



# Police and Crime Commissioners: Equality, Diversity and Human Rights

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The APCC represents Police and Crime Commissioners and all policing governance bodies in England, Wales and Northern Ireland

## FOREWORD BY SAIMA AFZAL, MBE



Let me start with saying that I am very excited about the opportunities that are presented to all of us in the policing world as we collectively move into the new Police and Crime Commissioner (PCC) governance landscape. The opportunities presented by a single, democratically elected individual, to be accountable to his or her local community for the totality of policing is intended to bring greater openness, transparency and democracy to this area, which intrinsically appeals to my own values.

This is a time for activism for many communities and an opportunity for new and proactive Equality, Diversity and Human Rights (EDHR) policing approaches to be adopted in their broadest sense by incoming PCCs.

My passion for EDHR is both personal and professional and, as such, I proactively embarked on bringing together in one place the many requirements of EDHR legislation within this document to help lay the foundations for the future PCC role.

Put simply, my vision is to ensure fairness in policing is captured and the progress that has been made in this area by the police and criminal justice community (supported by the Association of Police Authorities) continues on behalf of all the people we serve.

This document aims to succinctly capture the main EDHR responsibilities that any PCC will wish to consider for legal, business and ethical reasons. It is my intention that it will ultimately be accompanied by an interactive on-line framework of key information and resources that can be utilised by the PCC and the public and which will in the future be maintained by the Association of Police and Crime Commissioners.

It is not the intention of this document to tell any PCC what to do, but I hope that my passion and words will inspire the PCCs, working with their chief constables, to create innovative and creative ways of ensuring a fair and equitable policing service to all groups regardless of their background and especially to the most vulnerable in our communities, who may not be able to voice their concerns.

I have to acknowledge the assistance and support I received from many people and stakeholders in producing this document. They have provided considerable input and challenge to ensure this is a meaningful document for the PCCs and the public. I would especially like to thank my friends and family who have supported me while undertaking this task. In addition, I would like to thank Ruth Hirst, Melanie Dales, Eelke Zoestbergen, Christine Durber and Cat McIntyre for their work. They have assisted in what I describe as

laying the foundations for PCCs to create a fairer, more open and accountable policing service, with the aim of ensuring the democratic legitimacy of any PCC, in line with Sir Robert Peel's vision and principles of policing by consent.

The future is in the making and we can all take charge and be leaders of EDHR and fairness in policing.

Yours,

A handwritten signature in black ink that reads "Saima Afzal." The signature is written in a cursive, flowing style.

Saima Afzal

APA Executive Board Member

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## ACKNOWLEDGEMENTS

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National Black Police Association (Charles Critchlow)

National Crime Agency (Keith Bristow)

National Police Improvement Agency (Everett Henry, Matteo Sole, Linda Harpley and Charles Phelps)

Serious Organised Crime Agency (Chris Vince)

South Wales Police Authority (Hannah Jenkins)

Stonewall (Alice Ashworth)

Superintendents Association (Irene Curtis)

West Midlands Police Authority (Judy Foster, Claire Thomas and Jonathan Jardine)

West Yorkshire Police Authority (Karen Grey)

# CONTENTS

	Page
INTRODUCTION	1
CHAPTER 1: EDHR – WHAT PCCs NEED TO KNOW	4
CHAPTER 2: THE LEGAL FRAMEWORK	12
CHAPTER 3: BUSINESS BENEFITS	25
CHAPTER 4: CASE STUDIES – EDHR GOOD PRACTICE	31
CHAPTER 5: THE CHALLENGES AND PARTNERS WHO CAN HELP	36
CHAPTER 6: CONCLUDING REMARKS	52

## INTRODUCTION

The Police Reform and Social Responsibility Act 2011 (PRSRA) established new arrangements for policing governance in England and Wales, effective from 22 November 2012.

This document has been developed to inform PCCs and the public. It aims to improve understanding of the changing landscape of equalities and policing governance and to help ensure consistent good practice across equality areas and the policing service. The document provides a framework which seeks to lay the foundations for the future and moves towards creating an on-line resource in relation to each activity.

Over recent years, there have been a number of high-profile reviews and inquiries, including:

- the Bradley Report (2009) – Lord Bradley's review of people with mental health problems;
- the Independent Police Complaints Commission's report into police custody as a 'place of safety' (2008);
- the Commission for Racial Equality's (CRE) Formal Investigation into the Police Service (2003); and
- the Stephen Lawrence Inquiry (1999) – Sir William MacPherson's report into the Stephen Lawrence Murder.

These have resulted in real change and significant improvements in the quality of service for all communities. Most importantly, these have had a lasting effect on the ways in which the police listen to, consult and police diverse communities.

## THE ROLE OF THE POLICE AND CRIME COMMISSIONER

The primary function of the Police and Crime Commissioner (PCC) is to secure the maintenance of an efficient and effective police force for the communities of their police force area and to hold the chief constable to account for the exercise of their functions and those of persons under their direction and control.

PCCs are responsible for the totality of policing in their area, including setting local policing and crime priorities, setting the police force budget and precept, and disbursing community safety funding. They also have responsibilities to co-operate with partners to provide an efficient and effective criminal justice system; to co-operate with community safety partners and have regard to their priorities; to obtain views from the community and victims of crime on policing; and to exercise duties in relation to safeguarding children and the promotion of child welfare.

By law, in carrying out all these functions, PCCs need to have due regard to:

- elimination of discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010;
- advancement of equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to
- fostering good relations between such groups.

As public bodies, the offices of Police and Crime Commissioner and chief constable are subject to the general equality duty. The broad purpose of this duty is to integrate consideration of equality and good relations into day-to-day business and for consideration to be given to how public bodies can positively contribute to the advancement of equality and good community relations.

The chief constable is also subject to the Specific Equality duties. These include: publishing information to demonstrate compliance with the general equality duty; evidencing how policies and practices have (or would) further the aims of the general equality duty; evidencing that they fully considered equality implications when making decisions; carrying out and evidencing engagement with people who have an interest in furthering the aims of the general equality duty; and preparing and publishing equality objectives.

It will be for the Police and Crime Commissioner to maintain oversight of the police force and its chief constable in meeting the general and specific equality duties.

These duties and obligations are discussed in more detail in Chapter 2: The Legal Framework – Equality Act 2010.

## **IDENTIFICATION OF KEY POLICING ACTIVITIES**

In developing this document key national stakeholders were asked to identify areas of policing activity that the PCC might focus on. Although this has been developed with a particular focus on Equality, Diversity and Human Rights (EDHR) issues it is important to point out that each PCC will work with their local communities to set the local policing priorities, and as such the areas identified cannot be utilised as an exhaustive list of policing activities. Local issues and priorities will vary.

The key policing activities that were identified to include within the on-line framework are:

- Anti Social Behaviour
- Child Abuse
- Child Sexual Exploitation and Grooming
- Countering Terrorism
- Custody
- Data Sharing

- Domestic Abuse
- Honour Based Violence and Forced Marriage
- Perpetrators
- Safeguarding Vulnerable Adults
- Use of Regulation of Investigatory Powers Act
- Female Genital Mutilation
- Human Trafficking
- Rape
- Sexual Exploitation
- Victims
- Hate Crime
- Missing From Home
- Recruitment, Retention and Progression
- Stop and Search
- Witnesses

## SUMMARY

This document seeks to identify and capture:

- Areas of Equality, Diversity and Human Rights (EDHR) activity which the PCC will need to be familiar with – particularly activities that impact on under-represented, vulnerable and marginalised groups;
- Key legislation in relation to those activities;
- The key business benefits of fulfilling EDHR duties;
- Current good practice case studies and ideas for future ways of working; and
- The challenges and partners that can assist in tackling/ managing any given policing activity.

## Chapter 1: EDHR – WHAT PCCs NEED TO KNOW

### THE STAKEHOLDERS

The table below sets out the key stakeholders who were involved in the production of this document and identifying the key policing activities.

Association of Chief Police Officers (ACPO)	Association of Police Authorities (APA)
Transition Association of Police & Crime Commissioners (APCC)	APA Equality & Diversity Officers Network (EDON)
British Transport Police (BTP)	British Transport Police Authority (BTPA)
Child Exploitation & Online Protection Services (CEOPs)	Crown Prosecution Service (CPS)
Equality & Human Rights Commission (EHRC)	Government Equality Office (GEO)
Home Office (HO)	Her Majesty's Inspector of Constabulary (HMIC)
Independent Police Complaints Commission (IPCC)	Individual Police Authorities (via EDON)
Ministry of Justice (MoJ)	Local Government Association (LGA)
National Policing Improvement Agency (NPIA)	National Black Police Association (NBPA)
Police Federation	National Crime Agency (NCA)
Stonewall	Police Superintendents' Association of England and Wales (PSAEW)
Unison	Serious & Organised Crime Agency (SOCA)

Further information on how some of these stakeholders can assist the PCCs in their EDHR duties can be found in Chapter 5 of this document.

### KEY POLICING ACTIVITIES

The key policing activities that were identified by stakeholders for consideration by PCCs are briefly listed and defined below:

#### Anti Social Behaviour

The term 'anti-social behaviour' was defined in law in the 1998 Crime and Disorder Act, as behaviour in "a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household".

Antisocial behaviour can include:

- noise,
- rowdy behaviour such as shouting, swearing and fighting,
- intimidation of neighbours and others through threats or actual violence,
- harassment, including racial harassment or sectarian aggression, particularly if it takes place at or near a football match,
- verbal abuse,
- systematic bullying of children in public recreation grounds, on the way to school or even on school grounds, if normal school disciplinary procedures do not stop the behaviour,
- abusive behaviour aimed at causing distress or fear to certain people, for example, elderly or disabled people,
- driving in an inconsiderate or careless way, for example, drivers congregating in an area for racing,
- dumping rubbish,
- animal nuisance, including dog fouling,
- vandalism, property damage and graffiti.

## Child Abuse

Abuse and neglect are forms of maltreatment of a child. Somebody may abuse or neglect a child either directly by inflicting harm, or indirectly, by failing to act to prevent harm. There are four types of child abuse: Physical abuse; Emotional abuse; Sexual abuse; and Neglect.

## Child Sexual Exploitation and Grooming

The sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of performing, and/or others performing on them, sexual activities.

Child grooming refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for sexual activity with the child, or exploitation.

Online grooming might involve an adult pretending to be a child, befriending the child through online chat rooms, social networking websites, email, mobile telephone

messaging, gaining their trust or stalking their online activities for the purpose of sexually abusing them. The offence includes the following activities:

- Asking children to participate in non-contact sexual activities such as engaging in sexual conversations online or via mobile telephone or taking and sharing indecent images of themselves online or through a mobile telephone.
- Asking children to display sexualised behaviours or perform sexual acts that are recorded or shared live via webcam.
- The creation, storage and distribution of child abuse images (also referred to as child pornography or indecent images).
- Arranging to meet a child in person for the purpose of sexually abusing them.

