

The Good Commissioner

Some personal thoughts on what is required in the new system

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With the change from the group approach of Police Authorities to an individual Police & Crime Commissioner, there has been much talk of nightmare scenarios – not least because the Coalition Government’s promise that they would be “subject to strict checks and balances by locally elected representatives” was not delivered by the legislation.

Rather less attention has been devoted to thinking through what a “good” commissioner would look like.

An appropriate starting point is Sir Robert Peel’s Nine Principles for policing, regarded as the foundation of modern policing:

1. The basic mission for which the police exist is to prevent crime and disorder.
2. The ability of the police to perform their duties is dependent upon public approval of police actions.
3. Police must secure the willing co-operation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public.
4. The degree of co-operation of the public that can be secured diminishes proportionately to the necessity of the use of physical force.
5. Police seek and preserve public favour not by catering to public opinion but by constantly demonstrating absolute impartial service to the law.
6. Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient.
7. Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence
8. Police should always direct their action strictly towards their functions and never appear to usurp the powers of the judiciary.
9. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.

In addition it is appropriate to reflect on the **Nolan Principles** for Standards in 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 it.
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.

The following represent some basic objectives for Police & Crime Commissioners based on the above:

1. To promote partnership and co-operation between the police and local communities to prevent crime and disorder
2. To secure the willing co-operation of the public in voluntary observance of the law by actively promoting a policing approach which builds trust and confidence through absolute impartiality, positive relations with communities and a focus on persuasion, advice and warning, using physical force only where these fail
3. To ensure that the police cause the peace to be kept and preserved and prevent all offences against people and property, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people
4. To observe the highest standards of personal integrity, setting a personal example for all
5. To uphold the principles of good governance by encouraging participation and building consensus, by being accountable, transparent, responsive, effective and efficient, equitable and inclusive and by following the rule of law

So what does this mean in practice?

First of all, the role of the Commissioner is to be a bridge between communities and the police. That means listening to both sides and where necessary translating. The focus provided by a highly visible, directly-elected commissioner will require a careful balancing act: being responsive while also respecting operational independence.

It is a reality of the current economic climate that resources are limited: the Police cannot be everywhere, or tackle every problem that communities would like tackled. There is a balance to be

struck between ensuring that officers are deployed close enough to rural communities to respond if something happens and ensuring there are sufficient officers deployed in urban areas where things are already happening. The Commissioner will want to see evidence for the efficacy of different approaches and to be involved in deciding which approach should be adopted. Where a community is in danger of being overwhelmed by crime and disorder, the Commissioner will want to see a significant police presence to reassure the public – and to recognise and take responsibility for the reduction in service elsewhere. Of course operational decisions will be a matter for the Chief Constable – but the Commissioner will need to set clear priorities for the Chief and take responsibility for their impact.

Some practical examples:

1) A community is critical of a particular investigation

The Commissioner may receive representations from a particular community or be asked to comment by the media. Given that the Commissioner is accountable for policing in the area, it may well be appropriate to conduct media interviews in high profile cases, but in a way that does not imply personal involvement in the investigation (e.g. Our thoughts are with the family... if you saw anything please contact the officers leading the investigation by phoning...).

It is reasonable for the Commissioner to hold the Force to account for the way an investigation is proceeding – but this needs to be through the Chief Constable. Although a close examination by the Chief Constable and a discussion with the Commissioner may lead to a change in direction, it is not for the Commissioner to direct changes. There may be circumstances where the Commissioner feels it is appropriate to say publicly that he or she has concerns and will be asking the Chief Constable to look into matters but it would not be appropriate to make any further comment. The Commissioner needs to avoid interfering in the running of the investigation or giving the impression that he or she is doing so.

2) Correspondence from the public

The Commissioner is likely to receive far more correspondence from the public than in the current system, whether this is comments on particular issues, dissatisfaction with the way something has been dealt with or formal complaints of police misconduct. It is essential that all of this correspondence receives appropriate replies. Again, the balance between ensuring that the citizen's issues are addressed and maintaining operational independence must be struck carefully. The role of the Office of the Commissioner will be to ensure that letters, emails and phone calls are received and logged and that a response is sought through the force. Straightforward responses which address the issue raised can simply be returned to the citizen. Where the response is seen as inadequate, the Commissioner may ask for a more senior officer to undertake a review of the case and to tell the citizen that this has been requested. It will be for the Chief Constable to decide how these reviews are managed and to provide appropriate points of contact for the Commissioner's Office. A clear protocol will be needed to ensure that formal complaints and potential disciplinary matters are dealt with appropriately – which will sometimes limit the information which can be given to the public.

