



House of Commons  
Home Affairs Committee

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# Appointment of Her Majesty's Chief Inspector of Constabulary

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**Third Report of Session 2012–13**

## *Volume I*

*Volume I: Report, together with formal  
minutes*

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## The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

### Current membership

Rt Hon Keith Vaz MP (*Labour, Leicester East*) (Chair)  
Nicola Blackwood MP (*Conservative, Oxford West and Abingdon*)  
James Clappison MP (*Conservative, Hertsmere*)  
Michael Ellis MP (*Conservative, Northampton North*)  
Lorraine Fullbrook MP (*Conservative, South Ribble*)  
Dr Julian Huppert MP (*Liberal Democrat, Cambridge*)  
Steve McCabe MP (*Labour, Birmingham Selly Oak*)  
Rt Hon Alun Michael MP (*Labour & Co-operative, Cardiff South and Penarth*)  
Bridget Phillipson MP (*Labour, Houghton and Sunderland South*)  
Mark Reckless MP (*Conservative, Rochester and Strood*)  
Mr David Winnick MP (*Labour, Walsall North*)

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/homeaffairscom](http://www.parliament.uk/homeaffairscom).

### Committee staff

The current staff of the Committee are Tom Healey (Clerk), Richard Benwell (Second Clerk), Ruth Davis (Committee Specialist), Eleanor Scarnell (Inquiry Manager), Andy Boyd (Senior Committee Assistant), John Graddon (Committee Support Officer) and Alex Paterson (Select Committee Media Officer).

### Contacts

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## Introduction

1. The Government and the Liaison Committee have agreed that the post of Her Majesty's Chief Inspector of Constabulary should be subject to pre-appointment hearing by this Committee.<sup>1</sup> On 28 March, the Home Secretary announced that Sir Denis O'Connor, the current Chief Inspector, would retire at the end of July,<sup>2</sup> although we understand that his retirement has now been deferred until the end of August 2012. The post was advertised the following day, with a salary in the range of £195,000 to £199,995. Applications were invited from candidates with a policing background (serving Chief Constables or HM Inspectors) and from other professional backgrounds where candidates could demonstrate understanding of operational policing and how they might apply that to the Inspectorate's strategy and programme of work.

2. Before the recruitment process was concluded, we were provided with a copy of the Appointment Brief prepared by Saxon Bampfylde. On 7 June, the Home Secretary wrote to us confirming the name of the preferred candidate, Mr Tom Winsor, and providing us with a copy of the Mr Winsor's *curriculum vitae*. All these papers are printed as appendices to this Report.

3. We also sought the views of the three principal organisations representing police officers in England and Wales: the Police Federation, the Police Superintendents' Association and the Association of Chief Police Officers. The Chair of the Committee also wrote to White & Case LLP, the law company of which Mr Winsor is currently a partner, seeking assurances that no conflict of interest would arise if Mr Winsor were to take up the post.<sup>3</sup> The Chair also wrote to a small number of candidates who had been selected by the Conservative and Labour Parties as candidates for election as Police and Crime Commissioners.

4. Before the pre-appointment hearing, we held an informal meeting with Sir Denis O'Connor. We discussed the changing role of the Inspectorate, and the Chief Inspector's working relationships with the Home Office, Chief Constables and rank-and-file officers. Sir Denis described to us the various sources of advice on which the Chief Inspector and the Home Secretary can draw. We also discussed the major challenges facing the Inspectorate in the near future, including the increased role of the private sector in policing and meeting the needs of elected Police and Crime Commissioners. We did not discuss Mr Winsor or any of the other possible candidates for the post. We are grateful to Sir Denis for his assistance and advice.

5. We asked the Home Secretary for a list of shortlisted candidates and asked her to set out the reasons why Mr Winsor was the preferred candidate. She refused to provide us with either, on the ground that the Committee's role was to assess professional competence and personal independence of the preferred candidate—not to determine whether he was the best candidate for the job—and that she wanted our “unfettered, impartial” views on his suitability, uninfluenced by her own rationale for selecting Mr Winsor. She cited Cabinet

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<sup>1</sup> First Special Report from the Liaison Committee, Session 2007–08, *Pre-appointment hearings by select committees: Government Response to the Committee's First Report of Session 2007–08* (HC 594)

<sup>2</sup> [www.hmic.gov.uk/news/announcements](http://www.hmic.gov.uk/news/announcements)

<sup>3</sup> The relevant correspondence is published at Appendix 2.

Office guidance which stated that shortlists should not be disclosed to committees conducting pre-appointment hearings.<sup>4</sup>

6. In September 2011, the Liaison Committee recommended that

departments should provide committees with an oral or written brief about the conduct of the selection process and the nature of the shortlist in advance of a pre-appointment hearing.<sup>5</sup>

We understand that the latest Cabinet Office guidance on public appointments advises departments to provide committees with anonymised background information on the field of applications before a pre-appointment hearing. The Home Secretary refused to provide us with any information at all about the process. We therefore invited the Minister for Policing and Criminal Justice, Rt Hon Nick Herbert MP, to give evidence before Mr Winsor, in order to explain the Government's position.

7. The Minister told us that Mr Winsor was one of about 100 individuals who were invited to apply by Saxon Bampfylde. A total of 12 formal applications were received, with a broad balance between those from police and non-police backgrounds. Five candidates were shortlisted for interview by a panel of five people, which included the Permanent Secretary of the Home Office, one of the non-executive directors of the Cabinet Office, and Lord Dear, the former Chief Constable of the West Midlands and a former HM Inspector. The panel identified three appointable candidates, of whom Mr Winsor was considered to be the strongest. All three candidates were then interviewed by the Home Secretary and Mr Herbert, who agreed with the panel's choice of Mr Winsor as the preferred candidate.

**8. The purpose of the pre-appointment hearing is to assess the suitability of the preferred candidate, although that cannot be done effectively in a vacuum. We are disappointed that the Home Secretary initially refused to provide us with any information at all on the selection process or the shortlist, although we are grateful to the Minister for coming before us to explain the process. We recommend that the Government in future provide information about other candidates and the selection process to select committees conducting pre-appointment hearings, in keeping with the recommendation from the Liaison Committee.**

## HM Inspectorate of Constabulary

9. The Inspectorate of Constabulary is as old as the forces it inspects. It was established in 1857, under the same statute that required every county and borough which had not already done so to establish and maintain a police force.<sup>6</sup> The first Chief Inspector was appointed in 1962, as part of a major package of reforms to improve police governance and expand the role of the Inspectorate. As well as being the head of the Inspectorate, the Chief Inspector is also widely referred to as the principal policing advisor to the Home Secretary, independent of ACPO and the cadre of serving Chief Constables. This includes the provision of advice on operational and management issues. The Chief Inspector also

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<sup>4</sup> pp 22–23

<sup>5</sup> First Report from the Liaison Committee, *Session 2010–12, Select Committees and Public Appointments*, HC 1230

<sup>6</sup> The County and Borough Police Act 1856

sometimes acts as a professional 'mentor' for Chief Constables. However, the Minister made it clear that these last two roles were not part of the Chief Inspector's statutory functions and Mr Winsor said that he did not regard the provision of advice on operational policing to the Home Secretary as part of the core role of the post. This is nonetheless clearly a very important post, perhaps the most important position in policing.

10. The Inspectorate's role and influence has changed significantly over the last century and a half. Its current functions are set out in the Police Act 1996. It carries out inspections of the 43 police forces in England and Wales, the Police Service of Northern Ireland, the Serious Organised Crime Agency and other, specialist forces,<sup>7</sup> and reports to the Secretary of State on their efficiency and effectiveness. HMIC may choose to inspect an individual basic command unit within a force. As well as inspections of individual forces, it carries out thematic inspections which examine a specific issue across a representative number of forces.<sup>8</sup> HMIC also carries out joint inspections with the other inspectorates linked to the criminal justice system, which have a statutory duty to co-operate with each other.<sup>9</sup>

### ***The Inspectorate's place in the new landscape of policing***

11. HMIC's role will change in the new landscape of policing described in the White Paper, *Policing in the 21st Century*.<sup>10</sup> It will retain its role as an independent Inspectorate, although the intention is that its inspection regime will become lighter-touch than it is currently. It will provide the public with information on local policing outcomes and value for money, to help them make informed judgements on how well Police and Crime Commissioners and their forces are performing. It will produce publicly-accessible information reflecting the priorities of the community, as well as the existing Value for Money Profiles to provide comparative data, enabling the public, Police and Crime Commissioners and chief officers to make comparisons across Force areas. HMIC will conduct Value for Money Inspections, which will consider the value for money achieved by local activity; the use of nationally provided contracts or services; and collaborative work. Police and Crime Commissioners will be able to call on HMIC to inspect their Force or aspects of its work if they believe that the Chief Constable is unable to make sufficient progress on value for money.

12. A major feature of the new landscape will be the abolition of the National Police Improvement Agency and the establishment of the new police professional body, whose functions will overlap to some extent with the current functions of the Inspectorate. They will include promoting the values of effective policing; maintaining ethics and values; developing a set of nationally-agreed standards for officers and staff to attain; identifying evidence of what works in policing and sharing best practice; and supporting the education and professional development of police officers and staff by developing and maintaining national policing curriculum, assessment and accreditation frameworks.<sup>11</sup> Once the new

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<sup>7</sup> The Civil Nuclear Constabulary, the British Transport Police, and the Ministry of Defence Police and Guarding Agency. It also inspects, by invitation, the police forces of Jersey, Guernsey, the Isle of Man and Gibraltar.

<sup>8</sup> A list of thematic inspections of the last five years, which gives an indication of the breadth of the Inspectorate's work, is at Annex B on p. 15

<sup>9</sup> HM Crown Prosecution Service Inspectorate, HM Inspectorate of Court Administration, HM Inspectorate of Probation and HM Inspectorate of Prisons

<sup>10</sup> See Fourteenth Report of Session 2010–12, *New Landscape of Policing* (HC 939)

<sup>11</sup> Crime and Courts Bill Fact Sheet: Abolition of the National Policing Improvement Agency (Home Office, May 2012)

body is established, the Minister confirmed that the Inspectorate will focus on a more regulatory role, while the new body will provide the positive promotion of best practice and effective policing that is currently provided by the Inspectorate. The Minister also confirmed that the Chief Executive of the new body would be a senior police officer and the Chair of the Board would not. However, as appointments have yet to be made, and the new body will take some time to bed down, there will clearly be a gap, at least in the short-term, in the availability of advice on policing matters.

13. As the Minister told us, the Government wishes to allow the Inspectorate to continue to develop in a new direction, creating a clear division between the inspection and regulatory role, which will remain with HM Inspectorate of Constabulary, and the promotion of the highest standards of policing through the promulgation of best practice and shared learning, which will be part of the mission of the new police professional body.

### ***The appointment of a candidate who has not been a police officer***

14. All previous holders of the post of HM Chief Inspector have been police officers who have (with one exception) served at the rank of Chief Constable or its equivalent in the Metropolitan Police.<sup>12</sup> Most of them had experience as Inspectors of Constabulary before taking up the post of Chief Inspector. The selection of a candidate with no experience of operational policing was therefore a major departure, and one which has proved controversial. The job advertisement specified “extensive understanding of operational policing” and the Appointment Brief made it clear that this need not come from direct experience as a service police officer.

