experience required. The role of the PCC in Cheshire is highly responsible and if not effectively delivered and managed can lead to a lack of confidence in policing, community resilience and cohesion. The view of the Cheshire Panel is those who drafted the legislation leading to the governance model were of the view that local democracy was the overriding consideration. When in reality it has left the Cheshire Panel with questionable powers and resources to deliver effective scrutiny and support to the PCC.

Cheshire sadly has been through some well publicised challenges around the suspension and subsequent tribunal of the Chief Constable. The Police and Crime Panel invested considerable time, effort and resources in ensuring effective scrutiny in the role of the PCC and the OPCC in Cheshire throughout the process of the Chief Constables suspension, investigation and subsequent tribunal. The Cheshire Panel note that: The Police Reform and Social Responsibility Act 2011 details several statutory functions, which are aimed at providing checks and balances. Section 28(6) of the Act requires the Panel to 'review or 'scrutinise' the PCC in the exercise of his/her statutory functions including, for example,

the dismissal of a Chief Constable. However, the PCC is not bound by the Panel's decisions. Rather, the legislation states simply that PCCs 'must have regard for' the reports of the Panel. Consequently, the Panel relies solely on its powers of persuasion, which is insufficient for its scrutiny role. Section 28(2) of the Act requires Panels to be supportive of their PCCs in the effective exercise of their functions. The Cheshire Panel and supporting secretariat through the local authority produced a comprehensive report into the conduct of the PCC and OPCC making recommendations and highlighting lessons learned. The level of legal support required to work with members of the Panel in the formulation of the report created an overspend which far exceeded the annual financial grant the Panel receive from the Home Office. The subsequent report was forwarded to the Home Secretary, the College of Policing and HMICFRSs. This case had a significant impact on the wellbeing of many individuals in Cheshire Police. The Cheshire Panel remain of the view that if the Panel were mandated to have been actively involved as a critical friend with the case at a far earlier stage, many of the highly negative outcomes and very significant financial cost could have been avoided. This could and should have been the case but would require a change in legislation and guidance to PCPs. It is therefore disappointing that we have had no response to the report from any of the agencies listed above. The full report including the recommendations is attached as an appendices to this document.

The Cheshire Panel have a public responsibility to scrutinise the Commissioner which is clearly not understood by all in our communities. As such we seek to establish a far broader understanding with our communities and stakeholders. The Panel is seeking to raise its profile through social media, inclusion in the PCC Annual Report and fostering already excellent working relationships with the media. Our aim in doing this is to propagate a broader understanding with our communities of the role of the PCP as a partner in making Cheshire safer. Much more needs to be done at a national level to articulate the importance of PCPs roles.

The Cheshire Panel support the highly credible report findings into the need for clarity in the role of PCP. This was identified as a major issue in the Report of the Committee on Standards in Public Life ("Tone from the Top", 2015), which drew attention to the debate about the meanings of scrutiny and accountability. The fact remains that the current legislation and guidance perpetuate the belief that many PCCs can argue that they are accountable only to the public and not to PCPs, the final arbiter being the ballot box. We are actively seeking to work with the Cheshire Commissioner to share his future programmes of work with Cheshire Panel members. We believe much friction could be avoided in this way. We recommend a formal requirement placed on PCCs to publish their planning programmes so that members should be engaged at a far earlier stage.

The issue of inadequate funding in Cheshire has long been acknowledged as a problem. Home Office calculations are based on the original expectation that the panels would require a single full-time scrutiny officer, and that they would meet only four times a year. It is now clear that the current funding does not reflect the workload of the Cheshire Panel. We have met at least eight times a year including informal meetings with the PCC and Chief Constable and training days. Such is the commitment in Cheshire the Chairman and Independent Members also attend all of the scrutiny meetings, between the Commissioner and the Chief Constable. The Cheshire Panel has out of necessity been subsidised informally by its host Authority to help with legal, finance and HR advice, as well as policy and administrative support. In the long term the current funding levels are insufficient for our growing and essential workload. The necessary and ongoing proactive scrutiny and support by the Cheshire Panel into the activities of their commissioner, is almost certainly unsustainable under the current funding arrangements.

The 2011 Act requires that the Cheshire Panel's membership must broadly reflect the geographical and political make up across the police force area. This can result in the majority of Panel members having the same political affiliation as the PCC they are scrutinising. Whilst the Cheshire Panel are committed to be apolitical the legislation needs amending to ensure a balance of experience and expertise of Independent members and political affiliations.

The Cheshire Panel are of the view that members would benefit from training similar to that provided through a national pack including an interactive CD which OFSTED provides to all school governors. Or an eLearning induction module which could be produced by the LGA where members could engage and improve knowledge and awareness of their role as a members tasked to effectively give oversight and scrutiny of policing. It is essential for Panel members to understand the landscape of policing and the criminal justice system in order to be effective in holding the PCC to account.

Conclusion

Our view is a full review of the current model is required, so that the powers of panels acting as an important element in having oversight of and developing effective policing through scrutinising the PCC, can be properly assessed. This ultimately requires fresh legislation and an amended governance model.

The democratic accountability of the PCC must not negate oversight of those who hold public office. The Cheshire community needs to have confidence in the Cheshire Panel's role to scrutinise and assess the Commissioner's performance and they need to know the Commissioner can be called to account with effective scrutiny and appropriate checks and balances, which do not currently exist.

Accountability needs to be assessed and published between elections by demonstrable compliance with standards of conduct, propriety and performance. It should be tested and verified by the Cheshire's Panel's independent scrutiny, with failure addressed with appropriate and timely sanctions.

In Cheshire the Panel seeks to develop new arrangements. These consistently look to adopt new relationships and ways of working, with relatively little guidance and support from central Government. We empathise with the Cheshire PCC and indeed wish to support and assist in the challenges of balancing the development of the Police and Crime Plans and the public's perception of crime and their aspirations. Not an easy task!

The Cheshire Panel commit and endeavour to develop ways of working and improve relationships that makes Cheshire safer and its Policing more effective and efficient. We believe the time is right for a critical review of current legislation with revisions and amendments to remove ambiguity and develop a more cohesive approach to oversight and the delivery of safer communities. The legislation which created PCPs was, arguably, deliberately opaque. This has led to confusion in the perception and delivery of their role. We believe in the need to consistently work with the PCC as a critical colleague. Without reform this could continue to lead to a void in which both panels and PCCs interpretation of their respective roles will include varying perceptions of support and scrutiny.

Evan Morris MBE MCIPR
Chairman Cheshire Police and Crime Panel