3) Community Call for Action

The Commissioner will receive "calls for action" in a variety of formal and informal settings. They are likely to be presented with problems and potential solutions both by members of the public and by police officers who have been grappling with the particular problems. Again it is

important to strike a balance between “getting on with” solutions and respecting the lines of management accountability. This can be done by adopting a standard procedure for decisions by the Commissioner. A form can be used which sets out the issue and proposed solution, but the decision is not signed off until the Chief Constable has been consulted. This will ensure that the wider picture and other initiatives which the front line officers may not have been aware of are considered before decisions are made. It also ensures that the management line of accountability is respected.

In all cases, it is important that the Commissioner avoids any involvement which could be seen as securing a benefit for themselves, their family or their friends. Any potential conflict of interest should be declared and the Commissioner should steer clear of any involvement. That doesn't mean that the Commissioner's Office cannot pass on correspondence, but it does mean that the Commissioner should not get personally involved.

Providing information to the Public on Force Performance

One of the current functions of Police Authorities is to “shine a light” on what is going on in the Force. It is often only through reports to the Police Authority (which are required by law to be public) that journalists and the wider public are made aware of issues. Although the access to information rules will not apply to Commissioners, a good Commissioner will want to be as open as possible about all the decisions and actions that they take – and even where they are simply monitoring force activities, to make the information available to the public. Sometimes information cannot be published. In these cases, it should be made available to the Panel and the reasons for not publishing given. In all cases, the information should be published in English and Welsh.

So for example, the North Wales Police Authority's Resources Committee met on Friday 2nd December 2011. The agenda can be accessed [here](#). This meeting will no longer take place. But the Commissioner will want to receive updates on all the issues that the Police Authority wanted updates on. The equivalent information bulletin from the Commissioner would be along the following lines:

1. I have received a quarterly update from the Chief Constable setting out [Performance in relation to delivering a well led, organised and skilled workforce](#).
2. I have received a quarterly update from the Chief Constable on [Health, Safety and Welfare](#).
3. I have received a report from the Chief Constable setting out what is being done in relation to the findings of the last [Cultural Survey](#).
4. I have received a report from the Chief Constable setting out what is being done in relation to the [Management of Restrictive and Recuperative Duties](#). The Force have also collected some comparative data from other forces but unfortunately we do not have permission to publish this information. Details will be provided to the Police & Crime Panel on a confidential basis.
5. I am delighted to report that we are able to move forward with recruiting 72 police officers and 106 PCSOs. For further information see [here](#).
6. I am delighted by the progress made by the Force against our Joint Welsh Language Scheme. See [here](#) for the Annual Monitoring Report 2011.

7. HMIC have published a “profile” showing how North Wales Police compare on a wide range of indicators: [HMIC Value for Money Profile](#). I have asked the Chief Constable to prepare a report setting out the key differences, the reasons and what changes he proposes to make as a result of this information. The deadline for this piece of work is March 2012.
8. The Force has provided me with statistics on grievances: see [here](#). I have undertaken a “dip sample” of work place resolutions. The results are [here](#).
9. I have asked the Chief Constable to develop a work force plan for the next three years. This is a major piece of work which will be undertaken between now and April 2012. The scoping report can be seen [here](#).
10. I have asked the Force to consider what lessons can be learned from a recent employment tribunal decision. The report cannot be published because it relates to an individual, but will be provided to the Police & Crime Panel on a confidential basis.

Working with the Police & Crime Panel

Being a good Commissioner means working positively with the Police & Crime Panel to involve them as much as possible in building a consensus on key appointments, policing priorities, the resources to support the police, how the Force will be held to account and how performance will be measured.

This goes far beyond the basic requirements of the legislation, which give the Panel the ability to veto certain decisions by a two-thirds majority and to scrutinise decisions already made: it means adopting a consensus-building approach rather than a confrontational approach.