15. When we sought the views of police representative bodies, none of them objected in principle to the appointment of a candidate who has not been a police officer to the post, though they did have serious concerns about the Home Secretary’s preferred candidate for HM Chief Inspector. They all said that more clarity was required on who would take on the role of principal policing adviser to the Home Secretary and of providing personal and professional support to Chief Constables over difficult issues.<sup>13</sup> It is clear that these functions can only credibly be carried out by someone with extensive police experience at senior levels. We also received nearly 100 representations from individual police officers expressing their concern about Mr Winsor’s nomination.

16. The Minister explained that a decision had been taken at the beginning of the process that somebody with no direct policing experience could be appointed to the post, but that there was no deliberate intention to seek out a non-police candidate—Mr Winsor was chosen on merit, not because of his non-police background. He argued that the Inspectorate was moving towards more of a regulatory role, becoming increasingly independent of both Government and the police.

**17. We have no objection in principle to the nomination of a candidate who has not been a police officer, which is consistent with the Government’s stated objective of steering the Inspectorate towards a more regulatory role. However, it raises significant**

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<sup>12</sup> A list of Chief Inspectors since 1962 is at Annex A

<sup>13</sup> pp. 24ff

questions about who will discharge the Chief Inspector's other functions, including the expectation which many have that he will act as the principal adviser to the Home Secretary on policing matters. The new Chief Inspector will also need advice on operational policing matters. The Chief Inspector has been widely perceived as principal adviser to the Home Secretary on operational policing matters, a situation which will change if the post-holder has no direct experience of operational policing. The Home Secretary must clarify what her sources of advice on operational policing matters will be, and who will provide professional advice and support for Chief Constables.

## The person specification

18. The following criteria were applied when assessing candidates:

- a) *Resilient and inspiring leader* who has strong experience of leading organisations through major transformational change.
- b) *Strong understanding of policing* and the broad reforms to the policing landscape and accountability framework, including relationships between forces, police and crime commissioners, police and crime panels, and the public, as well as how they might be applied to a broad strategic vision for the Inspectorate that is both forward thinking and outward facing.
- c) *Excellent customer engagement*, demonstrating evidence of building and maintaining successful relationships and partnerships with policing and the wider public, private and third sector communities.
- d) *Positive evidence of challenging service delivery* to drive continuous improvement.
- e) *First class communicator*, capable and confident in influencing a wide variety of audiences on different and complex issues. Decisive but also open and collaborative in considering different views and opinions.
- f) *Strong planning and organisational skills* to ensure that competing priorities are balanced and key commitments are met.

## The preferred candidate: Tom Winsor

### *The candidate's background*

19. Mr Winsor is a solicitor with 32 years' experience of legal practice, and a partner in White & Case LLP in London. He specialises in the railway, electricity and oil and gas industries. His principal qualifications for this post are that:

- a) between 1999 and 2004 he was the Rail Regulator and International Rail Regulator, Great Britain; and
- b) between 2010 and 2012, he conducted the Independent Review of the Remuneration and Conditions of Service of the Police in England and Wales.



As Rail Regulator he was head of a non-Ministerial government department of comparable size, in terms of both number of staff and annual budget, to the Inspectorate of Constabulary.

20. Mr Winsor points to his work on the Independent Review—in which he was advised by Sir Edward Crew, former Chief Constable of the West Midlands—as his source of understanding of operational policing matters. He says that during the Review, he learned a great deal about police and policing, which he found both fascinating and stimulating. He found much that the police service could and should have learned from private sector enterprises, but had not. He was struck by some of the severe inefficiencies in policing, some but not all of which were in his view a function of the constraints of an unreformed system of pay and conditions designed many years ago. Chief Constables, he argues, need all the tools of modern management practices, but they also need scrutiny and assistance in ensuring that they use those tools wisely and well. Mr Winsor says that his recommendations, if implemented,

will materially and beneficially change the police service in the short, medium and longer terms, improve police culture and facilitate the service's further advancement to higher professionalization.<sup>14</sup>

### ***Our evidence***

21. In line with the guidance produced by the Liaison Committee on the conduct of pre-appointment hearings, our evidence session assessed the candidate's professional competence and personal independence. We asked him about the challenges of taking up the post of Chief Inspector with no experience of operational policing and he said that he thought his background as a regulator would be of benefit. He argued that nobody could be an expert on the full range of operational policing matters and that his main challenge would be to surround himself with highly able people who were able to provide sound advice. We understand that the current Chief Inspector has benefited from a board of advisers. He identified some of the most important issues facing police forces, especially the need to improve the effectiveness of officers by making better use of information technology. He said that police forces, in general, did not have an adequate appreciation of the value of their officers. He conceded that his Report on police remuneration has been received with hostility in some quarters but argued that this was largely actuated by inaccurate reporting. He was robust in the defence of his own independence, pointing in particular to the firm and consistent stance he took when Railtrack went into administration and he was threatened with primary legislation to remove his independence as Rail Regulator.

### ***The Committee's view on the suitability of the candidate***

22. We have carefully considered Mr Winsor's suitability for this post against the background that his nomination has been controversial. If appointed, he will be the first Chief Inspector who has never served as a police officer. His Reports have generated some

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<sup>14</sup> Appendix 3: CV, p. 45

ill-feeling among many police officers. We make no comment here on the merits of the recommendations in his Reports.

**23. We are content for the Home Secretary to proceed with the appointment of Mr Winsor. We urge Mr Winsor, when he takes up the post, to reach out to forces, police officers of all ranks, and their representative bodies. He will also need to create a strong relationship with police and crime commissioners. This Committee will take a continued interest in the work of the Chief Inspector and look forward to hearing evidence from him on a regular basis.**

## Annex A

## HM Chief Inspectors of Constabulary

2009–12	Sir Denis O'Connor	HM Inspector of Constabulary (2004–09) Chief Constable, Surrey (2000–04)
2005–08	Sir Ronnie Flanagan	HM Inspector of Constabulary (2002–05) Chief Constable, Royal Ulster Constabulary (1996–2002)
2002–05	Sir Keith Povey	HM Inspector of Constabulary (1997–2001) Chief Constable, Leicestershire (1993–97)
1996–2001	Sir David O'Dowd	HM Inspector of Constabulary (1993–96) Chief Constable, Northamptonshire (1986–93)
1993–96	Sir Trefor Morris,	HM Inspector of Constabulary (1990–93) Chief Constable, Hertfordshire (1984–90)
1990–93	Sir John Woodcock	HM Inspector of Constabulary (1983–90) Chief Constable, South Wales (1979–83)
1987–90	Sir Richard (Stanley) Barratt	HM Inspector of Constabulary (1978–87) Chief Constable, South Yorkshire (1975–78)
1983–87	Sir Lawrence Byford	HM Inspector of Constabulary (1977–83) Chief Constable, Lincolnshire (1973–77)
1979–82	Sir James Crane	HM Inspector of Constabulary (1976–79) Deputy Assistant Commissioner, Metropolitan Police
1977–79	Sir Colin Woods	Deputy Commissioner, Metropolitan Police (1975–77); Assistant Commissioner (1969–75)

1976–77	Sir James Haughton	Chief Constable, Merseyside (1974–76); Liverpool (1965–74)
1972–75	Sir John Hill	Deputy Commissioner, Metropolitan Police (1972); Assistant Commissioner (1966–72)  HM Inspector of Constabulary (1965–66)
1970–72	Sir John McKay	HM Inspector of Constabulary (1966–72)  Chief Constable, Manchester (1958–66)
1967–70	Sir Eric St Johnston	Chief Constable, Lancashire (1950–67)
1963–66	Sir Edward Dodd	Chief Constable, Birmingham (1945–63)
1962–63	Sir William Johnson	HM Inspector of Constabulary (1945–62)  Chief Constable, Birmingham (1941–45)

*Source: Richard Cowley, Peter Todd & Louise Ledger, The History of HM Inspectorate of Constabulary: The First 150 Years (HMIC, 2006)*

## Annex B

### **Thematic Reports from HM Chief Inspectorate of Constabulary, June 2007 to June 2012**

The crime scene: A review of police crime and incident reports (January 2012)

The rules of engagement: A review of the August 2011 disorders (December 2011)

Without fear or favour: A review of police relationships (December 2011)

Adapting to Austerity: A review of police force and authority preparedness for the 2011/12 – 14/15 CSR period (July 2011)

Demanding Times – the front line and police visibility (March 2011)

Stop the drift: A focus on 21st century criminal justice (November 2010)

Police Governance in Austerity (October 2010)

Anti-social behaviour: Stop the rot (September 2010)

Crime Counts – A Review of Data Quality For Offences of the Most Serious Violence (October 2009)

Crime Counts – A Review of Data Quality For Offences of the Most Serious Violence – Technical Report (October 2009)

An HMIC report on civil contingency planning by forces in England and Wales (August 2009)

An HMIC report on critical incident management by forces in England and Wales (August 2009)

Law Enforcement Entities with the Government Protective Marking Scheme (July 2009)

Getting together – a better deal for the public through joint working (June 2009)

Major Challenge – The Thematic Inspection of Major Crime (June 2009)

Prevent, Progress and Prospects Report (June 2009)

Getting Organised: Serious and organised crime (March 2009)

*Source: HMIC website, [www.hmic.gov.uk/inspections/thematic-inspections](http://www.hmic.gov.uk/inspections/thematic-inspections)*

## Appendix 1

### Appointment Brief, March 2012

#### Introduction

During 2012, the most ambitious and far-reaching plans for reform of policing in more than half a century become reality. Police and Crime Commissioners will be elected in every force in England and Wales to oversee policing and to hold the chief constable to account. At the same time, the National Crime Agency will be created to lead organised crime-fighting efforts across the country. At the heart of both of these reforms, the principal mission of policing remains to cut crime. HMIC exists to support the police service in doing that, and to show people and their newly elected commissioners that forces are capable of doing it effectively.

HMIC is an independent inspectorate with a clear remit to inspect and report, to the public and to the Home Secretary, on police forces and national policing agencies. The Police Reform and Social Responsibility Act 2011 gives HMIC greater independence to act directly in the public interest in the way that it scrutinises policing and shines a light on those areas that need to improve. This includes clearer and stronger powers and a remit to act as the gateway for all regulatory activity in policing.

The next HM Chief Inspector of Constabulary will be an inspirational leader with extensive understanding of operational policing. They will direct transformational change in HMIC to refocus its core purpose on supporting effective crime-fighting and stronger accountability to the public for chief constables and their forces. The successful candidate will work with leaders across the police service and in government to help turn the Government's vision for policing in England and Wales into improved service for people and communities.

The appointment of HM Chief Inspector of Constabulary will be made by Her Majesty the Queen, following a recommendation by the Home Secretary and the Prime Minister.

Candidates will be shortlisted and interviewed exclusively on the basis of the information supplied. Those shortlisted for interview will receive further information at that stage. The selection and interview process is likely to take place between late March and early April, and applicants are asked to ensure that they are available during this period. Appointable candidates will also be required to meet a Home Office Minister as part of the selection process.

In line with Government policy to increase Parliamentary scrutiny of key appointments, the preferred candidate for this appointment is required to appear before a Parliamentary select committee prior to the Home Secretary's submitting approval for the appointment to the Prime Minister and The Queen.