Street grooming involves:

- The befriending of someone for the purpose of exploiting them, usually for sexual or financial reasons.
- Buying gifts to gain the victim's trust and emotional dependency. Gifts can include perfume, clothes, jewellery, mobile phones, providing alcohol and drugs, or providing lifts 'for a night out'.

Many tactics are used by street groomers until the victim's trust is gained and the perpetrators then proceed to abuse their victims.

## Countering Terrorism

Counter Terrorism incorporates the practices, tactics, techniques, and strategies that governments, militaries, the police and corporations adopt to tackle terrorist threats and/or acts, both real and alleged. Counter terrorism tactics can be used where individuals engage in conduct in preparation for committing acts of terrorism or assisting another to do so. Terrorism is defined in the Terrorism Act 2000.

Acts of terrorism involve the calculated use of violence (or the threat of violence) against civilians in order to attain goals that are political or religious or ideological in nature; this is done through intimidation or coercion or instilling fear amongst the public.

It is important that PCCs work closely with local communities to ensure trust and confidence is maintained and that local people can come forward to provide information to the police service and provide intelligence. PCCs should also ensure effective working between police and local partners to implement effective prevention strategies, as well as maintaining strong and cohesive communities, whilst ensuring that the police service does not unfairly target any single community with the measures used to combat terrorism.

## **Custody**

A seizure or forcible restraint; an exercise of the power to deprive a person of his or her liberty; the taking or keeping of a person in custody by legal authority, especially, in response to a criminal charge.

The Police and Criminal Evidence Act 1984 (PACE) and the associated Codes of Practice (including all subsequent amendments) set out the legislative framework for dealing with people who come into police contact.

The Mental Health Act 2007 introduced the deprivation of liberty safeguards into the Mental Capacity Act 2005. The safeguards provide a framework for approving the deprivation of liberty for people who lack the capacity to consent to treatment or care in either a hospital or care home that, in their own best interests, can only be provided in circumstances that amount to a deprivation of liberty. Further information on this can be found in Chapter 2 – The Legal Framework: Mental Health Legislation.

## **Data Sharing**

Annual data must be published for the purpose of facilitating the performance of those engaged in the administration of justice to avoid discriminating against any persons on the grounds of any protected characteristic as listed in the Equality Act 2010. PCCs should be aware of their responsibilities to protect information under the Data Protection Act. Data sharing legislation is discussed in more detail in Chapter 2 – The Legal Framework.

## **Domestic Abuse**

This is any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality.

## **Female Genital Mutilation**

Female genital mutilation (FGM) is defined in the FGM Act 2003 as the cutting, or partial or total removal, of the external female genitalia for cultural, religious, or other non-medical reasons. It is usually performed on girls between the ages of 4 and 10. It is also called female circumcision.

## **Hate Crime**

Hate crimes and incidents are taken to mean any crime or incident where the perpetrator's hostility or prejudice against an identifiable group of people is a factor in determining who is victimised. This is a broad and inclusive definition. A victim does not have to be a member of the targeted group (e.g. a Sikh man being the victim of a crime due to the offender believing they are Muslim would be regarded as Islamophobia). In fact, anyone could be a victim of a hate crime.

## **Honour Based Violence and Forced Marriage**

Honour based violence is a crime or incident which has, or may have been, committed to protect or defend the honour of the family and/or community.

A forced marriage is a marriage in which one or both spouses do not (or in the case of some adults with learning or physical disabilities, cannot) consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure.

## **Human Trafficking**

Trafficking involves the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, as a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. The persons who are trafficked have little choice in what happens to them and usually suffer abuse due to the threats and use of violence against them and/or their family.

Human trafficking is distinct from smuggling, which involves the facilitation of entry to the UK either secretly or by deception (whether for profit or otherwise). There is normally little coercion/ violence involved or required from those assisting in the smuggling.

## **Missing from Home**

Anyone whose whereabouts is unknown, whatever the circumstances of their disappearance. They will be considered missing until located and their well-being or otherwise established.

## **Perpetrators**

This refers to the person or persons who have committed an offence. Perpetrator is not a commonly used term, as often within the criminal justice system perpetrators tend to be referred to as offender(s) or defendant(s).

## **Rape**

Under section 1(1) of the Sexual Offences Act 2003 a defendant is guilty of rape if they intentionally penetrate the vagina, anus or mouth of the complainant with his penis; the complainant does not consent to the penetration; and, the defendant does not reasonably believe that the complainant consents.

## **Recruitment, Retention and Progression**

This is ensuring that transparent processes are in place that provide equal opportunities and do not disadvantage any protected characteristics groups as listed in the Equality Act. It is important that organisations identify the demographics of their local area and

strive to ensure that the workforce profile is as closely aligned to the local demographics as possible.

'Positive action' refers to a range of measures and initiatives that employers can lawfully take to actively encourage individuals from under-represented groups to apply. The positive action provisions on recruitment and promotion are contained in section 158 of the Equality Act 2010. They apply where an employer reasonably thinks that those who share a protected characteristic have specific needs or suffer a disadvantage or are under-represented.

Positive action can be taken to address real and/or perceived barriers that may inhibit particular communities, groups or individuals from joining the organisation or from applying for particular posts, e.g. firearms, or seeking promotion.

Positive action is not:

- compulsory. The legislation makes clear that if employers choose to take positive action measures, it will not be unlawful but there is no requirement to do so.
- the imposition of positive discrimination or quotas. These are unlawful. The new recruitment and promotion provisions still allow employers to select the most qualified applicant for the job, so recruitment/ promotion is still on merit. Targets are different to quotas. Quotas must be reached, while targets are milestones that any PCC can set in consultation with the local community to assure themselves that the service is improving and progressing in the direction that has been set by them.
- the same as making reasonable adjustments for disabled clients and employees. It is not unlawful to treat a disabled person more favourably, e.g. parking spaces located nearer to building entrances.
- the same as a genuine occupational requirement. For example, if a domestic violence refuge for women required only women counsellors, it would not be acting unlawfully to make clear that only women could apply for the role.

Some examples of positive action which can be taken are:

- Providing a mentoring scheme for female staff only, having identified that fewer women attain the more senior roles.
- Stating on the traineeship application form that the organisation welcomes applications from women and ethnic minority candidates where those are under-represented.
- Establishing a bursary to support students from an ethnic minority background where those students are under-represented.

## **Safeguarding Vulnerable Adults**

A Vulnerable Adult is a person aged 18 or over, who is or may be in need of community care services by reason of mental or other disability, age or illness and who is, or maybe unable to take care of him or herself or unable to protect him or herself against significant harm or exploitation in terms of abuse. This might be physical, sexual, psychological or financial.

In some cases, vulnerable adults will be exploited by someone who has befriended the victim. This is referred to, by some groups, as 'mate crime'. Victims often do not understand what is happening to them or are too afraid to tell anyone. Living in isolation can make people more vulnerable to these "fake friends". Victim and charity groups state that 'mate crime' is more likely to go unnoticed in rural areas, due to the isolated nature of the locality the victims live in.

## **Sexual Exploitation**

A person commits an offence if he arranges or facilitates the travel of another person and intends to do anything in respect of that person, which if done, will involve the commission of a relevant offence. For these purposes, a relevant sexual offence is any offence under Part 1 of the Sexual Offences Act 2003, and therefore captures all serious sexual offences including exploitation for the purpose of prostitution.

## **Stop and Search**

There are many legal sources for this activity but the main power, used on a daily basis by the police, is contained in Section 1 of the Police and Criminal Evidence Act 1984. It allows police officers to stop and search a person or vehicle, using that power fairly and without unlawful discrimination. In some circumstances officers can use 'reasonable force'.

## **Use of Regulation of Investigatory Powers Act 2000**

RIPA is the law governing the use of covert techniques by public authorities. It requires that when public authorities – such as the police or government departments – need to use covert techniques to obtain private information about someone, they do it in a way that is necessary, proportionate, and compatible with human rights.

## **Victims**

This refers to someone who suffered physical harm, emotional trauma and/or personal or property loss as a result of a crime or event. A victim can and frequently is also a witness.

## **Witnesses**

This refers to someone who has witnessed or has firsthand knowledge about a crime or event and can be called to court either by the defence or the prosecution to deliver their evidence and be questioned on it.

## AIMS OF THIS DOCUMENT

This document seeks to lay the foundations for the future and move towards creating an on-line resource in relation to each activity, as identified by stakeholders. In the future if PCCs commit to the framework of EDHR activity, additional and emerging policing issues could be included, for example on-line fraud (1 in 4 people are affected by this crime at an average cost of £30,000 per person).

It is accepted that all local issues may not have been captured. However if an individual PCC so chooses, it would be possible to develop a local framework of activity.

Police and Crime Panels may choose to familiarise themselves with the areas of policing in order to ensure that any given PCC is adequately and effectively scrutinised.

Members of the public may also wish to access key information on specific areas of policing and this can be held as a national-on-line resource with links to each PCC website for easy local access. The framework can be expanded to capture local good practice.

## Chapter 2: THE LEGAL FRAMEWORK

This section aims to provide PCCs with an understanding of their statutory duties in relation to equalities and human rights and explain the requirements of the law. Information is provided on the following legislation:

- Equality Act 2010
- Human Rights Act 1998
- Children's Act 2004
- Mental Health Legislation
- The Criminal Justice Act 1991 – Section 95
- European Union Victims Directive
- Regulation of Investigatory Powers Act 2000

### EQUALITY ACT 2010

The introduction of the Equality Act 2010 takes into account age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief and sexual orientation.

It is important that police forces reflect and understand the diverse needs and aspirations of the communities of which they are a part in order to ensure effective service delivery. This means that the police service should move beyond compliance and create organisational environments that are inclusive, value diversity, and encourage participation from each individual. Embracing difference will ensure that regardless of individual starting points, everyone has an equal chance to become what they want to be within our society.

### The Role of the Police and Crime Commissioner – The General Equality Duty

As public bodies, both the Police and Crime Commissioner and chief constables are subject to the general equality duty.

The broad purpose of this duty is to integrate consideration of equality and good relations into day-to-day business and for consideration to be given to how public bodies can positively contribute to the advancement of equality and good community relations. It requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review.

The relevant protected characteristics under this legislation are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual

orientation. The duty also covers marriage and civil partnership, but only the need to eliminate unlawful discrimination against someone because of their marriage or civil partnership. People with these characteristics are referred to as protected groups.