Let’s take the example of appointing a new Chief Constable. The legislation envisages that the Commissioner chooses who they want as Chief Constable and then puts this individual before the Panel, challenging them to exercise their veto if they don’t support the Chief Constable-designate. This system is hardly likely to deliver the best Chief Constable or ensure that the new appointee has public confidence. Before even taking up the job he or she could be in a position where a majority of the Panel have publicly expressed a lack of confidence in them.

The way a good Commissioner will deal with this situation is to invite Panel members to be involved in the process from the earliest stage: agreeing the qualities needed in a Chief Constable and how these qualities will be tested. The best recruitment processes use a variety of techniques such as group discussions, presentations and other exercises and there is no reason why all Panel members should not be involved to some extent. The final interview can then involve a small number of Panel members sitting with the Commissioner as he or she comes to make a final recommendation.

That way, when the Panel is presented with a name to endorse or reject, the members can be confident that a thorough process has been followed and the candidate before them is the best person for the job. The Confirmation Hearing will be an opportunity to build public confidence in the appointment rather than to undermine it.

Similarly, the legislation governing the setting of the precept (the money raised via Council Tax) is wholly inadequate. In North Wales in 2011-12, £58m of the Authority’s £141m income came from the Council Tax precept. If two-thirds of the Panel disagree with the Commissioner’s proposal, they

can veto – in which case no precept. This is a nuclear option and no way to deal with a dispute over a small percentage change. A good Commissioner will want to ensure that the Panel are fully aware of the implications of choices and work to secure a consensus with the Panel on the appropriate level.

The scrutiny system has been operating in local government for over a decade and we can see clearly what works and what doesn't. The focus of statutory powers is on reactive scrutiny: "call-in" or the questioning of recent decisions. But experience shows that this is rarely useful: the decision-maker has every incentive to justify their decision even if it was a poor one and the scrutiny body can make a powerful case against a poor decision but rarely manages to reverse it. Proactive scrutiny is far more rewarding for all concerned: the scrutineers are positively engaged in the policy development process, influencing decisions before they are made and bringing additional perspectives to bear on an issue. A good Commissioner will welcome proactive scrutiny, providing access to information to allow the Panel to make recommendations before the Commissioner makes a decision, or to review a longstanding policy and make recommendations for change.

A Commissioner and Chief Constable should also take the opportunity to get the Panel's views on issues where they don't see eye to eye: not in a confrontational way, but by putting options in front of the Panel and getting their views.

Working with the Chief Constable

The Minister has described the move from a collective Police Authority oversight of policing to a Commissioner as signalling a move from "weak" governance to "strong" governance. The decision to establish the Commissioner and Chief Constable as "corporations sole" has been seen by many as a move away from good corporate governance towards sole accountability. The system appears to be designed with two rutting stags in mind: the Commissioner aggressively protecting his electoral mandate and the Chief Constable protecting his operational independence.

Here in North Wales, Mark Polin, as Chief Constable, has sought to move the organisation forward by emphasising the importance of the Force Executive Board taking responsibility for collective decisions. This change is consistent with moving from a simple command and control model to one more suited to tackling complexity: people throughout the organisation need to understand what needs to be done and why.

A good Commissioner will move beyond the narrative implied by the two separate corporations sole and seek to build a positive working relationship with the Chief Constable. Together they should form a strong "corporate centre", setting clear priorities for the organisation based on the electoral mandate of the Commissioner and the knowledge and experience of the Chief Constable. The Commissioner and the Chief Constable will want to consider together how to respond to issues that arise. If a particular service is failing, does it need more resources or a different approach? If it needs more resources, where these will be drawn from?

The approach to publishing decisions outlined at the top of page 4 is an important protection for both the Commissioner and the Chief Constable. There are times when it may appear inconvenient to make public an unpopular decision. But various public enquiries have demonstrated the dangers inherent in government by sofa chats. Documented decisions protect all concerned and avoid misunderstandings at a later date.

Here are some scenarios to help illustrate the interface we would expect between a good Commissioner and a good Chief Constable:

1. The Commissioner asks the Chief Constable to come up with a new structure based on saving 20% of the costs of superintendents and above as part of setting the budget for next year.