#### Background

Her Majesty's Inspectorate of Constabulary

HM Inspectorate of Constabulary (HMIC) is charged in statute with inspecting the efficiency and effectiveness of the police service in England and Wales. The purpose of the

Inspectorate is to ensure standards are achieved, good practice is spread, performance is improved and the public are engaged and assured.

HMIC is an independent body that operates in the public interest. It:

- Inspects high profile issues of national interest such as police integrity, public order and value for money. Inspection findings are communicated to the public through HMIC's website and the media;
- Monitors police force performance and advises (from November) PCCs, the Home Office and the Home Secretary;
- Provides a check and balance in the system of policing and public accountability.

HMIC's remit:

- Monitoring and reporting on the efficiency and effectiveness of the police, and making the findings transparent for the public and, from November, to Police and Crime Commissioners.
- Monitoring police performance and resources and, where there are serious concerns, escalating these where appropriate.
- Thematic inspections and commissions for example those recently completed regarding police integrity, Olympics security and public order.
- Joint inspections with other bodies – in particular the criminal justice inspectorates – focusing on cross cutting issues.
- Inspection of 43 police forces in England and Wales, the Police Service of Northern Ireland, the Civil Nuclear Constabulary, the British Transport Police and the Ministry of Defence Police and Guarding Agency.
- The inspection of HM Revenue and Customs and the Serious Organised Crime Agency (and in due course the National Crime Agency).
- Inspection by invitation of the police forces in Jersey, Guernsey, the Isle of Man and Gibraltar.

HMIC's role will develop with the introduction of the Police Reform and Social Responsibility Act 2011. HMIC:

- Will have a greater role in opening up policing enabling the public to have a more informed role in the new democratic process;
- Will have stronger regulatory powers including powers of entry and powers of direct access to information;
- Will report directly to Parliament, including laying its annual inspection programme, following the Home Secretary's agreement;
- May also be commissioned by Police and Crime Commissioners to look into specific areas.

A full description of HMIC's work can be found at [www.hmic.gov.uk](http://www.hmic.gov.uk).

### **The role**

HM Inspectors of Constabulary (HMIs) and the Chief Inspector of Constabulary are appointed under section 54 of the Police Act 1996. All appointments must be approved by the Prime Minister and The Queen.

HMIs have a statutory duty to inspect and report on the efficiency and effectiveness of police forces in England, Wales and Northern Ireland. The role of the Inspectorate will undergo significant transformation with the introduction of Police and Crime Commissioners over the course of 2012 and implementation of other provisions of the Police Reform and Social Responsibility Act 2011. Over the next year, the Chief Inspector will play a leading role in setting out how the Inspectorate will operate in response to the changes introduced by this Act and the wider changes that this Government's significant programme of reform is achieving. This will include:

- opening up policing to allow greater external and local scrutiny;
- ensuring transparency of judgement by securing wider publication of all reports;
- monitoring national risks, issues of national importance and individual force performance; and
- deciding when and whether performance concerns warrant escalation to PCCs, to the Home Office or even to Ministers.

The challenge for the new Chief Inspector is to take forward a powerful and professional programme of work that supports the reforms that are changing the policing landscape.

Applications will be considered from candidates with a policing background (serving UK chief constables or HM Inspectors) as well as from other professional backgrounds where candidates can demonstrate strong understanding of operational policing.

### **Person specification**

Applications will be considered from candidates with a policing background (serving UK Chief Constables or HM Inspectors) and from other professional backgrounds where candidates can demonstrate understanding of operational policing and how they might apply that to HMIC's strategy and programme of work.

Owing to the sensitivity of some of the material that the HM Chief Inspector of Constabulary needs access to, this appointment is open only to UK nationals.

To help you to decide whether you are the right person for this role, we have listed below the criteria that will be applied when assessing candidates. To be considered, you must be able to demonstrate that you have the qualities, skills and experience to meet these.

- Resilient and inspiring leader who has strong experience of leading organisations through major transformational change.



- Strong understanding of policing and the broad reforms to the policing landscape and accountability framework, including relationships between forces, police and crime commissioners, police and crime panels, and the public, as well as how you might apply that to a broad strategic vision for the Inspectorate that is both forward thinking and outward facing.
- Excellent customer engagement, demonstrating evidence of building and maintaining successful relationships and partnerships with policing and the wider public, private and third sector communities.
- Positive evidence of challenging service delivery to drive continuous improvement.
- First class communicator, capable and confident in influencing a wide variety of audiences on different and complex issues. Decisive but also open and collaborative in considering different views and opinions.
- Strong planning and organisational skills to ensure that competing priorities are balanced and key commitments are met.

### **The seven principles of public life**

#### 1. Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

#### 2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### 3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### 4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### 5. Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### 6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## 7. Leadership

Holders of public office should promote and support these principles by leadership and example.

### **Terms of appointment**

**Contract** - The appointment is for a fixed-term of three years, with the option of extending it for a further two years subject to satisfactory performance and Ministerial approval.

**Remuneration** - The salary scale for the appointment is £195,000 to £199,995, and will be determined upon appointment. No allowances will be paid.

**Working hours** - The normal hours of work are based on a five day week of 36 hours, excluding meal breaks.

**Location** - The post is in London although there is a requirement to travel across the UK.

**Annual leave** - The annual leave allowance will be 30 days per year. In addition, the postholder will receive 8 days bank and public holidays and two and a half privilege days, which are to be taken at specific times of the year.

**Pension** - The appointment will be pensionable from the outset.

- Serving police officers will be able to continue contributing to the Police Pension Scheme (PPS) for the duration of this appointment as the post falls within the scope of the scheme (Police Pensions Act 1976). This abates the pension of retiring/retired police officers.
- Those who are not serving police officers will be able to join the Civil Service pension scheme. This offers a choice of a career average or stakeholder pension, giving you the flexibility to choose the pension that suits you best. The alternatives are:
  - Nuvos - A high quality, index-linked defined benefit pension scheme, payable at 65, that currently has a 3.5% member contribution rate. We also make contributions and meet the bulk cost of the scheme.
  - Partnership Pension Account - This pension account provides a way of saving for retirement. The department will make contributions to a stakeholder pension, which is a form of personal pension. The departmental contribution will vary according to your age at the beginning of the tax year. You may decide how much you want to contribute, but you do not have to contribute anything. If you do contribute, the department will match your contributions up to a maximum of 3% of pensionable earnings.

**Please note:**

- If you previously worked for an employer who participated in the Civil Service Pension Scheme, different conditions may apply, as may your benefits if you left the Civil Service with an early retirement, severance, or redundancy package. Additional details can be found on the website: [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk). Further information about these schemes will also be made available on appointment.
- Abatement of pension may apply if you are in receipt of a public service pension. In addition, civil servants who have been granted early retirement (under the terms of the Compulsory Early Retirement, Compulsory Early Severance, Flexible Early Retirement or Flexible Early Severance schemes) may be required to repay all or part of their lump sum compensation payments if their re-employment commences during the period represented by the compensation payment.

### **How to apply**

Saxton Bampfylde has been engaged as HMIC's recruitment adviser on this appointment.

The closing date for applications is noon on Tuesday 17th April 2012

Please enclose with your application:

1. a full CV, including educational and professional qualifications, a full employment history showing the more significant positions, responsibilities held, relevant achievements and budgets and staff managed, and latest remuneration including any benefits;
2. a covering note of not more than 2 pages summarising your proven ability related to the person and job specification (candidates need not address the seven principles of public life in the covering note);
3. candidate summary form;
4. equal opportunities monitoring sheet. Applications from all groups are warmly welcomed;
5. pre-employment and security checks form; and
6. if you are disabled and wish to apply under the guaranteed interview scheme, please complete the guaranteed interview request form.

## **Appendix 2: Correspondence with the Home Secretary and key stakeholders**

### **Letter from the Chair of the Committee, to the Home Secretary, 25 May 2012**

As you know, my Committee is expecting to hold a pre-appointment hearing for your preferred candidate for the role of Her Majesty's Chief Inspector of Constabulary. The Committee has agreed to conduct the session on 12 June 2012.

Stories are now appearing in the press with reports about the shortlisted candidates. As I am sure you appreciate, the Committee would prefer to hear this information directly from you and believes that the information would be relevant and helpful in its deliberations.

I would be grateful if you would write to me with the shortlist of candidates. It would also be helpful to know when you expect to select your preferred candidate.

Please would you respond in writing by 5pm on Tuesday 29 May. I am concerned that correspondence from your Department has been delayed on several occasions recently and would be grateful for a prompt reply on this matter.

Rt Hon Keith Vaz MP, Home Affairs Committee Chair

### **Letter from the Home Secretary, to the Chair of the Committee, 28 May 2012**

Thank you for your letter of 25 May on behalf of your Committee, about the pre-appointment hearing for the new Her Majesty's Chief Inspector of Constabulary (HMCIC).

I am pleased that you are personally taking an active interest in this appointment.

The next HMCIC will be responsible for leading the Inspectorate into the new policing landscape, and is therefore a very significant appointment. I am seeing all appointable candidates shortly with Nick Herbert and will decide on my preferred candidate once these meetings have concluded. My office will then make the necessary arrangements to notify the Prime Minister's Appointments Unit of my decision, who then informs you. My officials will then send through the relevant information on the preferred candidate in time for the pre-appointment hearing on 12 June.

It is regrettable that speculative stories have appeared in the last week on the candidates shortlisted for this appointment. My department has not shared this information publicly, and it has been restricted only to those involved in the appointment arrangements. It would not be appropriate for me to disclose to you the names of those shortlisted for this appointment - this is specifically prohibited by the Cabinet Office guidance on pre-appointment hearings.

I hope this letter provides you with clarity on the appointment process.

Rt Hon Theresa May MP, Home Secretary

**Letter from the Home Secretary, to the Chair of the Committee, 7 June 2012**

You have scheduled for Tuesday 12 June a pre-appointment hearing with my preferred candidate to succeed Denis O'Connor as Her Majesty's Chief Inspector of Constabulary.

In advance of that hearing, I am writing to let you know that after an extensive search, my preferred candidate for this appointment is Tom Winsor.

I enclose his curriculum vitae for your information and I can confirm that he is available to meet you and your committee on the 12th.

Rt Hon Theresa May MP, Home Secretary

**Letter from the Chair of the Committee, to the Home Secretary, 12 June 2012**

At its meeting this morning, the Home Affairs Committee resolved to call for the following information—

- (a) the names of the candidates who were shortlisted for the post of HM Chief Inspector of Constabulary; and
- (b) a statement of your reasons for selecting Mr Winsor as your preferred candidate.

You have already cited Cabinet Office guidance on the provision of information to select committees conducting pre-appointment hearings as a reason for refusing to provide the shortlist. The committee does not accept that this guidance fetters its powers to call for evidence on any matter.

Please respond by midday on Thursday 14 June.

Rt Hon Keith Vaz MP, Home Affairs Committee Chair

**Letter from the Home Secretary, to the Chair of the Committee, 18 June 2012**

Thank you for your letter of 12 June. As I'm sure you are aware, the purpose of the pre-appointment hearing is to examine the professional competence and personal independence of the preferred candidate. In that context, I do not believe that it is appropriate or necessary for me to make known to you the names of the other candidates who were shortlisted for this appointment. Moreover both Cabinet Office

guidance and the recent Liaison Committee's report on pre-appointment scrutiny hearings (July 2011) recommended that this information is not disclosed.

I wish to hear the committee's unfettered, impartial views on this matter, and my own rationale for selecting Tom Winsor should not influence that.