Section 149 of the Equality Act 2010 states that PCCs and chief constables, in the exercise of their functions, must have due regard to the need to:

1. elimination of discrimination, harassment, victimisation and any other conduct prohibited under the Act,
2. advancement of equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and to
3. fostering good relations between such groups.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves the need to:

- (a) remove or minimise disadvantages connected to a protected characteristic suffered by those who share that characteristic – this may involve treating some people more favourably than others;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it – this could, for example, involve taking steps to take account of some people's disabilities;
- (b) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low – this means tackling prejudice and promoting understanding between people from different groups.

### **The Seven Principles: Due Regard**

Context is very important. The PCC and the chief constable will need to establish a proportionate balance. More detail on the general principles to weigh in the balance when looking at equality impact issues and the degree of consideration to be given by the decision maker were provided by the Court in *R (Brown) v Secretary of State for Work and Pensions* [2008]. The principles can be summarised as:

1. Those individuals in an organisation who have to take decisions must be made aware of their duty to have “due regard” to the identified goals.
2. The “due regard” duty must be fulfilled before and at the time that a particular policy that will or might affect those people is being considered.
3. The duty must be exercised in substance, with rigour and with an open mind. It is not a question of 'ticking boxes'.

4. It is good practice for the policy or decision maker to make reference to the legal provision and any code or other non statutory guidance – although making reference is not proof in itself of having discharged the legal duty.
5. The duty cannot be delegated and will always remain with the organisation or person on whom it is conferred.
6. The duty is a continuing one.
7. It is good practice to keep an adequate record showing that the organisation has actually considered the general equality duties and relevant questions.

The Equality Act defines 7 types of discrimination:

1. Direct discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have, or are thought to possess, or because they associate with someone who has a protected characteristic.

2. Indirect discrimination

Indirect discrimination can occur when you have a condition, rule, policy or even a practice in your organisation that applies to everyone but particularly disadvantages people who share a protected characteristic.

Indirect discrimination can be justified if you can show that you acted reasonably in managing your business, i.e. that it is 'a proportionate means of achieving a legitimate aim'. Being proportionate really means being fair and reasonable, including showing that you've looked at 'less discriminatory' alternatives to any decision you make.

3. Discrimination by association

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

4. Perception discrimination

This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

5. Harassment

Harassment is *“unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”*.

Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves.

Employees are also protected from harassment because of perception and association.

#### 6. Third party harassment

The Equality Act makes you potentially liable for harassment of your employees by people (third parties) who are not employees of your organisation, such as customers or clients. You will only be liable when harassment has occurred on at least two previous occasions, you are aware that it has taken place, and have not taken reasonable steps to prevent it from happening again.

#### 7. Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

### **The Role of the Chief Constable – Specific Equality Duties**

Chief Constables are also subject to the specific equality duties and are required to:

- Publish information to demonstrate their compliance with the general equality duty across their functions.
- Evidence how their policies and practices have (or would) further the aims of the general equality duty.
- Evidence that they fully considered equality implications when making decisions and formulating policies and practices.
- Carry out and evidence the engagement that they undertook with people whom they consider to have an interest in furthering the aims of the general equality duty.
- Prepare and publish equality objectives.

It will be for the Police and Crime Commissioner to hold the police force and its chief constable to account in meeting the general and specific equality duties.

## HUMAN RIGHTS ACT 1998

The PCC has a duty to oversee human rights compliance in the functions, activities and duties carried out by the police service and/or other partners that the PCC has commissioned services from or where arrangements for collaborative working have been set up. The responsibilities created by the Act also apply to the PCC's own functions.

The Human Rights Act (HRA) was passed in 1998 to ensure that the rights contained in the legislation were directly enforceable in British courts. The HRA was borne out of a desire to dispense with the time consuming and costly requirement whereby those who wished to challenge human rights breaches had to bring an action in the European Court of Human Rights in Strasbourg.

The Human Rights Act places public authorities under a duty not to commit human rights abuses themselves. So, for example, public authorities must not treat people in an inhuman or degrading way. In some instances, public authorities also have a duty (known as a 'positive obligation') to take proactive steps in order to protect certain human rights, no matter who or what is causing the harm. In particular this may mean intervening in relationships between private individuals in order to protect someone's rights.

The HRA gives everyone rights, which PCCs will need to ensure are protected. In addition, 'protocols' are a later addition to the Human Rights Convention. These rights can be classified as Absolute Rights, Limited or "Special" Rights and Qualified Rights:

### Absolute Rights

Public authorities cannot depart from their obligations under an absolute right even in times of war or other national emergency. Nor can an absolute right be "balanced" against the needs of other individuals or the public interest, except in rare circumstances, where two absolute rights are to be balanced against each other.

- Article 2: Right to life

A person has the right to have their life protected by law. There are only certain very limited circumstances where it is acceptable for the state to take away someone's life, e.g. if a police officer acts justifiably in self defence.

- Article 3: Prohibition of torture

A person has the absolute right not to be tortured or subjected to treatment or punishment which is inhuman or degrading.

- Article 4: Prohibition of slavery and forced labour

A person has the absolute right not to be treated as a slave or to be required to perform forced or compulsory labour.

- Article 7: No punishment without law

A person normally has the right not to be found guilty of an offence arising out of actions which at the time they committed them were not criminal. They are also protected against later increases in the maximum possible sentence for an offence.

- Article 1 of Protocol 13: Abolition of the death penalty

These provisions abolish the death penalty.

### Limited or “Special” Rights

These rights are similar to absolute rights in that they cannot be "balanced" against the rights of other individuals or the public interest. But governments are entitled under the Convention to derogate from their application in times of war or national emergency.

- Article 5: Right to liberty and security

A person has the right not to be deprived of their liberty - 'arrested or detained' - except in limited cases specified in the article (e.g. where they are suspected or convicted of committing a crime) and provided there is a proper legal basis in UK law.

- Article 6: Right to a fair trial

A person has the right to a fair and public hearing within a reasonable period of time. This applies both to criminal charges against them and to cases concerning their civil rights and obligations.

### Qualified Rights

These are rights which can be restricted not only in times of war or emergency but also in order to protect the rights of another or the wider public interest.

- Article 8: Right to respect for private and family life

A person has the right to respect for their private and family life, their home and their correspondence. This right can be restricted only in specified circumstances.

- Article 9: Freedom of thought, conscience and religion

A person is free to hold a broad range of views, beliefs and thoughts, and to follow a religious faith. The right to manifest those beliefs may be limited only in specified circumstances.

- Article 10: Freedom of expression

A person has the right to hold opinions and express their views on their own or in a group. This applies even if those views are unpopular or disturbing. This right can be restricted only in specified circumstances.

- Article 11: Freedom of assembly and association

A person has the right to assemble with other people in a peaceful way. They also have the right to associate with other people, which include the right to form a trade union. These rights may be restricted only in specified circumstances.

- Article 12: Right to marry

Men and women have the right to marry and start a family. National laws will still govern how and at what age this can take place.

- Article 14: No discrimination

A person has the right not to be treated differently because of their race, religion, sex, political views or any other personal status, unless this can be justified objectively. Everyone must have equal access to Convention rights, whatever their status.

- Article 1 of Protocol 1: Protection of property

A person has the right to the peaceful enjoyment of their possessions. Public authorities cannot usually interfere with things people own or the way they use them, except in specified limited circumstances.

- Article 2 of Protocol 1: Right to education

A person has the right not to be denied access to the education system.

- Article 3 of Protocol 1: Right to free elections

Elections for members of the legislative body (e.g. Parliament) must be free and fair and take place by secret ballot. Some qualifications may be imposed on who is eligible to vote (e.g. a minimum age).

## CHILDREN'S ACT 2004

The Children's Act places responsibilities on a number of public bodies to promote and safeguard the welfare of children. Section 10 of the Act names the organisations that have a statutory duty to safeguard and promote the welfare of children, and who are constituent members of the Local Safeguarding Children Boards. Section 11 of the Act places two specific duties on PCCs, to ensure that:

- Their functions are discharged having regard to the need to safeguard and promote the welfare of children.
- Any services provided by another person on behalf of the PCC has due regard to that need.

The statutory responsibility for children and young people set out in the Children Act 2004 provided the legal underpinning to the core aims of “Children and Young People: Rights to Action” in Wales and “Every Child Matters” in England.

In addition, under the PRSRA Section 1(8) the PCC must hold the chief constable to account for the exercise of duties in relation to the safeguarding of children and the promotion of child welfare.

There are a number of ways PCCs could consider to effectively demonstrate their commitment to children and young people:

- The effect that the transfer of certain funding (such as Community Safety Grants) may have on those aged below 18.
- The impact of cooperative working with criminal justice bodies (including youth offending teams) on children should be considered.
- PCCs have a legal duty to make arrangements for obtaining the views of the community on policing. As children and young people constitute a large proportion of our community’s make-up, they could be given the opportunity to provide their views in relation to policing locally. This is particularly important if children and young people are unable to vote but are still greatly affected by policing in their area.
- To promote public confidence in the use of police powers, these could be explained to young people at a local level. Younger people (not just 18-25) are more likely to be stopped and searched by the police and research suggests that young people have a dim view of police stop and search powers. It may therefore be beneficial to ensure that activities to raise awareness amongst communities about the use of these powers includes young people.

## MENTAL HEALTH LEGISLATION

### Police Custody as a Place of Safety: Mental Health Act 1983 (section 136)

The core task of the police is to uphold law and order and to tackle crime and disorder effectively. The evidence gathering process is essential to this. A significant number of people with a mental disorder come into contact with the police each year. This can include offenders, victims of crime and those who simply require help or medical care. This contact with the police is often when they are in a public place and are in need of “immediate care or control”. In such circumstances a person can be taken into police custody under the Mental Health Act 1983.

Under this power police custody is viewed as a ‘place of safety’, where a person can be held without harm until they are assessed by an approved doctor and an approved social worker (ASW).

However, police custody is widely viewed as being an unsuitable environment for people with a mental disorder since:

- It has the effect of criminalising people for what is essentially a health need.
- The environment may exacerbate their mental state and, in the most tragic cases, can lead to deaths in custody.

Ensuring that a detainee receives the appropriate level of care to determine their fitness to be detained and fitness to be interviewed is a key element in obtaining the best quality of evidence to assist in prosecuting offenders.

Some key points to consider are:

- Many people who come into custody or police contact do so with physical or mental vulnerabilities or both.
- There are also problems of alcohol or drug-related abuse or misuse.
- The police service often provides the gateway to healthcare services.
- A police station is not the most appropriate place for diagnostic assessment or healthcare treatment.
- The impact of a death in custody or following police contact is traumatic for the family and friends of the deceased and has a significant effect on the staff involved.