The Chief Constable cannot simply ignore this request and balance the budget by reducing the number of neighbourhood constables instead. But he or she could provide the Commissioner with a wealth of information demonstrating why, in his or her professional judgement such a cut would leave dangerous gaps in cover. The Commissioner should then carefully consider the information provided and seek to come to an agreement with the Chief on a way forward. If the Commissioner is out on a limb (e.g. proposing that the Force has significantly fewer senior ranks than comparative forces) then it would be unwise to pursue the policy in the face of the Chief's concerns. If the Commissioner did feel the Chief Constable was unreasonably obstructing the policy and had either failed to come up with a plan or failed to convince the Commissioner of the case for having more senior officers than comparative forces, asking HMIC for a professional view would be reasonable.

In the circumstances where the Commissioner has all the information he or she requires but there is still a strong difference of view between the Commissioner and the Chief Constable, giving the Panel the opportunity to consider the matter may give both the Commissioner and Chief Constable food for thought and assist in breaking the deadlock.

2. The Chief Constable wants to make radical changes to the custody service – create a new centralised facility and close three smaller facilities. There is a capital cost but a revenue saving over ten years.

The Commissioner will need to sign off on the plan in terms of the capital and revenue budgets, the contracts for the new building and the disposal/alternative use of the old sites. Some elements of the scheme may be contentious: the public perception may be that officers will spend time travelling to the new facility and therefore won't be available. The Commissioner may want to see the evidence that the new facility releases more officers to be on the streets due to needing fewer custody sergeants and detention officers. There may be different views on the extent to which public consultation is required. Short term changes may also be required, in which case the Commissioner should be kept informed. It would be reasonable to set a timescale for presenting a longer term plan, but unreasonable to seek to veto day to day management decisions.

3. The Commissioner feels that the best way to be consulted on the appointment of a new Assistant Chief Constable is to sit in on the interviews with the Chief Constable and to give feedback on the performance of the candidates.

This is a reasonable request. It is going to be important for both the Commissioner and the Chief Constable to have confidence in the new appointee. If the working relationship between the Commissioner and Chief Constable isn't good enough for this to happen, the prospects for the Chief Constable remaining in post are not good – in which case it is all the more important for the Commissioner to have confidence in the next tier.

“Grandparenting” is a reasonable approach: the Panel are involved in the Chief Constable's appointment but the Commissioner decides; the Commissioner is involved in the appointment of

Chief Officers (ACPO Rank) but the Chief Constable decides. It would not be appropriate for the Commissioner to get involved in appointments lower down the organisation.

4. National media interest in a police investigation is intense and the Commissioner is under pressure to comment on the investigation.

It is important to have clear protocols in place at an early stage. Given that the Commissioner is accountable for policing in the area, it may well be appropriate to conduct interviews, but the Commissioner needs to avoid interfering in the running of the investigation or giving the impression that he or she is doing so. “The Force are appealing for information – if you saw anything please contact the officers leading the enquiry on the following number” is acceptable but “I have cancelled all leave until the killer is found” or “I have told the Chief Constable the landlord is a dodgy bloke and probably did it” is not. If the Commissioner did make comments like this in private we would expect the Chief Constable to ignore them, although obviously if the Commissioner did have personal knowledge useful to the investigation then this should be passed on while avoiding any attempt to or impression of seeking to channel the investigation in a particular direction.

Working with other stakeholders in Criminal Justice and Community Safety

The Chief Constable’s powers of command and control are sometimes over-rated and often it is more appropriate to talk of influence. This will be all the more true of a Commissioner and his or her interactions with the criminal justice agencies in the area. The precise words in the Police Reform & Social Responsibility Act are as follows:

The [Commissioner for] a police area, and the [criminal justice bodies which exercise functions as criminal justice bodies in that police area, must make arrangements (so far as it is appropriate to do so) for the exercise of functions so as to provide an efficient and effective criminal justice system for the police area.

It is imperative that the Police and the Crown Prosecution Service work together closely: cutting down on police bureaucracy to the extent that there is insufficient evidence to prosecute cases would be a spectacular own-goal. There is sometimes a feeling from police officers that a particular case should be prosecuted in the public interest even if the professional judgement is that the chances of success are not much better than 50-50. Agencies need to avoid the blame game and work together to agree the appropriate way forward based on doing the right thing rather than chasing the numerical performance targets they have been set.