Rt Hon Theresa May MP, Home Secretary

**Letter from the Chair of the Committee, to key stakeholders, 12 June 2012**

As you know, the Home Secretary has nominated Tom Winsor as her preferred candidate for the post of HM Chief Inspector of Constabulary

The next stage of the process is for Mr Winsor to attend a pre-appointment hearing before the House of Commons Home Affairs Committee. This will take place at 11.15am on Tuesday 26 June.

It would greatly assist the committee to receive a formal submission from XXX, setting out your views on Mr Winsor's suitability for the post, if any.

Rt Hon Keith Vaz MP, Home Affairs Committee Chair

**Letter from Sir Hugh Orde, President, Association of Chief Police Officers, to the Chair of the Committee, 18 June 2012**

Thank you for your letter of 12 June requesting a submission from ACPO setting out views on Mr Winsor's suitability for the post of Chief Inspector of Her Majesty's Inspectorate of Constabulary (HMCIC).

Our firm view is that it is entirely proper for the Home secretary, rather than ACPO or the police service itself, to make decisions relating to how the police service is held to account. Therefore the nomination of preferred candidate for HMCIC is a matter for her alone.

However, there are wider implications to the direction of travel in which Her Majesty's Inspectorate of Constabulary is moving, towards becoming an outright regulator. That is the description which the Government itself uses for the new role of HMIC and it is one with which I agree. Together with the Police Superintendents' Association of England and Wales and the Police Federation of England and Wales, I have written to the Home Secretary setting out some of these implications.

It has been customary for Home Secretaries to call upon the HMCIC for professional advice and support on all aspects of policing, including operational and management issues. Chief Officers themselves have also benefited from the personal and professional support HMCIC can offer at critical moments. This advice and support is clearly

founded upon the experience, insight and credibility past HMCICs have been able to bring to bear through their substantial professional experience of operational policing. Of course there are also some less critical aspects to HMCIC's traditional role which nevertheless have symbolic importance, occasions such as the Remembrance Day commemorations, in which HMCIC is understood to represent the police service at cultural or ceremonial events. The HMCIC has also worn a police uniform and been involved in the awarding of honours within the police service.

The appointment of a non-police officer candidate by the government would, we believe, signal a step change away from the tradition of HMCIC as 'the Home Secretary's principal policing advisor'. Placing HMCIC under the leadership of a Chief Inspector of Constabulary Without operational knowledge or experience therefore raises unanswered questions about where the Home Secretary will seek professional advice.

As the committee has itself noted, the Government's police reform agenda is huge. The National Policing Improvement Agency is going, a new National Crime Agency, national police IT company and Professional Policing Body are emerging; while the service absorbs a 20% cut in budgets. At this moment in time, the makeup of the Police Professional Body remains undetermined.

ACPO Chief Constables' Council remains critical to the model of British policing as it allows the leadership of the service to act collectively to safeguard the citizen and to speak with one voice. However the Home Office has committed no further funding to ACPO beyond December of this year.

Therefore we see a need for clarity on the future roles of these two bodies alongside that of HMIC, and on how the Home Office will seek legitimate professional advice on policing in future. In our correspondence we have invited the Home Secretary to set out her position on these matters in more detail.

Sir Hugh Orde  
President, Association of Chief Police Officers

**Letter from Chief Superintendent Derek Barnett, President, Police Superintendents' Association of England and Wales, to the Chair of the Committee, 19 June 2012**

Thank you for your letter dated 12th June inviting a formal submission from the Police Superintendents' Association of England and Wales (PSAEW) setting out our views on the nomination of Mr Tom Winsor as the preferred candidate for the post of HM Chief Inspector of Constabulary.

The appointment of the new Chief Inspector of Constabulary comes at a time of significant change and reform within policing. We recognise and understand the desire of the Home Secretary to change the landscape of policing and in particular the forthcoming elections for Police and Crime Commissioners, the creation of a

professional body for policing and the ongoing reform of pay and conditions of police officers arising from the two reports written by Mr Winsor.

It is against this background that the Home Secretary has indicated her preferred appointment of a Chief Inspector of Constabulary who is not from the service as a former Chief Constable. The first occasion in the 156 year history of the role as I understand it. This departure is itself consistent with the Home Secretary's clear intention to make the police service more accountable to the public and more independent of the Home Office. This is a decision that clearly signifies a political change of direction and therefore I believe it to entirely appropriate that this decision and the suitability of the preferred candidate is subject to political scrutiny. I am confident that the confirmation hearing of the Home Affairs Committee is the appropriate forum for the Home Secretary to be held to account for her decision and the suitability of her preferred candidate.

We have noted that the advertisement for the role did make it clear that candidates need not have had previous experience as a Chief Constable, but that "the next HM Chief Inspector of Constabulary will be an inspirational leader with extensive understanding of operational Policing."

I have together with Sir Hugh Orde, President of ACPO, and Mr Paul McKeever, Chairman of the Police Federation of England and Wales, written to the Home Secretary seeking clarity in respect of the role hitherto undertaken by HMCIC as the principal advisor on policing matters to the Home Secretary. Formerly this role has been undertaken by an experienced and senior former Chief Constable with an extensive and credible record of achievement and understanding of policing and the wider criminal justice system. And whilst we acknowledge there may be some advantages in appointing someone without this background, it is legitimate to ask who will perform this role in the future. In addition, the CHMIC has provided what I may describe as a 'pastoral' role to the service to provide confidential advice and guidance to Chief Officers and also as an independent interface between Chief Constables and ourselves in Staff Associations representing individual or groups of members within police forces.

The PSAEW is the Association that represents the senior operational leaders within policing across England and Wales and you have my assurance that my members hold to the fore the development of policing for the protection of the public. We will continue to positively and constructively engage with Her Majesty's Inspectorate irrespective of who is appointed as the HMCIC, for the betterment of policing and in the public interest.

Derek Barnett  
Chief Superintendent  
President, Police Superintendents' Association of England and Wales



**Letter from Paul McKeever, Chairman Police Federation of England & Wales, to the Chair of the Committee, 18 June 2012**

Thank you for inviting us to submit the views of the Police Federation of England & Wales on Tom Winsor's nomination as preferred candidate for the post of Her Majesty's Chief Inspector of Constabulary. We understand that Mr Winsor will be appearing before the committee on 26th June.

Members of the Home Affairs Select Committee will have already received our letter of the 21 May, which was sent to every MP, identifying our significant concerns about the potential impact that Winsor's review will have on policing. That said we recognise that the policing landscape is changing. The structure of governance of the police service is being dramatically reconstructed due largely to the introduction of Police and Crime Commissioners, the outcome of which we hope will be successful but remains untested and uncertain at this point. In addition, a number of influential bodies which the service has come to rely upon in recent years are about to be dismantled and replaced by a Police Professional Body and the National Crime Agency, the precise structure and function of these remains to be determined.

It would appear, following recent comments made by the Home Secretary in the media, that the well-established role and function of Her Majesty's Inspectorate of Constabulary is now being targeted for alteration. Our concerns on this matter were voiced in a joint letter to the Home Secretary submitted by ourselves, ACPO and PSAEW on 11 June in which concerns were raised about her choice of preferred candidate for HMCIC.

This role has traditionally been that of chief advisor to the Home Secretary on policing matters and has, for the last 156 years, been an individual with extensive experience of operational policing at the different ranks, who is instilled with the insight and gravitas that only involvement at a senior level can give them.

We were therefore reassured that the press advertisement for the post of HMCIC clearly stated "The next HM Chief Inspector of Constabulary will be an inspirational leader with extensive understanding of operational policing." In our view, we struggle to comprehend how anyone who has not worked extensively within the police service — whether as an officer or a civilian — could demonstrate such an 'extensive understanding'.

To us this indicates a fundamental shift away from the role of the HMCIC as an independent policing adviser which is further compounded by the prospective change to legislation under section 85 of the Police Reform and Social Responsibility Act 2011 which states that the 'Secretary of State may by order specify matters to which the chief inspector of constabulary must have regard in preparing an inspection'. It is our view that this provision undermines the independence of the HMIC.

Beyond the question of Mr Winsor's suitability for the role, our concern here is exactly what that role will now entail and from where in the future an insight and assessment of the performance of the police service will come that is independent of government. Of equal importance is the question of where senior officers in the Service will be able to turn to get advice and assistance with significant matters of policing and where the government will get advice on matters of national security.

Paul McKeever  
Chairman, Police Federation of England & Wales

**Letter from Cllr. Mark Burns-Williamson OBE, Chair, Association of Police Authorities, to the Chair of the Committee, 19 June 2012**

Thank you for your invitation to submit the APA's views on the suitability of the Home Secretary's preferred candidate for HMCIC, following the completion of Sir Denis O'Connor's exemplary service in the role later this year.

Consultation

Historically the APA has been involved in the selection of HMCIC. We are therefore naturally disappointed not to have been able to add our perspective this time but are grateful that you have afforded us this opportunity to comment and we look forward to working constructively with the confirmed candidate.

Our view of the preferred candidate

In respect of our view of Mr Winsor's personal suitability to be HMCIC; the APA is conscious of the important role afforded to your committee in respect of this particular post. We are confident that your hearing will provide considerable clarity, we would therefore respectfully rather reserve any view on Mr Winsor's personal suitability for the role until it is informed by the insights which will be afforded by your committee.

The appointment of a civilian

That said it might be helpful to state some principles which will inform our view of any candidate. First, the APA is not wedded to the idea that HMCIC must be a former Chief Constable and has no 'in principle' objection to a civilian being appointed to head up HMI as long as it continues to include those with professional policing experience. Whilst HMI is still comprised of those with a relevant range of policing and non-policing experience, there is no reason why a civilian could not bring a considerable contribution to the role, though this would leave two considerable 'gaps in the market'. Specifically, as others have already indicated, such an appointment would leave unfulfilled two indispensable functions which were both previously performed by HMCIC; a professional 'mentor' for Chief Constables, and a professional policing adviser to the Home Secretary. Whilst the Chief Constables' Council will fulfil a crucial

function in clarifying and communicating the professional view of the service, we believe that there is also great utility in the Home Secretary receiving advice from a respected individual with considerable professional experience of policing who is able to take a wider view which is informed, but also potentially independent of the current cadre of Chief Constables.

#### Our questions

Although we feel it appropriate to reserve a view on the preferred candidate until after your hearing, we would be grateful if it could enlighten our understanding of Mr Winsor's views on certain specific issues. As those charged with both representing the police authorities who currently hold the police to account, and providing an 'umbrella' representative function for directly elected Police and Crime Commissioners from November (the APCC), we would be grateful if the deliberations of your committee could provide clarity on these questions:

1. How does Mr Winsor propose to interact with PCCs and how he would respond to their ability to commission him under Chapter 7 of the Police Reform and Social Responsibility Bill?
2. What Mr Winsor understands HMCIC's relationship with PCCs to be and how he would propose to ensure this is both collaborative and appropriately independent in the public interest?
3. Does Mr Winsor have a view on HMI's capacity to provide the level of support which may be required by 41 new PCCs who will have varying levels of knowledge and experience of policing?
4. What are Mr Winsor's views on what some have seen as a potential overlap between HMI's refined role (described as that of a 'fierce advocate of the public interest') with that of the elected PCC who will consider her or his mandate from the public to embody that public interest?
5. Whilst Mr Winsor's recent reports into policing will have provided him with considerable and valuable insights into policing, does he envisage any occasions on which a perception of conflicted interest might arise if the HMCIC were asked to investigate areas closely linked to matters pertaining to his reports, and how would he respond to such a perception? For example, HMI might be tasked to consider the extent to which forces' implementation of the recommendations contained within his reports have delivered savings or improvements to the service as part of their on-going 'Valuing the Police' investigations.
6. In line with the concerns communicated to the Home Secretary in a joint letter from ACPO, the Police Federation and Police Superintendents' Association, does Mr Winsor have a view on how the Home Secretary might access professional advice and

support on operational policing matters, as previously provided by HMCIC in his capacity as a former Chief Constable? And how Chief Constables might best access the kind of professional support, advice or indeed mentoring for which many Chiefs have relied on HMCIC in the past?