Each of the above considerations carry a high reputational risk to the police service and therefore a PCC may wish to ensure oversight of the following mitigating activities:

1. Adequate training of police and officers and staff.
2. Adequate safeguarding procedures, aligned to the Safer Handling of Detained Persons Guidance.
3. Compliance with the requirements of the Equality and Human Rights Acts.
4. Compliance with the Police and Criminal Evidence Act 1984, particularly Code C Section 9.5 which states that:

A custody officer must make sure a detainee receives appropriate clinical attention as soon as reasonably practical if the person:

- a) appears to be suffering from physical illness; or
- b) is injured; or
- c) appears to be suffering from a mental disorder; or
- d) appears to need clinical attention.

Code C, Section 9.5A states that the above applies whether or not individual requests it and whether or not they have been treated elsewhere.

5. Compliance with the Deprivation of Liberty Safeguards which have been introduced into the Mental Capacity Act 2005 by the Mental Health Act 2007.

### **Deprivation of Liberty Safeguards: Mental Health Act 2007**

The deprivation of liberty safeguards Code of Practice was laid in draft before Parliament by the Lord Chancellor on 13 June 2008, in accordance with sections 42 and 43 of the Mental Capacity Act 2005. They were introduced into the Mental Capacity Act 2005 by the Mental Health Act 2007.

The Code of Practice contains guidance on the deprivation of liberty safeguards. It is particularly intended to provide guidance for professionals involved in administering and delivering the safeguards, who are under a duty to have regard to the Code. The Code is also intended to provide information for people who are, or could become, subject to the deprivation of liberty safeguards, and for their families, friends and carers, as well as for anyone who believes that someone is being deprived of their liberty unlawfully.

The safeguards provide a framework for approving the deprivation of liberty for people who lack the capacity to consent to treatment or care in either a hospital or care home that, in their own best interests, can only be provided in circumstances that amount to a deprivation of liberty. The safeguards legislation contains detailed requirements about when and how deprivation of liberty may be authorised. It provides for an assessment process that must be undertaken before authorisation and detailed arrangements for renewing and challenging that authorisation.

### **CRIMINAL JUSTICE ACT 1991 – SECTION 95**

Section 95 of the Criminal Justice Act 1991 requires the Government to publish statistical data to assess whether any discrimination exists in how the Criminal Justice System (CJS) treats people based on their race. The Act states:

‘The Secretary of State shall in each year publish such information as he considers expedient for the purpose ... of facilitating the performance of those engaged in the administration of justice to avoid discriminating against any persons on the ground of race ...’

Section 95 data brings together statistical information on the representation of Black, Asian and Minority Ethnic (BME) groups such as:

- Victims, suspects, defendants and offenders within the Criminal Justice System.
- Details of employees within the criminal justice agencies.

Documents fulfilling this requirement have been published since 1992.

These reports are released by the Ministry of Justice and produced in accordance with arrangements approved by the UK Statistics Authority. They aim to help practitioners and members of the public understand trends in the Criminal Justice System and how these vary between ethnic backgrounds.

These statistics are used by policy makers, the agencies who comprise the CJS and others to monitor differences between ethnic groups and where practitioners and others may wish to undertake more in-depth analysis. The identification of differences should not be automatically equated with discrimination as there are many reasons why apparent disparities may exist.

## EUROPEAN UNION VICTIMS DIRECTIVE

The EU Victims Directive needs to be considered by Police and Crime Commissioners when they start commissioning victims' services.

The Directive aims to ensure that a victim of crime anywhere in the EU receives a minimum standard of support and protection.

The Directive was adopted on 4 October 2012 - member states will have to implement this by 4 October 2015.

### Victims of Crime

People falling victim to crime have a range of needs, varying from victim to victim. To meet these individual needs, it is necessary that all victims are treated individually.

The EU therefore acts to ensure that victims:

- are recognised and treated with respect and dignity;
- are protected from further victimisation and intimidation from the offender and further distress when they take part in the criminal justice process;
- receive appropriate support throughout proceedings;
- have access to justice to ensure that victims are aware of their rights and understand them;
- have appropriate access to compensation.

Victims must be able to benefit from this minimum level of rights without discrimination across the EU, irrespective of their nationality or country of residence and whether a minor or serious crime is involved, whether they have reported the crime and whether they are the victim or a family member.

## How to ensure that victims' rights are addressed

PCCs must ensure the requirements on all EU member countries are observed when making decision that affect victims:

- the right to be heard and the right to supply evidence;
- access to relevant information, including on support, protection and compensation possibilities, and on their role in proceedings;
- access to interpretation and translation;
- the opportunity to participate in proceedings;
- access to legal aid and reimbursement of costs and expenses, when they have the status of parties or witnesses in the criminal proceedings;
- the protection of their safety and privacy;
- the right to compensation from the offender; and
- the possibility to participate properly in the criminal procedure.

## REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the use of and access to surveillance by public bodies.

This involves five types of different surveillance:

1. Interception of communications – e.g. listening to telephone calls, reading letters and emails.
2. Intrusive surveillance – e.g. placing bugs and filming in private places.
3. Directed surveillance – e.g. filming and covertly monitoring specific people generally in public places.
4. Use of covert human intelligence sources – e.g. informants and undercover operatives.
5. Accessing communications data – e.g. accessing the record (but not the content) of emails, telephone calls and websites visited.

Under RIPA hundreds of public bodies have access to the last three types of surveillance. Surveillance can be authorised for a wide range of purposes including purposes such as preventing 'disorder' or collecting tax.

Interception of communications and some types of intrusive surveillance are authorised by the Home Secretary and other types of surveillance are largely self-authorised.

Intrusions into personal privacy must all be properly authorised and comply with the human rights principles of necessity and proportionality.

Further information on what RIPA means for PCCs can be found in Chapter 5 – The Challenges.

## Chapter 3: THE BUSINESS BENEFITS OF EDHR

The PCC will wish to ensure that all activities commissioned or directly provided by the police are effective and deliver not only increased satisfaction and confidence in all communities but that they are equitable and deliver real financial savings to ensure that public money is being used in the most efficient and prudent manner.

Much of the policing landscape is complex with often significant but not immediately obvious linkages between national policing issues (as set out in the Strategic Policing Requirement), and local issues which local communities care about most. In practice these two levels are not easy to separate and tackling these issues at a local level will often have a local benefit as well as supporting the national effort. To help PCCs to demonstrate they are being effective in dealing with these complex issues, it will often be beneficial for PCCs to consider the EDHR implications in addressing the needs of all those in their local community.

There are clear legal, moral and ethical obligations to ensure that all members of the community receive open, fair and transparent treatment from the police and criminal justice system. However, there are also additional business benefits in tackling some of the key policing activity areas outlined in Chapter 1, including those that may be perceived as being national rather than local impact issues. The following table sets out some of these potential benefits.

<b>POLICING ACTIVITY</b>	<b>BUSINESS BENEFITS</b>
Anti-Social Behaviour (ASB)	Tackling Anti Social Behaviour will contribute to a reduction in the estimated £9 billion troubled families cost the public sector each year.  Addressing the issues caused by ASB will : <ul style="list-style-type: none"><li>• Have a positive impact on victims,</li><li>• Improve the perceptions of other members of the community who link it to the decline of their neighbourhood; and</li><li>• Positively impact on the reputation of the police.</li></ul>

Child Abuse	<p>Tackling child sex exploitation and child abuse can:</p> <ul style="list-style-type: none"> <li>• Help to reduce the number of possible offenders in the future – children subjected to exploitation and abuse are statistically more likely to be delinquent and offend in the future; and</li> <li>• Prevention strategies can save the financial costs of investigating serious crime.</li> </ul>
Child Sexual Exploitation	
Countering Terrorism	<p>Proportionate use of Stop and Search powers and counter terrorism work can contribute towards the primary purpose of the police and criminal justice system: ensuring the safety of the public and protection of the Right to Life.</p>
Stop and Search	<p>Counter terrorism activities and appropriate use of Stop and Search are key policing activities in protecting fundamental Human Rights.</p> <p>Failure to use the powers in the proper manner reduces their effectiveness and is likely to be harmful to counter-terrorism policing and lead to mistrust of the police.</p> <p>In order to promote public confidence in the use of the powers, arrangements must be made for the records to be scrutinised by representatives of the community, and to explain the use of the powers at a local level. This also promotes policing by consent.</p>
Custody	<p>Dealing effectively, fairly and lawfully with people who come into contact with the police is a key element in:</p> <ul style="list-style-type: none"> <li>• Building community confidence;</li> <li>• Ensuring the successful outcome to the investigation of crime;</li> <li>• Engaging support in building safer, more secure neighbourhoods;</li> <li>• Promoting a safer working environment for staff; and</li> <li>• Ensuring that people who are arrested are treated fairly and that the wellbeing of detainees, especially those who are vulnerable, is safeguarded (in compliance with Article 3 of the Human Rights Act).</li> </ul>
Perpetrators	

Domestic Abuse	<p>Tackling domestic abuse can:</p> <ul style="list-style-type: none"> <li>• Save the longer term cost of dealing with repeat victims - in the 2010/11 British Crime Survey 73% of incidents of domestic violence were experienced by repeat victims; and</li> <li>• Help in tackling child physical abuse, with estimates of these crimes being linked ranging between 30% and 66%.</li> </ul>
Female Genital Mutilation	<p>Addressing honour based violence, forced marriages and female genital mutilation will:</p> <ul style="list-style-type: none"> <li>• Increase community trust and confidence in the police;</li> <li>• Increase community intelligence;</li> <li>• Increase capacity and capability in community organisations; and</li> <li>• Increase community cohesion.</li> </ul>
Honour Based Violence and Forced Marriage	
Hate Crime	<p>Tackling hate crime will impact on a range of services (health, housing, education, social services etc.).</p> <p>The social and economic cost of hate crimes show that the overall impact of these crimes far exceeds that of other high volume crimes such as burglary or vehicle crime. Tackling hate crime will therefore have greater impact on the community than the volumes of the crimes suggest.</p> <p>Tackling hate crime can increase community trust and confidence in the police.</p>
Human Trafficking	<p>Tackling human trafficking can be a way to tackle organised criminal networks - it is estimated that 175 organised criminal networks operating in the UK are involved in organised immigration crime, of which a small proportion is human trafficking.</p>
Rape	<p>Prevention strategies can save the financial costs of investigating this serious crime. The financial costs associated to the emotional and physical effects of rape have been estimated to be almost double the cost of an investigation into a serious sexual offence.</p>
Recruitment, retention and progression	<p>Specific benefits will vary depending on priorities for each organisation but can include:</p> <ul style="list-style-type: none"> <li>• Attracting, recruiting and retaining the best people;</li> </ul>

