



THE GOVERNMENT RESPONSE TO THE SIXTH REPORT FROM THE
HOME AFFAIRS COMMITTEE SESSION 2013-14 HC 487:

Police and Crime Commissioners: power to remove Chief Constables

Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty

December 2013

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Home Office
Police Workforce and Efficiency Unit
6th Floor – Fry Building
2 Marsham Street
London SW1P 4DF

ISBN: 9780101876629

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID 2607696 12/13 35102 19585

Printed on paper containing 75% recycled fibre content minimum

THE GOVERNMENT RESPONSE TO THE SIXTH REPORT FROM THE HOME AFFAIRS COMMITTEE SESSION 2013-2014

POLICE AND CRIME COMMISSIONERS: POWER TO REMOVE CHIEF CONSTABLES

Introduction

The Government is grateful to the Home Affairs Select Committee for its report *Police and Crime Commissioners: power to remove Chief Constables*, published on 20 July 2013. This document is the Government's response to that report.

The Government agrees with the Committee's view that police and crime panels should fully exercise their powers of scrutiny in examining and deciding whether the proposed removal of a chief constable is justified, and will ensure PCPs are aware of their fundamental responsibility to exercise their powers as set out in legislation.

The Government notes that the Committee plans to consider the work of PCCs one year after their election, in November this year, and looks forward to receiving the Committee's report.

The following section deals with the Committee's comments in more detail.

Suspensions and removals of chief constables - scrutiny of PCCs

Suspensions

While there is no specific statutory requirement for police and crime panels (PCPs) to review the suspension of a chief constable, the role of PCPs is to review or scrutinise the actions and decisions of a Police and Crime Commissioner (PCC) and make reports or recommendations to the PCC concerning those actions and/or decisions (section 28(6) of the Police Reform and Social Responsibility Act). This can include a decision to suspend a chief constable, which is clearly one of the more significant actions that a PCC could take.

Furthermore, while there is no requirement for the PCC to provide the chief constable or PCP with a written explanation of the reasons for a suspension, paragraph 11 of Schedule 8 to the Act requires a PCC to notify the relevant PCP if they suspend a chief constable. The PCP then has the power to summon the PCC and members of the PCC's staff to attend a meeting and answer questions, for the purposes of reviewing the suspension (section 29(1)).

Suspension under section 38(2) should only occur in a case where the PCC is considering calling on the chief constable to resign or retire under section 38(3). Paragraphs 12 to 16 of Schedule 8 set out in detail the role of the PCP in that process, including the provision of written reasons and holding a scrutiny hearing.

As a public body, public law requires a PCC to act reasonably and fairly.

Removals

The Government believes that sufficient safeguards are in place around the power of PCCs to dismiss chief constables.

The PCC may call upon a chief constable to resign or retire under section 38(3) of the Police Reform and Social Responsibility Act 2011. Regulation 11A of the Police Regulations 2003, as inserted by the Police (Amendment) Regulations 2011, specifies the detailed procedure to be followed where a PCC proposes to call on a chief officer of police to retire or resign.

This includes the PCC obtaining the views of Her Majesty's Chief Inspector of Constabulary in writing and having regard to those views; providing a copy of those written views to the chief constable and the PCP; providing a written explanation to the chief constable and the PCP of the reasons why he or she is proposing to remove a chief constable; notifying the chief executive; giving the chief constable the opportunity to make written representations; and if the PCC still proposes to call upon the chief constable to retire or resign, he or she must give the chief constable and the PCP a written explanation of their reasons. This written explanation must also be given to the Chief Inspector of Constabulary.

A scrutiny hearing of the PCP will then be held in private where the PCC and chief constable are both entitled to attend to make representations, regardless of whether the PCP wishes to call them. The PCP may consult the Chief Inspector of

Constabulary before making a recommendation to the PCC as to whether or not the commissioner should call for the retirement or resignation of the chief constable.

The legislation does not set out the circumstances in which a PCC can call on a chief constable to resign or retire. The only limitation is that the separate disciplinary procedure under the Police (Conduct) Regulations 2012 must be used instead where there is an allegation of misconduct. However, this does not mean that a PCC can call on the chief constable to retire or resign on any pretext. The PCC must act reasonably and fairly, in that dismissal must lie within the range of responses open to a reasonable person in the PCC's position.

Scrutiny role of the PCP

The PCP has a wide remit to review or scrutinise decisions made, or other action taken, by the relevant PCC in connection with the discharge of the commissioner's functions.

The Government believes PCPs have the appropriate powers, agreed by Parliament, to effectively scrutinise the actions and decisions of PCCs and enable the public to hold them to account.

PCPs have specific powers of veto over chief constable appointments and precept setting, they have oversight of the commissioner's key documents, decisions and reports and, critically, they conduct the majority of their business in public.

The Government agrees with the Committee that PCPs should fully exercise their powers of scrutiny as Parliament intended. The Home Office will take steps to ensure PCPs are fully aware of their role as set out in legislation and their fundamental responsibility to exercise their powers.



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ISBN 978-0-10-187662-9



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