Thank you again for your invitation to contribute to your Committee's important deliberations. We shall await your hearing with interest. If we can provide any further information please do not hesitate to contact me through the APA offices at any time.

Cllr. Mark Burns-Williamson OBE  
Chair, Association of Police Authorities

**Letter from the Chair of the Committee, to Oliver Breetle, Executive Partner  
White & Case LLP, 13 June 2012**

The Home Secretary has written to inform me that Tom Winsor, a senior partner at White & Case, has been selected as the preferred candidate for the role of HM Chief Inspector of Constabulary.

Mr Winsor is due to appear before the Home Affairs Select Committee for a pre-appointment hearing at 11am on Tuesday 26<sup>th</sup> June 2012.

I have noted that White & Case have issued a press release highlighting the work the firm has carried out in relation to Lincolnshire Police. I would be grateful if you could inform me of any further cases involving British policing the firm has been involved in?

I would also be grateful if you could inform me of the protocol you have in place to ensure there is no conflict of interest between the work that Mr Winsor undertakes at White & Case and that of a HMCIC.

Please respond by midday on Tuesday 19<sup>th</sup> June.

Rt Hon Keith Vaz MP, Home Affairs Committee Chair

**Letter from Julia Walker, Partner & Deputy General Counsel, White & Case LLP, to  
the Chair of the Committee, 19 June 2012**

I acknowledge with thanks your letter of 13 June 2012 addressed to Oliver Breetle which has been passed to me for formal response on behalf of White & Case LLP.

I can confirm that White & Case LLP has in place thorough procedures to identify and manage conflicts of interest in relation to matters it undertakes for clients. Those procedures are compliant with the professional code of conduct overseen by the

Solicitors Regulation Authority and operate to achieve the outcomes required by that code of conduct.

No conflict of interest has arisen or will arise between the work Mr Winsor undertakes at White & Case LLP and his prospective role as HMCIC since Mr Winsor will not be performing a dual role in these positions. Mr Winsor will tender his resignation as a partner in White & Case LLP effective upon him taking up his duties as HMCIC, if he is appointed to this position. Accordingly, there will be no overlap.

By way of background, as was the case with Mr Winsor's work on the police pay review which was conducted by him in a personal capacity and not on behalf of White & Case LLP (i.e. no part of Her Majesty's Government was a client of this firm in relation to that review), there is no client/lawyer relationship between White & Case LLP and Her Majesty's Government or any part of it in relation to HM Inspectorate of Constabulary or its work.

In response to your broad information request for disclosure of other matters "involving British policing", our professional obligations of client confidentiality preclude White & Case LLP from providing information involving its clients without such clients' express consent. However, I am able to confirm that other than less than 30 minutes spent in 2006 advising a private sector client in relation to European procurement, the only "British policing" matter on which White & Case LLP has advised and is advising a client is in relation to a longstanding police accommodation project which commenced in September 2010. I can further confirm that Mr Winsor himself has had no involvement in either matter.

I hope the above information and confirmation is helpful.

Should you have any further questions or require clarification on any other matters, please do not hesitate to contact me.

Julia Walker  
Partner & Deputy General Counsel, White & Case LLP

## Appendix 3

### Tom Winsor's CV

Name	Thomas Philip WINSOR
Principal eligibility qualifications	Rail Regulator and International Rail Regulator, Great Britain, 1999-2004; expert in transport, energy, public law and regulation Independent Reviewer of the Remuneration and Conditions of Service of the Police in England and Wales, 2010-2012 32 years' practice of law
Present position	Partner & Global Head of Railways Practice Energy, Project, Infrastructure and Asset Finance Group, White & Case, London (since 5 July 2004) (White & Case is a global law firm with 2000 lawyers in 38 offices in 24 countries)
Profession	Solicitor of the Supreme Court of England and Wales Solicitor and Writer to the Signet in Scotland

### PERSONAL DETAILS

Date of birth 7 December 1957 (age 54)

Nationality British

### EMPLOYMENT HISTORY

2004 – date	Partner, White & Case, London (including 2010-2012 independent review of police pay and conditions of service)
1999 - 2004	Rail Regulator and International Rail Regulator, Great Britain
1991 - 1999	Partner, Denton Hall, London (including two-year secondment to the Office of the Rail Regulator as General Counsel)
1984 - 1991	Assistant Solicitor, Norton Rose, London
1983 - 1984	Assistant Solicitor, Dundas & Wilson CS, Edinburgh
1982 - 1983	Postgraduate in Petroleum Law at University of Dundee
1981 - 1982	Assistant Solicitor, Thorntons WS, Dundee
1979 - 1981	Scottish legal apprenticeship, Thorntons WS, Dundee

## **EDUCATION AND QUALIFICATIONS**

- 1991 Admitted to practise as a solicitor in England and Wales
- 1984 Writer to the Signet, Scotland
- 1981 Admitted to practise as a solicitor in Scotland
- 1982 - 1983 University of Dundee, Diploma in Petroleum Law  
(Dissertation: Project financing of international oil & gas pipelines)
- 1976 - 1979 University of Edinburgh, LLB (Scots Law)
- 1970 - 1976 Grove Academy, Broughty Ferry, Dundee

## **MEMBERSHIP OF PROFESSIONAL BODIES**

- Society of Writers to HM Signet in Scotland
- Notary Public, Scotland
- Law Society of England and Wales
- Law Society of Scotland
- International Bar Association (Business Law and Energy and Natural Resources Law Sections)
- University of Dundee Petroleum & Mineral Law Society (President 1987-89)
- Society of Scottish Lawyers in London (President 1987-89)
- UK Energy Lawyers Group
- Fellow of the Chartered Institute of Logistics and Transport
- Associate of the Chartered Institute of Arbitrators
- Member of the Hansard Society

## **ACADEMIC POSITIONS**

- Honorary Lecturer at the Centre for Energy, Petroleum and Mineral Law and Policy at the University of Dundee (1993 to date) and their guest speaker on project financing of oil and gas projects (1985-91). Course Director of, and principal lecturer at, their summer course on UK Oil & Gas Law (1993-97)
- Member of the Advisory Panel of the Centre for the Study of Regulated Industries (1992-98)
- Consultant Editor – ‘\_Railways’, Volume 37, Halsbury’s Laws of England, Butterworths Publishing

## **OTHER APPOINTMENTS**

Member of a group on the development of European economic regulation led by the University of Florence.

Probable member of a working party of the OECD on the establishment of a system of world-class regulation and regulators; initial meeting was in Paris in April 2012

## **RECORD OF ACHIEVEMENT – 1**

My principal professional experience covers the railway, electricity and oil and gas industries, working on industry restructuring, the regulation of markets and the most complex and high-value projects in those fields for both public and private sector clients. It has also covered the development and implementation of policy in these areas.

My principal achievements so far have been in my period of public office between 1999 and 2004, as Regulator and International Rail Regulator. I was appointed to that post by Mr John Prescott MP, and subsequently worked with Mr Stephen Byers MP and Mr Alistair Darling MP during their tenures as successor Secretaries of State for Transport.

That job provided a rich mix of economics, corporate finance, law, politics, issues of asset stewardship and corporate competence, public accountability, consumer protection, and intensive senior-level dealings with government, Parliament, the European Commission, local representatives, and regulatory authorities and transport enterprises in other countries.

*Transport and utility economic policy, regulation, legal and industry dynamics*

*July 1999 – July 2004*

### **Positions held**

Rail Regulator and International Rail Regulator, Great Britain; policy and administrative head of a non-Ministerial Government department for five years with considerable experience in some of the most complex, demanding and high-profile affairs of the country, including determining the largest financial settlement the industry has ever had. Staff managed: c.120. Operating budget: c.£13 million p.a. Financial jurisdiction: £22.2 billion over five years.

Senior member of the Convention of European rail regulatory authorities, chaired by the European Commission. The Convention is an EU-wide body which enables the rail regulatory authorities of every Member State to meet and exchange information and best practice in matters common to their jurisdictions, in particular in connection with competition law and policy, capacity allocation, charging for access to infrastructure, relations with Government and the European Commission and the implementation of relevant EU Directives. It also focuses on the establishment and operation of regulatory authorities for railways in the European Union, issues of development of efficient and economical market structures for railways and opportunities for competitive development and co-operation.



Member of the group of five principal economic regulators in GB<sup>15</sup> which deals with matters of common importance across the regulated sectors. It met (and meets) every three or four months to discuss matters of significance in the development and implementation of competition law and policy, price regulation, licensing, stewardship, administration and relations with Government, Parliament, stakeholders and the media. At the time of my appointment, I was the youngest person appointed as one of the principal economic regulators (41).

## Responsibilities

During my time in office, the principal jurisdiction of the Rail Regulator comprised—

- establishment of the financial framework for Railtrack (now Network Rail) through statutory price-setting controls
- holding the monopoly and dominant elements of the railway industry (mainly Railtrack, later Network Rail) to account for their public interest obligations and their obligations to their dependent customers, including enforcement action where the public interest required it
- monitoring and enforcement of the consumer protection conditions of the operating licences of passenger train and station operators<sup>16</sup>
- granting, monitoring and modifying other conditions of licences to operate railway assets
- competition authority for railways, using powers under the Competition Act 1998 and the Enterprise Act 2002
- control of the consumption of capacity of railway assets, through the approval of access contracts and the direction of compulsory third party access in cases of monopoly abuse
- development of industry-wide codes (particularly the railway network code) dealing with timetable development, changes to rolling stock and the network itself, the handling of operational disruption, transfer of access rights, local accountability, information provision and environmental protection
- sitting as appeal tribunal for certain legal disputes in the railway industry<sup>17</sup>
- chairing the (non-statutory) board of the Office of the Rail Regulator as well as being the organisation's chief executive
- administrative head and accounting officer for the Office of the Rail Regulator, responsible to Parliament for the spending of public money.

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<sup>15</sup> The others are the economic regulators for energy (OFGEM), communications (OFCOM), water (OFWAT) and competition (OFT)

<sup>16</sup> The relevant jurisdiction was transferred to the Strategic Rail Authority in February 2001, under the Transport Act 2000; since the abolition of the SRA, that jurisdiction has now been returned to the ORR

<sup>17</sup> The two most significant cases during my period of office were Eurostar (UK) Ltd –v- Network Rail Infrastructure Limited (£400m at stake) and Great North Eastern Railway Ltd –v- Network Rail Infrastructure Limited (£250 million)

These activities involved establishing and maintaining the confidence of a wide range of stakeholders in the competence, professionalism and quality of decision-making (as to substance and process) in the exercise of statutory and other powers.