	<ul style="list-style-type: none"> <li>• Reducing the costs of labour turnover and absenteeism;</li> <li>• Building employee commitment and morale;</li> <li>• Enhancing creativity and innovation;</li> <li>• Enhancing the organisation’s reputation and image with external stakeholders; and</li> <li>• Creating opportunities for disadvantaged groups and building social cohesion, thus increasing public confidence.</li> </ul>
Safeguarding of Vulnerable Adults	<p>Safeguarding Vulnerable Adults can help to ensure:</p> <ul style="list-style-type: none"> <li>• Compliance with the Health Act 1999 – statutory agencies should work together in partnership to ensure that appropriate policies, procedures and practices are in place and implemented locally;</li> <li>• Increase confidence in the police and criminal justice system in upholding a core policing value to protect the most vulnerable people in society; and</li> <li>• Protect the police and the PCC from the reputational risks associated with a failure to fulfil this duty as the recent cases of Pilkington and Askew have shown.</li> </ul>
Victims	<p>The 2010/11 showed that being a victim of personal crime was higher for BME groups than for White groups. Providing a fair and equal service to victims and ensuring they are kept informed about their case can:</p> <ul style="list-style-type: none"> <li>• Have a considerable bearing on their wider satisfaction, confidence and engagement with the police and wider criminal justice system; and</li> <li>• Improve relations between police and the community to assist policing and improve criminal justice outcomes: there is a strong positive association between receiving support and being more likely to report a crime (43% more likely), coming forward as a witness (33% more likely), help with community safety initiatives (30% more likely) and participating in restorative justice (31% more likely).</li> </ul>

	Failing to keep victims informed may cause them to fear for their personal safety - particularly where the offence took place in the victim's home. Victims who are not kept informed or not well informed are at least twice as likely to say they are not confident in police in the local area.
Witnesses	<p>Dealing with all witnesses in a fair and equal manner will help to ensure compliance with the Witness Charter 2008 which states that:</p> <p>'As a witness you will be treated fairly and with respect according to your need irrespective of race, religion, background, gender, age, sexuality or any disability.'</p> <p>Treating witnesses fairly will help to ensure that witnesses continue to come forward in support of police investigations. This can be a key factor in securing a successful outcome.</p>

## MEASURING PUBLIC CONFIDENCE

Since its inception in 1982 the British Crime Survey (BCS) has sought to measure people's perceptions of the police. Questions have included respondents' ratings of their local police in terms of how good a job they do, as well as a wider range of perceptual measures which examine more specific aspects such as contact and behaviour. Some of the questions, which are included and which PCCs may find helpful in assessing the local levels of confidence are:

- The police in this area can be relied on to be there when you need them.
- The police in this area would treat you with respect if you had contact with them for any reason.
- The police in this area treat everyone fairly, regardless of who they are.
- The police in this area can be relied on to deal with minor crimes.
- The police in this area understand the issues that affect this community.
- The police in this area are dealing with the things that matter to people in this community.
- Taking everything into account I have confidence in the police in this area.

Clearly, if PCCs are to ensure that confidence levels improve/ are maintained, EDHR considerations will need to be taken into account, to ensure that all those coming into contact with the police are treated fairly and with respect.

From October 2007 new questions were included in the BCS relating to perceptions of the police working with local agencies to tackle the anti-social behaviour and crime issues that matter in the local area. These were developed to reflect a greater emphasis on partnership working for use in the new 'Making Communities Safer' Public Service Agreement.

This can be used as an indicator by PCCs to help them understand if the services that are being provided by the police force and partners meet the needs of all communities.

PCCs may wish to explore the confidence levels based on the demographics of the local area, for example of white users compared to Black and Minority ethnic users, to satisfy themselves that all those who come into contact with the police and partners are receiving the same levels of service.

The PCC may also wish to use the information provided to drive forward and improve partnership working in order to ensure that collectively key policing partners provide a better service to all communities. In the long-term, financial as well as legal and community benefits can be gained from these measures.

## **Chapter 4: CASE STUDIES – EDHR GOOD PRACTICE**

It should be recognised that real progress has been made in fairness in policing and criminal justice in recent years. This has been driven by the natural progression of democracy and inclusivity but also by a combination of legislation, regulation, statutory guidance and national standards, which have often (although not always) been influenced by significant high profile events, such as the Stephen Lawrence Inquiry (1999), the Bradley Report (2009) into mental health, the Independent Police Complaints Commission's report into police custody arrangements (2008) and the Commission for Racial Equality's Formal Investigation into the Police Service (2003).

This Chapter aims to inform and assist PCCs in developing policies and strategies which ensure all sections of the community are served by providing some practical examples of recent good practice which was simple to deliver and has been successfully implemented by organisations, both nationally and locally.

### **Case Study 1: Making Know Your Rights (KYR) Leaflets Accessible To All**

Dyfed-Powys Police Authority led on the development of bilingual KYR leaflets which was subsequently progressed at a national level. The Welsh Language Act requires all public documents to be produced bilingually in Wales. Dyfed-Powys took this forward on behalf of three Welsh Authorities.

### **Case Study 2: Consulting Young People**

Dyfed-Powys Police Authority has worked very hard to improve engagement with local children and young people as it was noted that they were significantly under-represented in consultation about policing (in particular policing priorities). To address this, the Authority developed a children and young people's participation strategy which set out a clear commitment to address the gaps in participation.

Some of the work carried out has included: training inputs to inform young people of their rights; awareness raising of the Authority's role and function which is now being extended to the PCC; development of youth friendly quarterly newsletters to inform children and young people what work is being done by the Authority that is relative to them; development of Authority specific web pages within the force's young person's website; and hosting events specifically to facilitate participation of children and young people with the Authority's work.

### **Case Study 3: Developing EDHR Understanding**

Members of the Devon and Cornwall Police Authority's Diversity, Equality and Human Rights working group have been aligned to the individual equality group (or "strand" as they used to be called) meetings, which discuss issues of: Gender, Disability, Religion & Belief, Lesbian, Gay, Bi-Sexual and Transgender, Age and Race. This means that individual police authority members attend specific equality group meetings every three months. Members feed back their findings at every Diversity, Equality and Human Rights working group meeting and, if appropriate, agree on actions to address any concerns.

This has allowed members to create a more comprehensive and detailed awareness/understanding of specific business areas within the EDHR portfolio. It also means that there is a direct link into and with specific community groups and their particular issues, which helps build trust and confidence.

### **Case Study 4: Stop and Search Dip Sampling**

South Wales Police Authority Members, in conjunction with key stakeholders and community members, scrutinised completed stop search forms during a year across the police force area. The findings were used to formulate recommendations for South Wales Police focused on improving their processes to increase public confidence in policing activities.

### **Case Study 5: Equality Impact Assessment (EIA) Quality Assurance**

South Wales Police Authority Members carried out a quality assurance of a number of high risk policies that had been equality impact assessed in the force. This was via a session which brought Police Authority Members and force staff together. Members found that a number of the EIAs had failed to identify adverse impacts where Members felt that clear impacts should have been identified. As a result a number of EIAs were developed further in the force and this has led to positive changes being made to policies and practices and helped to ensure that the Authority is fulfilling its legal scrutiny function in this business area.

### **Case Study 6: Employment Targets and Staff Association Engagement**

South Wales Police Authority set challenging targets for Black and Minority Ethnic (BME) and female officers as well as targets to reduce the numbers of people that felt unable to disclose their disability, sexual orientation and religion status on their monitoring forms. The targets were set in conjunction with and with the support of the staff associations, including the Female Police Association, Black Police Association, Gay Staff Network and Ability Support Network for disabled employees. The force has reacted positively to

all of the targets and positive improvement has been made in ensuring that the police force is representative of the community it serves.

### **Case Study 7: Setting and Monitoring Equality Objectives**

In setting the equality objectives for the force and the authority, the Greater Manchester Police Authority engagement team consulted with a number of different organisations with protected characteristics, as well as the Greater Manchester equalities and human rights parliament.

The Confidence and Equalities sub-committee is the formal reporting mechanism for oversight of EDHR issues and the force has set up partnership teams to facilitate the equalities work on divisions with the Authority providing an input to the partnership teams. The sub-committee has acted as the driver for this work, with updates being reported back on a regular basis. It has also ensured that sufficient resource was allocated to the work to enable something of quality to be produced.

Progress against the equality objectives continued to be scrutinised by way of reports to the sub-committee on a quarterly basis. GMPA has made sure that the objectives are measurable and because it has asked for reports to be provided, this will provide an important impetus as what's measured gets done. There are two community volunteer members on the sub-committee who provide an independent eye in terms of scrutiny - people can be more objective when they do not know a subject in detail. This also helps when challenging the force, as independent viewpoints can be more welcome as there are reputational risks in terms of public confidence associated with non-compliance/non-production of promises.

### **Case Study 8: The Potential Negative Impact of Insufficient EDHR and RIPA Oversight**

Project Champion sought to extend Closed Circuit Television (CCTV) and Automatic Number Plate Recognition (ANPR) coverage in Birmingham. It was funded by a grant approved by the Home Office on the advice of the Association of Chief Police Officers, Terrorism and Allied Matters (ACPO (TAM)) committee. The cameras were to be primarily located in two Birmingham areas.

In December 2010 the West Midlands Police Authority agreed “that the scheme known as Project Champion should be withdrawn and all remaining cameras, poles and relevant equipment should be removed” – this was on Human Rights grounds.

The Authority learned a difficult but valuable lesson in how human rights considerations must guide decision-making. Proportionality and clear communication were key. The Authority has learned from this experience and given close scrutiny to how the Force uses its surveillance powers, and has been very satisfied with the standards and processes in place. Equally, protection of rights to life, expression, privacy, and family

life among other rights, has become central to the approach to safeguarding vulnerable people.

### **Case Study 9: Independent Custody Visitors (ICVs)**

Different policing divisions within a force will have different profiles of detainees depending on the local population. This will give rise to people going through custody suites in one area having different protected characteristics and human rights issues from detainees in another part of the force. Those police divisions located in large cities or tourist destinations may have substantial transient populations and experience regular alcohol and drug related incidents. Some towns and cities may have a significant gay population; other areas will have significant eastern European or black and other minority ethnic communities.

Over a number of years, the North West Police Authorities have organised local and regional training events for ICVs, and have had input from specialist organisations and experts including wheelchair users, former drug users, experts in autism, deaf people, transgender people and travellers. All have provided the Custody Visitors with an understanding of their particular needs. ICVs take this knowledge with them and, coupled with their own expectations of welfare and compassion; they check upon and challenge the police in regard of their processes and knowledge. Equally, it is important that ICVs share their own knowledge and experiences. In relation to religion for example, Custody Visitors have shared their own experiences in relation to religious needs of Muslim detainees concerning respect for the Koran and dietary requirements. Custody Visitors can then raise these matters on their visits to their respective custody areas to satisfy themselves that the police are able to deal with such matters if they arise.