Reducing Crime and Disorder requires a focus on three things:

- **Offenders:** targeting prolific offenders in particular and getting them to change their ways
- **Victims:** in particular initiatives to support the most vulnerable and those most likely to be repeat victims
- **Locations:** identifying those locations most likely to suffer from criminality and disorder and addressing those problems.

The impact of policing in isolation on each of these three is very limited. The significant reductions in crime over the past decade have been in no small part a result of improved partnership work between agencies. By working together, police, probation, prisons and youth offending teams are far more likely to be successful in changing an individual’s behaviour. A co-ordinated approach between

the police, local authority and social landlords are much more likely to be able to address the problems on a housing estate – and police, social services and the voluntary sector are going to be far more successful in supporting vulnerable individuals than working in isolation.

Partnership is a two way street: recognising the challenges one agency puts in the way of another and ensuring that a joined up approach between agencies is more complex than command and control within individual organisations. But it is also more successful. In Wales in particular, where Commissioners are being imposed on a devolved landscape which didn't ask for them and campaigned against them, negotiating skills are going to be paramount.

The nearest parallel to Police & Crime Commissioners are the directly elected Mayors operating in a number of English local authorities for the past decade. I worked for two of them in different authorities and with very different personalities: one walked into the room eager to persuade colleagues to support his proposals. He listened and amended them – but almost always secured support for what he was trying to achieve. The other lectured people on his mandate and how they would need to do what he wanted – and then encountered resistance on almost every level. A Good Commissioner will follow the former approach and avoid the latter.

Good Commissioners will also devote considerable time to joint working with other Commissioners. In North Wales, we are full members of both Police Authorities of Wales and the North West Joint Committee. Our relationships with the three other forces in Wales and the five forces in the North West of England are important for different reasons: our common culture and the context of a devolved Welsh Government mean there are many issues where we need to work together with the other Welsh authorities, while the strong transport links with the North West of England create a need to work together to tackle the organised criminals who exploit those connections and also an opportunity to create more efficient joint services. A good Commissioner cannot afford to ignore these connections and the reality is therefore significant time travelling and in joint meetings: video conferencing has its place but so does the face to face meeting. There is also a need for Commissioners to step up to national responsibilities through whatever succeeds the Association of Police Authorities. Such arrangements should be built on the regional arrangements, using the regional meetings as an opportunity to build a national consensus from the bottom up.

The Bridge / Y Bont

The focus of this document has been the technical issues that a Commissioner will confront on taking office. Perhaps the most important point for a good Commissioner, however, will be to recognise the need to be out and about meeting the public and hearing their views. A good Commissioner will want to spend a significant amount of his or her time engaging with the public (in English and in Welsh), consulting them, taking note of what is said and (without getting involved in operational matters) ensuring that concerns are addressed. In supporting a good Commissioner, the Office of the Commissioner will need to have good systems and protocols in place which enable them to do this. This will mean the resources to set up and organise events and publicise them, but also the necessary administrative support to follow up on issues raised with the Commissioner.

Clear protocols should be put in place nationally to address the “dos and don'ts” of publicity: the Government has been explicit that whereas Police Authorities are low profile, Police & Crime Commissioners are to be high profile. But the legal separation between the individual and the

Corporation Sole is a thin wall when there is an expectation that a Commissioner speaks up for his or her community in a corporate sense while also seeking re-election in a personal sense. The Commissioner needs to be a commissioner for all the people, not just those who voted for them. But they will also need to campaign politically, if they want to be re-elected, and staff need clear protocols marking the distinction, which they can then follow.

If the Commissioner libels someone “on business”, the Police Fund will bear the costs of their defence and any compensation due. If the libel action was vexatious and ill-founded that makes sense – but if the Commissioner’s comments were inaccurate and malicious it is surely wrong. The only redress to such a situation is for the Panel to consider a complaint – but the Commissioner will be able to choose whether or not to accept its recommendations. A good Commissioner will promise to abide by any recommendations of the Panel, thereby rectifying the flaw in the legislation.

The Commissioner needs to have good visibility across the organisation as well. The individuals working for the Police – be they police officers, police community support officers or other staff, they need to know who the Commissioner is and what they stand for – reinforcing the expectations and priorities set out at the beginning of this document around impartiality. A good leader encourages their team to question their judgement and to speak up if they think something is wrong. The same applies to a good Commissioner.