They also involved dealings at the highest levels in Government, Parliament, the civil service, the railway industry, financial institutions and other regulatory authorities, and with the media and before public inquiries in a high-profile and politically charged environment.

The problems which had to be tackled in the railway industry by its economic regulator were, in the period 1999-2004, almost certainly more acute than in any other field of economic regulation in the UK.

### **Challenges and achievements as Regulator**

#### *Overview*

In the five years in which I held office as Rail Regulator, there was an intense politicisation of the railway industry, the financial collapse of Railtrack, a disintegration of the integrity of the national network following the Hatfield crash, a remarkable (and successfully resisted) proposal by Government to extinguish the independence of economic regulation, a restructuring of the industry on entirely unforeseeable grounds and sustained assaults by the artillery of the media.

Dealing with these major shocks in the affairs of the industry inevitably threatened my programme for the reform of the railway industry's contractual and regulatory regime which I announced in July 1999, and the work generally of my office. But they did not stop it. By the time I left office, my reform programme was complete, the competence and culture of the railway industry had been materially improved, and the powers and standing of my department had been enhanced, not diminished.

#### *Reform programme*

My reform programme involved—

- completely revising the financial framework of the railway industry, moving from enforcement regulation to incentive regulation and putting the infrastructure provider on a sound and sustainable financial footing; this involved the carrying out of two major (and several minor) price reviews of the network provider's revenues – in October 2000 I increased Railtrack's income from £10 billion to £14.8 billion for the period 2001-2006; in December 2003 I determined that Network Rail's income should rise to £22.2 billion for the period 2004-2009;
- significant change to the infrastructure provider's accountability to the public interest through nine modifications of its network licence in matters such as: its stewardship of the national network; the establishment and maintenance of a reliable and comprehensive asset register; the setting up of the Rail Safety and Standards Board; restrictions on the disposal of land; its dealings with dependent users and potential users of its network; the establishment of a system of independent reporters on the competence and efficiency of its operations; and its annual business planning process and the substance of that plan

- establishing a new model for the contractual interface between the infrastructure provider and infrastructure users, recognising the intense interdependence of the constituent parts of the railway industry and converting the relationship from one of confrontation into a true commercial joint venture in which both parties derive benefit and want to make it work well.

In doing this, with my senior management team I also took a non-Ministerial Government department (140 staff) with a high proportion of its people having skills below their needs and even poorer morale, and turned it into an energetic, high-achieving public authority where people are proud to work and whose output was latterly seen as an exemplar for the railway industry. We also achieved Investors in People status through training and motivational programmes which transformed the atmosphere and the efficiency of the organisation.

For more information, please visit: [www.rail-reg.gov.uk](http://www.rail-reg.gov.uk) and see the output of my office between 5 July 1999 and 4 July 2004.

My five annual reports to Parliament, which accompany this application, contain an account of the work of my office; their forewords summarise the challenges and achievements of each year; the foreword of the fifth report (2003-04) contains an overview of my five years in office.

#### *Consequences of reforms*

My reforms were necessary because the original privatisation model for the railways contained significant and serious shortcomings, with corners having been cut and the design and implementation having been done in too much haste<sup>18</sup>.

When I took office in July 1999, the railway industry was malfunctioning in several important respects—

- (a) Railtrack – the monopoly provider of infrastructure services – was abusing that power, and was following a policy of neglect of its assets and hostility to its train operator customers
- (b) the passenger train operators were unempowered and uninformed about what regulatory and other remedies were available to them, and then afraid to use them
- (c) numbers of broken and defective rails were rising sharply, and gave me very considerable cause for concern on safety and asset stewardship grounds; operational performance was well below acceptable levels
- (d) the existing financial incentives were not working to improve Railtrack's performance and asset stewardship
- (e) public and political criticism of the railways was rising sharply; passenger complaints reached over a million in 1999-2000.

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<sup>18</sup> For further information, see my oral evidence to the House of Commons Committee of Public Accounts, Session 1999-2000, 35th Report, 19 July 2000

The major faults were the design of the institutional, contractual, economic and regulatory matrix at the time of privatisation. These flaws led to uncertain and inadequate incentives and means to ensure essential assets (mainly the network) were properly looked after and operated, to meet the legitimate demands of passengers and freight customers, and of taxpayers.

Through my reform programme, we achieved a more proactive and effective approach to the monitoring and enforcement of regulatory obligations, including as to operational efficiency, and the encouragement of train operators to make Railtrack (later Network Rail) understand that it was a supplier and not an unbridled monopolist.

When I left office in 2004—

- (a) broken and defective rails were down to an all-time low
- (b) most other asset stewardship measures were the best or close to the best they had ever been
- (c) operational performance was improving sharply, and that trend has continued since 2004 to the point that (with the exception of Greater Western) the performance of the railways is no longer a source of public, political and media criticism
- (d) infrastructure efficiency was (and is) rising and costs were (and are) falling sharply, and Network Rail exceeded (by a small margin) its regulatory and contractual targets, set in 2003-04
- (e) the railway now operates far more as a partnership of highly interdependent players, working together and not against one another to deliver a quality service to end users at a fair and affordable price
- (f) the model of the regulatory regime and infrastructure – operations interface of Britain's railways is regarded throughout Europe as a model to be emulated<sup>19</sup>.

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<sup>19</sup> See for example the Lex column in The Financial Times, 7 March 2007: ... franchises for operating specific routes must be appropriately overseen, ideally by an independent regulator. Otherwise customers will not be protected from monopoly pricing and investors will rightly fear political interference. ... [T]he UK's model of railway privatisation is often held up as an exemplar. It may be costing both taxpayers and passengers more than hoped, but under independent regulation and with fierce competition for franchises, passenger numbers have grown strongly since privatisation in the mid-1990s.

See also the OECD Economic Survey of the United Kingdom, 2004, para 49: An important function of the Regulator is to ensure that private investors receive a reasonable rate of return provided that the company behaves in an efficient manner. The independence of the Regulator is an important in reassuring the private sector that it will not be subject to arbitrary political interference thereby encouraging private investment. ... Hopes of leveraging in large amounts of private capital have been greatly diminished by recent events [i.e. the government's threats to the Rail Regulator] as the framework is too vulnerable to political interference. If the government hopes to raise substantial amounts of money from the private sector, it needs to be clear as to how this can be achieved in the current setting. On the other hand, the case for an independent regulator that sets the outputs expected for a given level of funding and protects legitimate third party interests is even stronger. The government should clearly define the lines of responsibility and reinforce and ensure the regulator's independence.

The international literature on the importance of independence in economic regulation of utilities and other network industries is voluminous.

During my five years, my office published 127 major consultation and policy documents together with many other decisions, speeches and other public statements. We did this (a) because of the volume and intensity of our work programme and (b) because we took seriously our duty to explain.

*Railtrack's collapse and the future of independent economic regulation*

Although the most significant decision of my five years as Rail Regulator was my December 2003 allocation to Network Rail of £22.2 billion for the regulatory control period 2004-2009, perhaps the single episode for which my office is best known outside the railway industry is my role in the October 2001 decision of the then Secretary of State for Transport (Mr Byers) to petition the High Court for an administration order in respect of Railtrack, the attendant threats to independent economic regulation and how we responded to them, and the replacement of Railtrack with Network Rail in 2002.

This was undoubtedly the most intense and materially dangerous time for the privatised railway industry, and for independent economic regulation in all the privatised industries. A great deal has been written and said about the episode, and a CV is hardly the place to rework it<sup>20</sup>. However, its implications for the integrity of the jurisdiction and independence of all economic regulators, and the sanctity of contracts made by government with the private sector, were fundamentally important.

Impatient with the poor performance of Railtrack (after the Hatfield rail crash in October 2000) and failing properly to understand my programme for reform of the railway's privatisation settlement and matrix, the Government decided to be rid of Railtrack. Plans to force the company into administration were secretly devised throughout 2001, and I was informed of the Government's intention to force Railtrack into administration at the last possible moment. If I assisted the company (by providing a financial lifeline), I was told that the Government would legislate to take my office under direct political control. The implications of this – for private investment in the railway industry and all other regulated industries, and for the stability and respect for the contracts which government had made with the private sector – were severe.

Refusing to give in to threats of that kind, I offered Railtrack the necessary financial relief, but by then its management had given up and my offers were refused. After the company was put into administration, the government intended to press on with its plans for political control of the Rail Regulator and eventually the abolition of the office altogether. The Government did not appreciate the severe adverse effects such measures would have for private sector confidence and investment, and it was necessary for me to mobilise support from the railway industry and the banks to put up an effective resistance. It worked, but it was a fraught and testing time<sup>21</sup>.

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<sup>20</sup> A great deal of the controversy was subsequently replayed in the High Court in June – July 2005, when 49,500 private shareholders of Railtrack unsuccessfully sued the Secretary of State for Transport for damages for misfeasance in public office.

<sup>21</sup> A somewhat fuller account of that episode and its constitutional importance is given in my article in *The Financial Times* on 1 August 2005. It is also dealt with in *The Relationship Between the Government and the Private Sector: Winsor -v- Bloom in Context*, the 2004 Annual Lecture of the Incorporated Council of Law Reporting of England & Wales, April 2004 .

In this resistance, I relied on the integrity and processes of Parliament to protect my office from this assault. I insisted that my jurisdiction, authority and independence had been conferred by Parliament (in the Railways Act 1993), and only Parliament could take them away. Unless and until that happened, I would continue to discharge my statutory duties in the way Parliament intended. If the executive government could persuade Parliament to change the regime against me, so be it.<sup>22</sup>

Shortly after Railtrack went into administration, I was also told by the permanent secretary at the DTLR that the Prime Minister wanted my resignation. I refused to offer it. It was not for Ministers to try to apply improper pressure on me to violate my statutory duties so as to assist them achieving a controversial and, in my view, highly damaging objective. Nor was it right that an independent officer – whose authority comes from statute, not Ministers – should be persuaded to leave office because the executive government wanted a more compliant appointment. It was made clear that there was no disagreement with my competence<sup>23</sup>, just that they wanted a new person in the job. I had done nothing wrong, and to have resigned in such circumstances would have done irreparable harm to the perception – essential for investor confidence – as well as the substance of independence in economic regulation not only of the railways but in all the independently regulated privatised industries. Their pressure for me to go intensified the case for me to stay<sup>24</sup>. I remained in office until the end of my five-year term.

Having failed to extinguish independent economic regulation for the railway industry in 2001, unfortunately Ministers did not give up. Encroachments on my jurisdiction were attempted throughout my period of office, through the agency and behaviour of the Strategic Rail Authority, which, unlike the Rail Regulator, was answerable to Ministers. This led to considerable difficulties and tensions between the two organisations, some of which spilled over into the SRA publicly criticising my decisions and the existence of my jurisdiction (to Ministers' disquiet). The clash eventually led to the abolition of the SRA and the enhancement of the jurisdiction of my office.

Independence in economic regulation of the railways has been underscored by Ministerial statements on four occasions since 2001<sup>25</sup>.