This demonstrates the importance of ICVs and for PCCs and their staff to have an awareness of equalities and human rights issues.

For more information on ICVs, refer to Chapter 5 of this document – The Challenges and Partners Who Can Help.

### **Case Study 10: Working with the local football club**

Brighton and Hove Albion is one of two football league clubs within Sussex. The club is linked to a city in which over 14% of the population define themselves as being lesbian, gay or bi-sexual (LGB). The stance of the football club and Sussex Police in relation to homophobic chanting and behaviour both at home and when visiting other clubs is now well known: 'Sadly homophobia within sport exists and is highlighted within football most weeks. To do nothing about it is not an option. To address this we need to be in partnership with a number of agencies including the Football Association, football clubs, police forces and the LGBT community.'

At the beginning of the 2011/12 season the club moved to a new community stadium. Whilst at their temporary accommodation, the layout of the ground and the lack of cameras meant that many offenders could not be located, safely ejected or arrested. Since moving to the new ground the police force has worked with the club, and with the willingness of supporters to report such incidents, there is now a zero tolerance policy which can be effectively implemented with the facilities available at the ground. This has received positive reports in both the local and national press.

### **Case Study 11: Lesbian and Gay Liaison Officer (LAGLO) Scheme**

Hampshire Constabulary introduced LAGLO officers to improve relations with the lesbian, gay, bi-sexual and transgender (LGBT) community. The LAGLO Officers hold surgeries in gay venues in the Hampshire region which allow people to approach the police in a less formal way. The officers also attend events and promote education of LGB issues in schools, attend and run anti bullying conferences, and hold training development days. In the last 18 months they have shared this best practice with other police forces, including Leicester, Gwent and North Wales.

Hampshire Constabulary has also started a programme with Southampton Football Club to deliver training about LGB issues to the Apprentice Stewards.

These activities have helped to raise the profile of LGBT issues in the force and the local community. Hampshire Constabulary has been named the most gay-friendly police force for two years running in the Annual Workplace Equality Index Top 100, published by the LGB charity Stonewall.

## Chapter 5: THE CHALLENGES AND PARTNERS WHO CAN HELP

PCCs will face a number of challenges as they fulfil their role and serve their local communities, balancing local priorities with national requirements. This Chapter looks to inform PCCs and the public about some of the key challenges in an EDHR context, and provides an overview of some of the partners and organisations which can assist PCCs in delivering a fair and inclusive policing environment.

### THE CHALLENGES

#### Commissioning Role of the PCC

As the name suggests, PCCs are not only responsible for setting policing priorities and holding the chief constable to account, they are also commissioners of services which will improve the efficiency and effectiveness of policing and criminal justice arrangements in their local area.

It is logical that in fulfilling this aspect of their role, PCCs would wish to form a real understanding of the needs of diverse communities to ensure that commissioning activities are fair, transparent and relevant. In order to achieve this, PCCs might wish to:

- Work to improve the quality of and access to local services, and reduce inequalities in policing activities.
- Engage with the public.
- Operate in a transparent and open manner, and consider carefully the implication of any contracts or negotiations that impose conditions of commercial confidentiality.
- Consider how relationships between the police and the public can be improved.
- Establish and strengthen working relationships with partners in the police, community safety and criminal justice community.

It will be important to remember that PCCs cannot delegate or remove themselves from their equality duties. This equally applies to the commissioning of services as it does to any other PCC activity. It also applies when the PCC asks others to commission services on their behalf.

#### Communication and Engagement with the Local Community

To fulfil their functions, PCCs will need to obtain the views of the public and partners, including the views and needs of minority communities, in relation to policing and crime reduction to inform priorities and delivery of services. This will also assist PCCs in raising their profile and communicating their values, views, priorities and achievements to the public.

To achieve this, it may be helpful to develop and implement effective two-way community engagement and effective consultation with all sections of the community. It will be important to understand and address the different ways in which members of the community receive or have access to information from the PCC and for them to be able to easily engage with the PCC and the police. PCCs (and indeed the police) will be expected to take reasonable steps within the resources available to meet different community needs. This may include working with people via different communication methods, being accessible at different times of day and week, meeting them on their home ground, and making information accessible in different formats and languages to meet local circumstances.

Developing a proactive and healthy working relationship with the local media will be another area that PCCs will no doubt wish to implement. The PCC may wish to identify ways to work with both mainstream and relevant specialist media to promote the PCCs activities and to share good news stories on policing and crime reduction. These stories will be a mix of those which are of general interest to all members of the community and those which are more specific or relevant to particular groups.

### **Community Awareness and Equality Mapping**

The challenge for the policing family is to develop worthwhile equality outcomes for local communities and staff. This is unlikely to succeed without understanding the demographics and diverse needs of the local communities and of those working in the police service, the differing life chances of individuals and families that cause disadvantage to individuals and families, and the barriers to equality.

The prosperity and cohesion of all communities is affected by the impact of differing demographic profiles and socio-economic status, becoming more significant as social mobility decreases, and the gap between rich and poor grows wider.

Understanding the profile of local communities and the life chances and opportunities of different groups is crucial. Equality mapping is the term used for collecting information about communities and individuals. This information is used throughout the equality process. It is collected on the basis of people's age, disability, gender or gender identity, race, religion or belief, sexual orientation or socio-economic background.

A good starting point for all police and crime commissioners and police forces will be by assessing the results of the 2010 population census (published in November 2012) and understanding the implications of the latest demographics when developing and reviewing their strategies, policies and commissioning activities across all key business areas, to ensure that policies and practices address the needs of all those living in our communities.

### **Complaints Handling**

PCCs have a duty to monitor how the police force deals with complaints made by members of the public. In addition, some complaints can be made directly to the PCC by the public.

In relation to complaints about the behaviour of the member of a police force, the PCC can only deal directly with:

- A complaint about the behaviour of the chief constable.
- A complaint about the behaviour of members of staff that work for them.
- A complaint or general dissatisfaction about the way the police force has dealt with the complaint about one of their officers or policies.

The PCC cannot consider:

- A matter which is the subject of any legal dispute or legal proceedings.
- Abusive, unreasonable or repeated complaints (as defined by the Independent Police Complaints Commission and the Local Government Ombudsman).
- Complaints by a police officer or member of police staff.

The chief constable will be the appropriate body for complaints against a police officer up to the rank of deputy chief constable. If the chief constable wishes to suspend an ACPO officer he must inform the PCC. If he wishes to remove an ACPO officer he must consult the PCC.

PCCs may wish to consider the following key principles in handling complaints:

- Treat complainants with respect.
- Give the complainant the name and contact details of the person co-ordinating the response to your complaint within ten working days of it being received.
- Contact the complainant at least once a month to update them (unless otherwise agreed with the complainant).
- Look into the complaint in an objective and proportionate way.
- Tell the complainant in writing what the decision is regarding the complaint and why.
- Let the complainant know who to contact if they are still unhappy (where applicable).

The Police and Crime Panel will have the legal responsibility to deal with non-criminal complaints against the Police and Crime Commissioner, whilst the IPCC will deal with criminal complaints against PCCs.

There is a shared responsibility by the PCC, police forces and the Independent Police Complaints Commission (IPCC) to ensure the accessibility of the complaints system. The IPCC's Access Strategy aims to ensure that the complaints system is accessible to all members of the public and that it considers the needs of young people, vulnerable adults, BME groups, and those with specific language or disability needs.

## Data: Using It and Sharing It

In an intelligence-led policing environment, data is critical in protecting the public and bringing criminals to justice. It is also key in ensuring that EDHR aims and objectives are being evaluated and success measured.

Data has to be understood and analysed, not just collected. The data and its analysis provide an important evidence base to measure the impact of service provision on diverse groups. Priorities or actions set as a result of the analysis can address under-representation both within the workforce and for the public using policing services.

As part of EDHR in policing activities, 'sensitive data' may be used. This is data pertaining to: racial or ethnic origin; religious or similar beliefs; trade union membership; physical or mental health or sexual life; political opinions; and criminal offences. It is a legal requirement that this data may only be held in strictly defined situations or where explicit consent has been obtained.

The use of data is also critical and sensitive in relation to Human Rights and Data Protection Act (1998) compliance. The Data Protection Act provides eight principles which specify how all personal data should be collected, stored and processed. The eight Data Protection Act principles highlighted below are a critical base-line to ensure that data is not only being used appropriately but also shared appropriately in order to ensure no infringement of individual rights (such as the Right to Privacy, Article 8 Human Rights Act 1998) occur during the processes of scrutinising and sharing data. These principles specify that personal data must be:

1. Processed fairly and lawfully.
2. Obtained for specified and lawful purposes.
3. Adequate, relevant and not excessive.
4. Accurate and up to date.
5. Not kept any longer than necessary.
6. Processed in accordance with the "data subject's" (the individual's) rights.
7. Securely kept.
8. Not transferred to any other country without adequate protection in situ.

In addition, the Data Protection Act gives individuals certain rights to access the data you hold about them. These rights are known as 'Subject Access' and are defined below:

- a) to receive on request details of the data relating to themselves. This includes any information about themselves including information regarding the source of the data and about the logic of certain "fully automated decisions" - these are decisions which are made without human intervention.
- b) to have any inaccurate data corrected or removed in a timely fashion.

- c) in certain circumstances to stop processing data which is likely to cause “substantial damage or substantial distress”. For example, if an employee demands that information held about them in relation to their political affiliations be removed from force systems as it is affecting their chances of promotion, the force would need to consider removing this data.
- d) to prevent their data being used for advertising or marketing.
- e) not to be subject to certain “fully automated decisions” if they significantly affect him/ her. For example, an employee using an automated clocking- in system which determines the level of pay they will receive for the hours worked can request that they are instead clocked on and off by their line manager. There are two requirements which should be considered: the decision has to be taken using personal data processed solely by automatic means and the decision has to have a significant effect on the individual concerned, such as loss of earnings.

When a subject access request is received, it is important to act promptly and effectively as certain time scales are imposed regarding response.

It should be noted that data sharing may result in conflicting Human Rights being called into question. For example, when working in partnership, the Right to Privacy (Article 8) and the Right to Life (Article 2) may come into conflict. It is vital to be assured that the protection of people’s safety will, in the majority of cases, be an over-riding factor, as such, it is advisable that the privacy issues should not inhibit data sharing between agencies when working together to protect the public from behaviours and practices which could endanger life.

### Local Criminal Justice Boards (LCJBs)

Local Criminal Justice Boards have a very significant role to play in maintaining, supporting and improving the quality of life for all communities through the fight to reduce crime and bringing more offenders to justice.

The Public Service Agreement (PSA) Targets, as detailed in *Justice for All*, set out the commitment to aid the delivery of an effective, transparent and responsive criminal justice system for victims and the public.