### *Legislation*

During my period of office, there were three pieces of major railways legislation, two of which were passed and one dropped. The enacted legislation is the Transport Act 2000 and the Railways and Transport Safety Act 2003, which made important changes to the

<sup>22</sup> See for example the discussion with Lord Holme of Cheltenham during my oral evidence to the House of Lords Constitution Committee during its inquiries leading to its report *The Regulatory State: Ensuring its Accountability*, 6th report of Session 2003-04, HL Paper 68-II: Lord Holme: —... [the threat to regulation at the time of the collapse of Railtrack was] a very difficult time, both for the industry and for the office of regulator[.] it was Parliament that was your shield and you, as it were, called on Parliament as your defence against the direct pressure of the executive! (Q 607)

<sup>23</sup> All three Secretaries of State with whom I worked in my five years in office were complimentary about my record in Parliament – House of Commons, Official Report, 16 January 2001, col 192 (Mr Prescott); 9 May 2002, Col 298 (Mr Byers); 27 June 2002, Col 979 (Mr Darling)

<sup>24</sup> See further my explanation in my oral evidence to the House of Lords Constitution Committee, op cit, at Q606

<sup>25</sup> House of Commons, Official Report, 12 June 2002, col 1262W; 15 December 2003, col 123WS; 19 January 2004, col 1077; 9 February 2004, col 1237W

statutory duties, jurisdiction and constitutional makeup of my office. The third was the Railways Bill 2001, which (as explained above) was resisted and dropped. The Railways and Transport Safety Act 2003 abolished the statutory post of Rail Regulator (with effect from the end of my five year term in July 2004) and replaced it with what is now an eleven-member regulatory board – the Office of Rail Regulation.

Ten days after I left office, the Government published its white paper *The Future of Rail*<sup>26</sup>, announcing the abolition of the Strategic Rail Authority and major reforms to the jurisdiction of the Office of Rail Regulation.

### *Safety*

During my five years in office, there were four multi-fatality passenger rail accidents, three of them the fault of the railway. They were—

- (a) Ladbroke Grove on 5 October 1999; 31 killed; 523 injured; multiple causes, including poor track layout and signal siting, inadequate rolling stock maintenance and driver training, and human error;
- (b) Hatfield on 17 October 2000; 4 killed; 76 injured; a broken rail, not replaced in time and no temporary speed restriction pending renewal;
- (c) Selby on 28 February 2001; 10 killed; 80 injured; a motor vehicle crashed off the motorway when its driver fell asleep at the wheel;
- (d) Potters Bar on 10 May 2002; 7 killed; 70 injured; poor maintenance of points.

The Ladbroke Grove, Hatfield and Potters Bar crashes led to intense political, public and media pressures for the spending of very considerable sums on improved safety of the railways. Hatfield also led to the dissolution of the operational integrity of the railway for several months, since Railtrack's asset knowledge was so poor that it did not know where else such an accident could occur. (It was only after regulatory enforcement action following the crash that Railtrack restored near normal network performance in May 2001.)

The Southall train crash (on 19 September 1997, in which six people were killed and over 150 injured), and the Ladbroke Grove crash were the subjects of public inquiries in which I was required – as Regulator – to give written and oral evidence. The Ladbroke Grove inquiry was in session when the Hatfield crash occurred, and there were attempts by Railtrack to turn the Ladbroke Grove inquiry into a Hatfield inquiry too, and to allocate blame for both crashes to my insistence that Railtrack improve its operational performance. This was an unjustified stance, and the inquiry chairman Lord Cullen, in his report on Ladbroke Grove, expressly endorsed my evidence that the safest railway is one on which well-maintained, competently operated rolling stock runs on time on well-maintained, competently operated infrastructure, and that good safety and good performance are two sides of the same coin.

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<sup>26</sup> Department for Transport, 15 July 2004, Cm 6233

As a result of the Cullen inquiry, in consultation with the industry and others, I devised and implemented measures to set up a new safety standards authority for the railway – the Rail Safety and Standards Board – which is separate from the commercial operator Railtrack (now Network Rail). RSSB has been a success in establishing a reputation for competence and integrity in safety standards. It is now a model which is considered for emulation in other countries.

#### *Regulatory integrity and accountability*

During my time in office, we took regulatory accountability very seriously. With the possession of considerable powers in relation to the finances, structure and operation of the railway industry, my view was (and remains) that it is necessary for the regulatory authority to explain its policies, criteria and procedures plainly and comprehensively, and to give full reasons for decisions<sup>27</sup>.

This was especially important in controversial cases – for example, disputed capacity allocation issues, competition cases, licence enforcement matters (especially when it concerned operational performance or asset stewardship) and of course the financial settlement for the infrastructure provider (Railtrack, then Network Rail). Those who disliked the decision needed to know that our processes and criteria were fair, that they had been fully listened to and understood and their relevant representations taken into account. This was part of the duty to explain.

That approach stood ORR in good stead when the future of the independence and jurisdiction of the post was called into question in October 2001, and the railway industry, private investors and the banks strongly supported the continuation and protection of the post, and spoke up for the integrity and quality of our work.

Strict and close adherence to my statutory remit was also demonstrated in the three major legal actions<sup>28</sup> which were brought against me, or which I sued. In each case we prevailed.

#### *Career as a lawyer*

##### **Railways**

*August 1993 - August 1995*

*Office of the Rail Regulator*

Reorganisation, restructuring and regulation of the GB railway industry, on secondment to the Office of the Rail Regulator as Chief Legal Adviser and latterly General Counsel to the Rail Regulator.

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<sup>27</sup> See, for example, my speech to the UK rail freight conference on 8 June 2004 at <http://www.rail-reg.gov.uk/upload/pdf/rfrgttscpt.pdf>; see also my oral evidence to the House of Lords Constitution Committee, op cit, Q 634

<sup>28</sup> Railtrack lodged a statutory appeal in the High Court against a fine of £42 million which I imposed on the company in August 1999 in respect of its poor operational performance; the case was dropped by Railtrack two days before we were due in court. In 2002, I won Winsor –v- Bloom & Others (Special Administrators of Railtrack) in the Court of Appeal on the issue of the regulation of a company in administration. In 2003, a judicial review of my decision on financial compensation for Midland Main Line Ltd in respect of disruption to passengers using St Pancras station during works connected with the Channel Tunnel Rail Link, brought against me by London & Continental Railways, was unsuccessful.



In that role, I was a member of the first Rail Regulator's Executive Committee which was responsible for formulating and implementing policy across the whole range of the Regulator's functions, and the design of the regulatory and contractual matrix in what is probably the most complex UK industry restructuring and privatisation so far. I was also heavily involved in the establishment of the Office of the Rail Regulator.

The work involved a wide range of regulatory, commercial, public law and competition policy issues, according to very demanding timetables, and a detailed understanding of the economics of the industry (particularly in relation to the price control and competition mechanisms).

#### *Private practice*

##### *General*

Establishment and highly successful development of one of the leading railway law practices in the country. Clients were government, public authority and private sector entities, and the projects undertaken included the largest and most complex transport undertakings in the country

##### *Public sector*

Work done for the public sector included the writing of a detailed report to the British Railways Board on the strengths and flaws of the current railway industry structure and regulatory regime, making detailed recommendations for its improvement and reform. This work formed part of the basis for the Transport Act 2000.

##### *Private sector - passenger & finance*

Work done for private sector clients was extensive and included seven passenger rail franchise bids, acting for Great North Eastern Railway on all its domestic railway work, advising a variety of passenger railway companies and a rolling stock manufacturer on a range of matters, including the regulatory and commercial aspects of their businesses, their dealings with Railtrack and one another in relation to track, station and depot access, new railway facilities and services, rolling stock leasing, vehicle and route acceptance of rolling stock (including regulatory obligations in that respect) and rolling stock acquisition, dispute resolution, investment in infrastructure including the upgrade of the West Coast main line (for Virgin Rail Group) and the Channel Tunnel Rail Link (for European Investment Bank), as well as infrastructure maintenance contracts.

Since leaving office as Rail Regulator, my law practice has covered international and domestic rail and regulatory work, including relations with regulatory authorities and government and major dispute resolution cases, including the 2006 judicial review involving GNER, Grand Central Railway Co and the Office of Rail Regulation which was a challenge by GNER to the legality of my decisions on the structure of track access charges (October 2000) and the rules for competitive entry into the passenger rail market (May 2004). It has also covered infrastructure concessions, company takeovers, major competition inquiries (including one in relation to the operation of the UK rolling stock leasing market), the 2009 regulatory review of freight and passenger track access charges,

the efficiency of the privatised London underground infrastructure concessions, and other matters.

#### *Private sector - freight*

Rail freight work has included advising several freight companies on their contracts with train operators and their relations with Railtrack and others, including in matters of financing, and several developers of new rail freight facilities in England and Wales in relation to the construction of the terminals, their connection to the national network and associated matters and matters of possible market entry.

#### *Overseas*

Overseas railway work has included advising the national railway company of Chile (Empresa de los Ferrocarriles del Estado) on the restructuring and privatisation of the Chilean railway industry, the concession for the US\$20 billion high-speed railway in Taiwan and the national railway company of Romania on industry restructuring and regulation. It has also covered light rail concessions in South East Asia and industry restructuring and reform in Europe, and the creeping expropriation of the national railway of another European member state, including proceedings in several international tribunals. Railway work has also been done in Kazakhstan, Mongolia, the United States, the Netherlands, France, and Sweden. It has also extended to the design of regulatory institutions and economic and safety regulatory powers for the nascent railway industry in the United Arab Emirates, and in Qatar. A major regulatory investigation was carried out under my leadership in Oman.

#### **Electricity**

##### *UK electricity industry issues*

As an energy lawyer, between 1988 and 1993 I was also heavily involved in the privatised electricity industry in the UK. This included work on several private generation stations, the outcome of the British Government's review of the economics of the coal industry, and advising regional electricity companies on their commercial and domestic electricity supply contracts.

In 1991-93, I was the law firm partner responsible for the legal aspects of the design and implementation of the regulatory regime for the industry (including price controls), drafting licences and other subordinate legislation, and the establishment of the Office of Electricity Regulation in Northern Ireland. I was also heavily involved in the flotation of Northern Ireland Electricity plc on the London stock exchange.

In 1997-98, I led the law firm team responsible for the takeover of London Electricity by Electricité de France.

#### **Oil and gas**

Between 1983 and 1997, I also practised intensively in oil and gas joint ventures in the UK, Africa and the Middle East, including unitisation, sole risk projects, multi-block liability disputes, development projects and third party access to petroleum infrastructure, and abandonment of offshore installations and pipelines, oil and gas licensing and concessions,

including coalbed methane projects, technical services and drilling contracts, transfers of interests in producing oil fields and exploration acreage, including cash acquisitions and farm-outs; gas balancing arrangements; crude oil trading and pricing, and the project financing and refinancing of oil and gas projects and pipelines.

## RECORD OF ACHIEVEMENT – 2

On 1 October 2010, I was appointed by the Home Secretary to carry out the most wide-ranging and in-depth review of the remuneration and conditions of service of police officers and police staff in England and Wales for many years<sup>29</sup>.

In the review, I was extremely ably advised by Sir Edward Crew, former Chief Constable for the West Midlands, and Professor Richard Disney, Professor of Labour Economics at the University of Nottingham.

There were two reports in the review – an interim (or Part 1) report in March 2011, and a final (Part 2) report in March 2012. The principles of the review were fairness, protection of the office of constable, full weight being given to the demands of modern policing, payment for skills and job weight, not time service, payment for how well people do their jobs, harmonisation over time of police officer and police staff conditions, simplicity in administration and implementation, and phased introduction over time to ensure that the system can cope.

The review recommended the abolition or material modification of many allowances and other aspects of conditions of service, new (shorter) pay scales, changes to basic remuneration and the payments for skills, reform of the system of restricted duties, a pension age of 60, higher entry requirements and a system of direct entry at higher ranks, fitness tests, and other reforms. If implemented, they will materially and beneficially change the police service in the short, medium and longer terms, improve police culture and facilitate the service's further advancement to higher professionalisation. The review was firmly focussed on the increased demands on and needs of the police service in the next ten to 25 years, with the aim of equipping police forces with the means of meeting those demands with limited or diminished resources.

In the course of the review, I was struck by some of the severe inefficiencies in policing, some but not all a function of the constraints of an unreformed system of pay and conditions designed many years ago. Chief Constables need all the tools of modern management practices, but they also need scrutiny and assistance in ensuring that they use those tools wisely and well.

In the course of the review, I met and established good working relationships with many police officers and members of police staff, staff representative bodies, politicians, administrators and others. I visited police forces in England and Wales, Scotland and Northern Ireland. I learned a great deal about the police and policing, and found that world both fascinating and stimulating. The experience also showed me how much the police service could and should, but has not, learned from private sector enterprises. There is a

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<sup>29</sup> The last substantially implemented review was that of the Committee of Inquiry chaired by Lord Edmund-Davies in 1978

great deal of latent ability in the police service to increase its efficiency and effectiveness, and that needs to be unlocked.

Most of my Part 1 recommendations are in the course of implementation. It will be at least several months before it is known whether and how far my Part 2 recommendations will be implemented, as they have been referred by the Home Secretary to the Police Negotiating Board and the Police Advisory Board for England and Wales.

## **Other information**

### **PUBLICATIONS**

- Author (with MPG Taylor) of Taylor & Winsor on Joint Operating Agreements, Longman Publishing, London 1989 and 1992, the leading legal textbook on these forms of oil and gas joint venture contract
- The New Legal Regime for Regulation of the Electricity Industry in Utility Law Report, Vol 1, No. 1, Utility Law Committee, International Bar Association, London 1991
- Sole Risk and Non-Consent in North Sea Joint Operating Agreements, in European Community Energy Law, Selected Topics, Graham & Trotman Limited, London 1994
- (With T Craddock-Watson) Abandonment: a Survey of Legal and Accounting Issues in Petroleum Accounting and Financial Management, Institute of Petroleum Accounting, University of North Texas 1995
- Legal Lines, a monthly article on the legal, regulatory and commercial aspects of the restructuring and privatisation of the British railway industry in Modern Railways magazine (41 articles published to June 1999)
- Rail Regulation 1995/96 in Regulatory Review 1996, Centre for the Study of Regulated Industries, London 1996
- Regulation on the Rails in Utility Week, January 1997
- No need to ask who owns what if regulation is on the right track, article in The Times, 8 April 1997
- Regulating the Railways - a Different Track, guest editorial of Utilities Law Review, September 1997
- The Future of the Railway Industry Through Effective Independent Regulation, Occasional Lecture to the Centre for the Study of Regulated Industries, University College, London, January 2004
- The Future of the Railway, the Sir Robert Reid Memorial Lecture 2004 to the Chartered Institute of Transport, February 2004

- The Relationship Between the Government and the Private Sector: Winsor -v- Bloom in Context, the 2004 Annual Lecture of the Incorporated Council of Law Reporting of England & Wales, April 2004
- Whitehall Should Not Tinker with the Railways, comment article in The Financial Times, 2 July 2004
- The Future of the Railways in the Light of the Government's Rail Review 2004, Beesley Lecture on Rail, London Business School, October 2004
- Government Left Railtrack in the Lurch, comment article in The Financial Times, 1 August 2005
- The Real Implications of the Railtrack affair, European Lawyer, September 2005
- Conditions for Confident and Competent Investment in Europe's Railways, foreword to Euromoney Transportation Finance Review 2005/06
- Railtrack's Demise: The Implications for Independent Regulation, lecture at the Centre for the Analysis of Risk and Regulation, London School of Economics, November 2005
- A Network Code for Europe, Railway Gazette International, January 2006
- A Bill That Replaces Ministerial Duties with Divine Rights, a critique of the Legislative and Regulatory Reform Bill, comment article in The Financial Times, 29 March 2006
- ORR Must Stand Firm in Bitter War of Independence, comment article in Rail Professional, May 2006
- Tackling Europe's Rail Funding Gap, foreword to Euromoney Transportation Finance Review 2006/07
- Pressures Building Beneath Railway Industry's Realigned Tectonic Plates, foreword to Transport Law Review 2006, Transit Magazine, August 2006
- Cavaliers and Contracts – the Railway Industry's Contractual Matrix, Modern Railways, October 2006
- Open Access – The Mists Clear, an analysis of the implications of Grand Central Railway's success in the East Coast judicial review, Modern Railways, September 2006
- Power to the Regulators: Ministers Must Not Undermine the Conditions for the Success of Privatisation, The Guardian, 26 October 2006
- Public-Private Partnerships in Railways in Public-Private Partnerships, Globe Law & Business Publishing, 2006
- 'Network Rail Should Have to Face the Music', comment article in The Daily Telegraph, 7 January 2008

- 'How Our Watchdogs Can Add Bite to Their Bark', comment article in The Times, 31 July 2008
- 'This Court Judgment Should Fortify The Regulators', comment article in The Financial Times, 18 April 2008
- 'Government by Vendetta: I Remember it Well', comment piece in The Times, 3 March 2009
- 'A New Politics: Reform Select Committees', comment piece in The Guardian, 3 June 2009
- 'Blame for the Rail Strike', comment piece in The Times, 26 March 2010
- 'How to Derail the Budget Deficit: Privatised Network Rail', comment piece in The Times, 6 July 2010
- 'Ten Years After the Hatfield Crash: Progress Severely Delayed', comment piece in The Times, 18 October 2010
- 'Police Pay Must be Swept Towards Front Line', comment piece in The Times, 9 March 2011
- 'Police Officers Don't Have to Have Blue Collars', comment piece in The Times, 16 March 2012
- During my term as Rail Regulator and International Rail Regulator, numerous published speeches, official articles and publications (many of which are published on the ORR website – [www.rail-reg.gov.uk](http://www.rail-reg.gov.uk) )

## **SEMINARS AND CONFERENCES**

I regularly speak at seminars and conferences on industry restructuring, privatisation and the essentials of the design of public-private partnerships and regulatory regimes.

Amongst scores of contributions and papers presented at domestic and international events, mention may be made of participation at the Ditchley Foundation seminars on integrated transport (January 2004) and the future of infrastructure (March 2007).

Since the beginning of the police pay review, I have also spoken at a number of policing conferences and to policing audiences.

## **MEDIA AND PUBLIC APPEARANCES**

Very intensive and extensive media experience

Given hundreds of interviews and briefings for newspaper articles and broadcast media (including 29 appearances on BBC Radio Four's Today programme, five on BBC 2 Newsnight and an extensive interview on BBC News 24's Hardtalk); at least a dozen major profiles in broadsheet and popular newspapers

Very extensive coverage in financial, quality and popular press

Spoken at over 200 commercial and academic conferences in the UK, Europe and further afield – including 39 speaking engagements in my last year as Rail Regulator (see Appendix 2 to my 2003-04 annual report)

Twelve appearances before Select Committees of Parliament : House of Commons Public Accounts Committee, House of Commons Select Committee on Transport, House of Commons Public Administration Committee, House of Commons Select Committee on Home Affairs, and House of Lords Select Committee on the Constitution, and the Scottish Parliament





# Formal Minutes

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**Tuesday 26 June 2012**

Members present:

Keith Vaz, in the Chair

Nicola Blackwood  
Mr James Clappison  
Michael Ellis  
Lorraine Fullbrook  
Dr Julian Huppert

Alun Michael  
Bridget Phillipson  
Mark Reckless  
Mr David Winnick

Draft Report (*Appointment of Her Majesty's Chief Inspector of Constabulary*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 22 read and agreed to.

Paragraph 23 read.

Motion made, to leave out paragraph 23 and insert the following new paragraph:

There is a case for appointing the first non-police officer to this post; however, the reasons should be compelling and we are not persuaded that they are for this particular proposed appointment. It is our opinion that the main factor in the Home Secretary's recommendation of Mr Winsor has been the report he carried out on police pay and conditions. The Minister, Rt Hon Nick Herbert MP, did say in his evidence to us that the recommendations of that report were supported by Ministers. We are of the opinion that Mr Winsor, a highly competent professional who has shown independence in carrying out his various duties, nevertheless is not likely in our view to show the necessary conciliatory approach needed in the post. Such an approach is essential at a time when major organisational change is occurring. We therefore cannot recommend this appointment.—(*David Winnick.*)

Question put, That the new paragraph be read a second time.

The Committee divided.

Ayes, 1

Mr David Winnick

Noes, 6

Nicola Blackwood  
James Clappison  
Michael Ellis  
Lorraine Fullbrook  
Dr Julian Huppert  
Mark Reckless

Paragraph 23 agreed to.

Annexes agreed to.

Several papers were appended to the Report as Appendices 1 to 3.

Motion made, and Question put, That the Report be the Third Report of the Committee to the House.

The Committee divided.

Ayes, 8

Noes, 1

Nicola Blackwood  
James Clappison  
Michael Ellis  
Lorraine Fullbrook  
Dr Julian Huppert  
Alun Michael  
Bridget Phillipson  
Mark Reckless

Mr David Winnick

*Resolved*, That the Report be the Third Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 3 July at 10.40 am

# Witnesses

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**Tuesday 26 June 2012**

*Page*

**Rt Hon Nick Herbert MP**, Minister of State for Police and Criminal Justice

**Tom Winsor**, Government's preferred candidate for Her Majesty's Chief Inspector of Constabulary

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# List of Reports from the Committee during the current Parliament

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The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2012–13

First Report	Effectiveness of the Committee in 2010–12	HC 144
Second Report	Work of the Permanent Secretary (April–December 2011)	HC 145

## Session 2010–12

First Report	Immigration Cap	HC 361
Second Report	Policing: Police and Crime Commissioners	HC 511
Third Report	Firearms Control	HC 447
Fourth Report	The work of the UK Border Agency	HC 587
Fifth Report	Police use of Tasers	HC 646
Sixth Report	Police Finances	HC 695
Seventh Report	Student Visas	HC 773
Eighth Report	Forced marriage	HC 880
Ninth Report	The work of the UK Border Agency (November 2010-March 2011)	HC 929
Tenth Report	Implications for the Justice and Home Affairs area of the accession of Turkey to the European Union	HC 789
Eleventh Report	Student Visas – follow up	HC 1445
Twelfth Report	Home Office – Work of the Permanent Secretary	HC 928
Thirteenth Report	Unauthorised tapping into or hacking of mobile communications	HC 907
Fourteenth Report	New Landscape of Policing	HC 939
Fifteenth Report	The work of the UK Border Agency (April-July 2011)	HC 1497
Sixteenth Report	Policing large scale disorder	HC 1456
Seventeenth Report	UK Border Controls	HC 1647
Eighteenth Report	Rules governing enforced removals from the UK	HC 563
Nineteenth Report	Roots of violent radicalisation	HC 1446
Twentieth Report	Extradition	HC 644
Twenty-first Report	Work of the UK Border Agency (August-December 2011)	HC 1722