PCCs are expected to work with the criminal justice agencies within their area to facilitate the delivery of an effective and efficient criminal justice system. In achieving this it will be up to the individual PCC's to determine the level of their involvement with the LCJB. This may be in the form of PCC involvement in LCJB activity or working in partnership with the LCJB and will be driven by local priorities.

The PSA targets as set out below will be of particular interest to PCCs:

- PSA 24 - Deliver a more effective, transparent and responsive Criminal Justice System for victims and the public.
- PSA 23 to *Make Communities Safer* has a specific focus on protecting the public from the most serious crime. It also includes an ambition to reduce re-offending. By delivering justice efficiently and effectively, meeting the commitments in this

PSA will contribute to deterring reoffending and reducing the overall levels of crime.

- PSA 14 to *Increase the Number of Children and Young People on the Path to Success* includes a commitment to reduce the number of first time entrants to the Youth Justice System. This PSA will support this aim by promoting a proportionate response to less serious offences and increased flexibility for partners to focus on delivering an effective criminal justice response to local priorities.

PCCs may choose to work with their LCJBs to raise public awareness of the roles and functions of the criminal justice agencies and to:

- Raise public confidence in the fairness and effectiveness of the criminal justice system.
- Give local people more opportunities to have a say on action to tackle local concerns and to have their views heard.
- Enable local people to be informed of what has been and is being done to deal with the problems and to become involved if they choose to do so.

When working together in robust partnerships with shared goals, criminal justice services can better take on and deal with local concerns and feed back jointly to communities on what action has been taken.

### Police and Crime Panel

Whilst the PCC has oversight of the police force, it is the role of the local Police and Crime Panel (the Panel) to maintain a check and balance on the activity and performance of the PCC. In England the Panel is a local joint committee comprising a minimum of ten and a maximum of twenty members who are from each of the local authorities in the police force area. A minimum of two of the members must be independent co-opted. In Wales the Panel is a free standing panel appointed by the Home Secretary. The Panel scrutinises the PCC's exercise of their statutory functions; it is there to challenge the PCC, but it must carry out its functions with a view to supporting the effective exercise of the PCC's functions. The Panel does not scrutinise the chief constable.

As part of the reporting arrangements, the PCC will need to report to the Panel on how they are meeting the general equality duty and holding the chief constable to account for the performance of the police force in meeting the general and specific duties. This may be done via quarterly performance reports and the PCC's annual report, for example, although reporting arrangements will be developed locally. It will be important, therefore, for the Panel to understand the different community perspectives in relation to policing and crime and the issues which affect those who have the protected characteristics. Information about equality issues affecting the police workforce will also be relevant. It will be essential for Panels to receive information/briefings on the local demographics, circumstances, issues, risks, challenges and priorities in relation to equalities.

## Police Professional Standards Investigations

As part of the role of oversight and governance of the police force and its chief constable, PCCs will need to be aware of the work of Professional Standards Departments (PSDs).

PSDs are an internal investigation function within each force whose role is to both proactively and reactively investigate possible misconduct and corruption among police officers and staff. These can result in disciplinary proceedings being instigated and, in the most serious of cases, criminal charges being brought.

The Morris Inquiry (2005) and subsequent report, *'The Case for Change'*, highlighted poor inconsistent, knee jerk practices of managers and supervisors in relation to dealing with all matters of diversity. This is known as disproportionality, of which there are two types:

- Numerical disproportionality: disproportional representation of different groups in internally raised misconduct proceedings and counter-corruption intelligence.
- Procedural disproportionality: where members of different groups are subjected to disproportional treatment in internally raised misconduct proceedings.

Research conducted in 2012 has provided evidence which suggests that procedural disproportionality continues within Police Professional Standards.

The role of the PCC in relation to the equality duty (explained in Chapter 2: The Legal Framework – Equality Act 2010) requires PCCs to give consideration to how equality considerations are reflected in the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review. Addressing the issue of disproportionality would form part of this duty and PCCs should hold the chief constable to account in ensuring that disproportionality is removed from PSD activity.

## Positive Action in Service Provision

Positive Action has already been discussed in relation to Recruitment, Retention and Progression in Chapter 1 of this document. However, PCCs should be aware that positive action can also be taken when considering how services are provided or commissioned for any particular group in order to ensure equitable service delivery for all groups.

Some examples would include catering for hearing loops, providing information in different languages, bespoke domestic services for women and providing interpreters. West Yorkshire Police has set up a Facebook page to encourage the reporting of homophobic hate crime.

## Privacy Issues - RIPA powers overview and scrutiny function of PCC

Detail on the Regulation of Investigatory Powers Act (RIPA) 2000 can be found in Chapter 2 of this document – The Legal Framework.

PCCs will not have an operational role in the decisions to require or apply for RIPA authorities for surveillance as this responsibility sits with the chief constable. However, there are civil liberties issues to consider and public opinion on these matters is clear

and, as such, PCCs may wish to satisfy themselves (particularly when making policy or funding decisions) that the police force has adequate governance, oversight, controls and training in place for RIPA authorities in their force area.

RIPA is not required for all police surveillance activities. Case Study 8 in Chapter 4 of this document demonstrates the impact of not taking adequate consideration of EDHR issues when deciding to fund surveillance technology in the local area.

### **The Strategic Policing Requirement (SPR)**

The Police and Social Responsibility Act requires the Home Secretary to produce a Strategic Policing Requirement setting out the national criminal threats and the appropriate national policing capabilities required to counter those threats. The PCC and chief constable will be required to "have regard" to the Strategic Policing Requirement in their decisions.

The SPR focuses on those areas where government has a responsibility for ensuring that sufficient capabilities are in place to respond to serious and cross-boundary criminality and in support of the work of national agencies such as the National Crime Agency. It does not cover areas where chief constables and PCCs are able to make effective local risk assessments.

EDHR implications are an important aspect of the SPR, particularly in areas such as Counter Terrorism and Public Order policing.

### **Working with Local Authorities and other Partners**

As well as the scrutiny function of the Police and Crime Panel, there are also areas of activity where there will be shared responsibilities, interests and concerns between the PCC and the local authorities in their own right as providers of services to communities and as responsible authorities for community safety. These responsibilities can extend to other agencies too, for example, the housing sector and mental health services. The need for shared scrutiny functions and responsibilities may arise when considering the need to commission joint services that require a multi-agency intervention and protection strategy, such as where particular groups in society are disproportionately affected by certain types of crime (victims of child abuse, violence against women and girls), anti social behaviour, substance abuse and/or issues relating to health and well being.

The PCC has the following duties in this regard:

- a specific responsibility for the delivery of community safety and crime reduction;
- the ability to bring together Community Safety Partnerships at the force level;
- the ability to make crime and disorder reduction grants within their force area;
- a duty to ensure that all collaboration agreements with other Local Policing Bodies and forces deliver better value for money or enhance the effectiveness of policing capabilities and resilience;
- a responsibility to promote and safeguard the welfare of children; and

- a wider responsibility to enhance the delivery of criminal justice in their area.

There are reciprocal duties on the PCC and all their partners to co-operate with each other to improve efficiency and effectiveness in service delivery for community safety. Safer Future Communities funding will be routed through the PCC for the purpose of commissioning services and making grants. Further information is available via the Local Government Association online knowledge hub for local authorities.

## **PARTNERS WHO CAN HELP**

### **Association of Chief Police Officers (ACPO)**

ACPO is an independent, professionally led strategic body. In the public interest and, in equal and active partnership with Government and the Association of Police Authorities, ACPO leads and coordinates the direction and development of the police service in England, Wales and Northern Ireland. In times of national need ACPO, on behalf of all chief officers, coordinates the strategic policing response.

ACPO has produced an Equality, Diversity and Human Rights Strategy and has developed a framework for improvement in the delivery of equality through a proactive approach to diversity.

The framework is designed to support the police service in:

- assessing current activity;
- identifying gaps in performance;
- benchmarking progress and sharing best practice; and
- improving performance by delivering positive equality outcomes.

PCCs can use the ACPO Strategy and Framework when holding the chief constable to account for equality, diversity and human rights issues.

### **Child Exploitation and Online Protection Centre (CEOP)**

While most crimes against children are dealt with by local police forces, there are some areas where only a national approach can be effective. CEOP has led the action to tackle paedophile networks not only within the UK, but internationally. CEOP is dedicated to eradicating the sexual abuse of children. That means it is part of UK policing and very much about tracking and bringing offenders to account either directly or in partnership with local and international forces.

Options for funding, infrastructure and estates for the delivery of an ambitious but sustainable National Cyber Crime Unit (NCCU) are being explored.

A transition plan has been agreed by the Cyber Crime Project Board. This plan sets out actions and milestones to facilitate the transfer of the precursor units and enable the creation of the NCCU.

## College of Policing

In December 2011, the Home Secretary announced the creation of a professional body for the police service. The College of Policing will be established by the end of 2012.

The role of the College will be:

- To protect the public interest;
- To set and enhance first-class national standards of professionalism to ensure excellence in operational policing;
- To identify evidence of what works in policing and share best practice;
- To support the education and professional development of police officers and staff; and
- To enable and motivate staff and partners to work together to achieve a shared purpose.

PCCs will therefore be able to obtain a great deal of valuable information from the College in developing policies and strategies which will fulfil EDHR obligations.

## Crown Prosecution Service (CPS)

The CPS is the government department responsible for prosecuting criminal cases investigated by the police in England and Wales.

As the principal prosecuting authority in England and Wales, the CPS is responsible for:

- advising the police on cases for possible prosecution;
- reviewing cases submitted by the police;
- determining any charges in more serious or complex cases;
- preparing cases for court;
- presenting cases at court.

PCCs will want to work closely with the CPS, in order to hold forces to account for the quality of submissions compiled with all the information required to secure convictions that are fair and proportionate to the crime.

PCCs are being elected to ensure that victims receive justice. Therefore the PCC has a critical role in ensuring that the police, CPS and partners in the criminal justice system work together to secure convictions on behalf of the victims of crime. In doing this, it is important that all victims of crime receive the same level of service regardless of their age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief and sexual orientation.

## Equality and Human Rights Commission (EHRC)

The EHRC has a statutory remit to promote and monitor human rights; and to protect, enforce and promote equality across the nine "protected" groups: age; disability; gender; race; religion and belief; pregnancy and maternity; marriage and civil partnership; sexual orientation; and gender reassignment.

The Commission has a power to institute judicial review proceedings in matters of relevance to its functions, including where a public authority has breached one of the general equality duties. It also has a power to intervene in proceedings to assist the court in clarifying the law. It has its own power to enforce breaches of the general duty by serving a compliance notice upon completion of a formal assessment under section 31 of the Equality Act 2006. The Commission has intervened in a number of legal cases and it will continue to do so.

Every judicial review case in respect of the public sector equality duties concerns whether or not a public authority has had 'due regard' to the general duties when: making a decision, acting or failing to act. The key question tends to be the weight given to the duties when the decision was made, or the act or failure to act occurred.

The Commission is not always in a position to comment on what is happening in current legal cases. This is particularly the case if it is engaged in discussions about out-of-court settlements. These may include agreeing actions which the public authority can take to improve the way in which it works.

## Her Majesty's Inspector of Constabulary (HMIC)

HMIC inspects and reports on the efficiency and effectiveness of police forces, as well as specified national policing agencies such as the Ministry of Defence Police.

In all but exceptional cases, HMIC only inspects if commissioned to do so by the Home Secretary (as was the case, for instance, with the review of the August 2011 riots) or, from November 2012 PCCs will also be able to commission force inspections from HMIC. This may include a request for the inspection to be confined to a particular part of the force, to particular matters or to particular activities of that force. In exceptional circumstances HMIC may also inspect if it is judged there is an enduring risk to the public.

HMIC has a statutory duty to ensure it is kept informed of all matters of complaints and misconduct in a police force. If a PCC decides a complaint is of a nature that does not need referring to the IPCC but is not suitable for local resolution, they will be able to ask HMIC to identify another force to investigate. Again, this is a continuation of the way HMIC has previously worked with police authorities.

HM Inspectors will sit on misconduct and appeals panels for chief constables and other senior officers.

If a PCC is seeking to remove a chief constable, HM Chief Inspector of Constabulary will provide a written report to the PCC, the chief constable and the police and crime panel.

## Independent Advisory Groups (IAGs)

Independent Advisory Groups (IAGs) were first set up across the country as a result of the MacPherson Report following the Stephen Lawrence enquiry in 1999. Their role has evolved significantly since that time and they now have an important part to play in ensuring that the police service effectively involves and considers the views of all communities in local policing.

IAGs are groups of community representatives who give feedback, advice and input a community perspective on a range of local policing issues. These issues could range from discussing crime and disorder concerns, discussing specific incidents and community impact, to discussing local policing policies. They can assist the police force in managing critical incidents or planning police events or operations. They provide a useful reference group of key interested parties and community members that can offer guidance and opinion on any given topic, including thematic issues such as gun or knife crime.

Some IAGs dip sample training to ensure effective delivery and provide feedback. IAGs can be utilised to scrutinise stop and search data or other information.

The benefits for the PCC of using IAGs are:

- Increased community trust and confidence;
- Compliance with EDHR requirements;
- Effective and direct engagement, demonstrating the democratic legitimacy of the PCC;
- Assisting the police in carrying out their duties in a culturally sensitive manner and avoiding mistakes that may occur unwittingly, particularly in relation to under-represented and minority communities; and
- Providing value for money, as they can remove or reduce the costs associated with consultancy and buying in 'expert' advice. However it should be noted that IAGs are not a substitute for expert advice.

IAGs are not an exclusive form of community engagement and involvement but are one of many that a PCC may choose to adopt. It should be noted that the PCC or the police force is not obliged to act upon the advice of the IAG. However, it is good practice to record the logical reasoning for the decision to not act upon the advice.

## Independent Custody Visitors (ICVs)

Section 51(1) of the Police Reform Act 2002 created a responsibility for Police Authorities to organise and oversee an independent custody visitors (ICV) scheme. This responsibility will transfer to the PCC.

No one enjoys being arrested but all detainees should be able to expect to be treated with respect and dignity and for the police to take into consideration their needs whilst in police custody. Compliance with equalities and human rights duties in relation to police custody sits with the police force.

ICVs are independent community volunteers who conduct unannounced visits to police stations to check on the welfare of people being held in custody. They represent various backgrounds and sections of the community. ICVs should be well versed in the Police and Criminal Evidence Act (PACE), Human Rights legislation and the Safer Handling of Detained Persons Guidance, and these should form the basis of the standards expected in the welfare of detainees.

In some forces this role has been extended to cover the welfare of animals working for the police.

### **Independent Police Complaints Commission (IPCC)**

This section should be read in conjunction with the earlier section in this Chapter on Complaints Handling.

The IPCC has a legal duty to oversee the whole of the police complaints system and its aim is to transform the way in which complaints against the police are handled.

The IPCC has a statutory role as both a “first instance” complaints body and an “ombudsman”. They use their own investigators to carry out independent investigations into:

- deaths and serious injuries where it appears the police may have caused the incident by action or inaction; and
- allegations of serious corruption and other misconduct.

The IPCC also receives nearly 7,000 appeals each year from members of the public whose initial complaint has been handled by the local police. Complainants have an absolute right to appeal and the IPCC can require the local police to take steps to address their dissatisfaction.

IPCC research shows that most people would prefer to have their complaint dealt with locally. The reduction in the number of complaints received by the IPCC in 2010/11 reflects work that the IPCC has done through its revised Statutory Guidance and Access Strategy to make it easier for members of the public to make their complaint and have it dealt with locally.

The IPCC is responsible for handling all serious complaints (those which constitute or involve or appear to constitute or involve the commission of a criminal offence) against the PCC or, where appropriate, a Deputy PCC. The IPCC may decide to investigate or discontinue the complaint. Any complaint against a PCC or a Deputy PCC which is not a serious complaint will be informally resolved by the Police and Crime Panel.

At the end of the investigative process the IPCC has the power to refer the matter to the CPS to consider whether criminal proceedings should follow. The IPCC also has a power to recommend and direct disciplinary proceedings. Both the police and the PCC are able to refer a matter to the CPS following an investigation should they deem it appropriate.

## National Crime Agency (NCA)

The Crime and Courts Bill which will establish the National Crime Agency has been debated and completed its committee stage in the House of Lords. Report stage scrutiny in the House of Lords is expected in November 2012, with debate likely to move to the House of Commons towards the end of the year, and Royal Assent anticipated in April/ May 2013. Key issues of interest to date have included tasking, the governance arrangements for the agency and issues relating to the protection of children.

The role of the NCA is to tackle cross border crime that is not specific to geographical structures and boundaries. The key areas of NCA activity will include tackling:

- Economic Crime –fraud, human trafficking.
- Organised Crime.
- Wider law enforcement.
- Border Policing – To consider how the Border Policing Command can support and enhance existing structures.

The head of the NCA has the power to be able to direct any local chief constable to deploy resources, in exceptional circumstances, should he/she deem it necessary to do so.

Work on the Intelligence Hub/ Organised Crime Coordination Centre (OCCC) and National Coordination and Tasking centre (NCAT), which will play a key role in how the NCA operates, has continued to pick up pace over the summer of 2012. The Hub will start operating in shadow form for the shadow Economic Crime Command from the autumn.

Work to build NCAT has focused on exploring central questions around how tasking processes will operate. This work has included developing an idea of operations for a shadow NCAT to work with shadow Commands later this year. The team has also been working on the NCA's tasking decision-making.

Directing local resources to the national effort can have local consequences and it is therefore critical for there to be open dialogue between the NCA, PCCs and the locally affected communities. The NCA will have a duty to engage with local communities and the cooperation between the NCA and the PCC are vital in order to ensure adequate local dialogue on issues of national security, safety and infrastructure. It is important to note that all national crime will have a local impact.

## Police Staff Associations and Interest Groups

**The Police Federation of England and Wales** is a staff association for all police constables, sergeants and inspectors (including chief inspectors). It was created by the Police Act 1919, passed a year after a crippling strike by the unrecognised National Union of Police and Prison Officers. It represents 140,000 police officers and has a statutory obligation to ensure that the views of its members are accurately relayed to government, opinion formers and key stakeholders.

## **The Police Superintendents' Association of England and Wales (PSAEW)**

represents Superintendents and Chief Superintendents in England and Wales. There are currently 46 Branches – the 43 Home Office forces, British Transport Police, Civil Nuclear Constabulary and Isle of Man Constabulary. The PSAEW has a clear vision to provide superintendents in England and Wales with a national voice and leadership, support in adversity, and advice regarding conditions of service.

**Unison** is Britain and Europe's biggest public sector union with more than 1.3 million members. Its members are people working in the public services, for private contractors providing public services and in the essential utilities. This includes a large number of police staff.

In addition to the staff associations, there are a number of special interest groups within the police community who can provide advice and information on equality, diversity and human rights issues. For example:

- British Association for Women in Policing
- Christian Police Association
- Gay Police Association
- Jewish Police Association for UK Police Services
- National Association of Muslim Police
- National Black Police Association
- National Transgender Police Association

PCCs will need to apprise themselves of the staff associations and interest groups in their local police force area. Opportunities for regular dialogue with staff associations and interest groups can be beneficial for all parties.

## **Other partners who can help**

There are many organisations that the PCC can work with to create innovative partnerships and bespoke services for vulnerable and under-represented groups - to help reduce crime, assist victims and manage offenders. Many have crime intervention tactics or offer bespoke victim services and guidance to organisations on a range of crime or EDHR related issues:

- Children's Trusts and Charities
- Local Safeguarding Children Boards
- The Probation Service
- Stonewall
- Women's Aid
- Drug and Alcohol Intervention Teams
- Neighbourhood Watch
- The Prince's Trust
- Victim services
- Youth Offending Teams

- Hate crime reporting centres (often accommodated in colleges, schools or voluntary community groups)

It would be useful for a PCC to map what services already exist in order to assess how to work with partners efficiently and effectively in providing policing services across their local area.

## Chapter 6: CONCLUDING REMARKS

Police and Crime Commissioners replace Police Authorities in November 2012. They will be accountable to the public they serve, through the democratic election process to be held every four years and, as such, will need to address the needs of all those who live and work in the communities they are elected to represent. We live in a diverse society that contains a wealth of skills, talents and expertise. It is essential to the future prosperity of our society and of the police service that it develops and makes use of those skills, talents and expertise by ensuring that all individuals can participate equally.

This document is designed to summarise the key requirements, challenges and opportunities in an EDHR context which PCCs will face when taking up their posts in the future policing and governance landscape.

The information contained in this document is designed to capture the key points within which policing services should be delivered to ensure that these are provided in an equitable and fair manner to diverse communities. The document is not designed to capture every EDHR and policing related issue but is intended as an introductory information source that PCCs may wish to access and act upon. It particularly looks to address the issues faced by vulnerable, marginalised and under-represented groups in our society.

It is important to recognise that fulfilling EDHR obligations and addressing the needs of all individuals and groups in the community will not always produce easily identifiable and measureable short-term benefits but that some, such as building public trust and confidence may become apparent over a longer period of time. The legitimacy and success of PCCs will depend as much on long-term goals as on short-term objectives.

This document lays the foundations and principles of fairness in policing that PCCs can build upon both at a local and/or a national level, if they wish to do so, which will help to create a legacy for the people and communities they represent.