

**Holding to Account seminar
31 March 2010
Discovery Point, Dundee
Speech by John McNeill, Police Complaints Commissioner for
Scotland**

Good morning everyone. It's a pleasure to welcome you all here to Discovery Point and to our "Holding to Account" seminar.

We couldn't be in a better place, because today is all about "discovery" - exploring how we can align our interests to drive up standards in complaint handling and, in so doing, increase public confidence in the police.

And I promise you that that is the last tortuous link I will make between this venue and our agenda today.

We are here to tell you about what we do at PCCS. We also want to learn more about the challenges you face in fulfilling your role as members of police authorities and boards.

I am fond of saying that there is a world of difference from "hearing an account" and "holding to account". Today is about holding to account and PCCS is committed to working with you to help you do that.

We each have a statutory responsibility to monitor how the police deal with, and learn from, complaints. What we are going to do today is set out several key areas that between them contribute to increasing public confidence in the police. In particular how we can strengthen governance to improve your capacity to hold the police to account, and identify what resources and skills are needed to do the job more effectively.

When I took up office seven months ago, I committed to meeting face to face with representatives from each of the police forces, boards and authorities, as well as the UK police bodies operating in Scotland for whom I have oversight responsibility.

This was important to me. I wanted to get as clear a picture as possible about the different issues and challenges and to see for myself where there were examples of things being done well. It also helped me understand where I might meet some resistance to change.

Well I have done that. Now seven months on I'm even clearer that the time is right of us to begin a far-reaching rethink on how Scotland's police complaints system could be modernised. I am not coming to you with a fully structured and costed plan of action, nor am I trying to frighten anyone by proposing seismic shifts in the landscape.

What I want to do is confirm that we already have much of what we need resource-wise and talent-wise in the people in this room, and your colleagues at your individual boards and authorities, to make a greater contribution to the public confidence goal, than we currently do.

Many of you will know Paul Rooney. Paul was active in Strathclyde Police Authority, the Convenors Forum, the Scottish Policing Board and the Scottish Police Services Authority. Before he moved we were discussing how the Commission could help Boards strengthen accountability and Paul reminded me that it all starts with governance.

So what do I mean by governance? In brief, corporate governance is the way in which organisations are directed and controlled. Increasingly, governance in the public sector has been codified, largely in response to changes in the private sector, and it continues to evolve to respond to environmental changes. Now I'm not going to lecture you on the details of governance – most of you will be familiar with both the theory and practice of governance in your roles as Councillors and officers – but I do want to highlight several aspects of governance that are crucial to our shared agenda, increasing public confidence in how complaints about policing are handled.

So some of the governance rules. OK?

First, the primary responsibility is to challenge and to hold to account.

This is the thread that runs through a raft of Codes and Guidance from the Combined Code (2008) and the Walker Review of the Corporate Governance of the UK Banking Industry (2009), to the Good Governance Standard for the Public Sector (2004) and the code for Corporate Governance in central government departments (2005), irrespective of whether they apply to the public or private sector.

Without strong governance there is little chance of securing public confidence in complaints handling. This is something that the best value

report on Tayside Police and Tayside Police Board by HMICS and Audit Scotland highlighted. I am glad to see representatives from Tayside in the room today - I hope to draw on your insight into how you are taking forward the recommendations of that report.

For those of you who are not familiar with the content of that report, in a nutshell John Baillie the Chair of the Accounts Commission, said that “Board members have an important role to play in the governance of police services. But until members have a clearer understanding of what that role is, it will not be able to achieve best value or effectively hold the Chief Constable to account”.

He went on to say that members need more support to improve their knowledge and understanding of their role.

More importantly, he also acknowledged that this lack of clarity about the respective responsibilities and expectations of the board and the Chief Constable may not be unique to Tayside.

I believe that it's time for all of us to raise our game in respect of holding the police to account - that's why I organised today's event. I accept that your remit is wider than simply complaints but they are a reliable barometer of public confidence and satisfaction with the service of the police. And, as Paul Rooney reminded me, there's no point focussing on complaints until you strengthen your governance.

Second, you need to be resourced sufficiently in order to hold to account.

Corporate governance Codes are, like the Human Rights Act, meant to be a living instrument. So rather like Doctor Who they are reborn from time to time. For example, in the next few months The Treasury will publish a revised Corporate Governance Code for Central Government Departments. This will re-enforce the importance of systems of assurance and effective risk management, the adoption of an ethical base and the effective training for those who hold officials to account. There's nothing new about any of this – these themes appear in all recent reviews of corporate governance. In other words, you need to skill up if you are to hold to account.

Let's consider one of the six standards in the Good Governance Standard for Public Services, drawn up under the chairmanship of Sir Alan Langlands, of the University of Dundee.

Standard Four states that “Good governance means taking informed, transparent decisions and managing risk”. It’s evident that a prerequisite of this is that you have good quality information and support. You need good quality Information in order to challenge effectively, particularly if you are to question issues that fall under the Chief Constable’s operational primacy. Operational independence is not a licence to operate without challenge.

Professor Sir Desmond Rea, who led the formation of the Northern Ireland Policing Board, advised me that he adjourned a meeting of the Board when the command team denied access to information on operations ‘on security grounds’ – he did not resume business until he had the clearance necessary to challenge the operational case. It’s crucial that you are vetted to an appropriate level if you are to hold to account

Third, good governance requires an ethical base.

I’ve said that in order to take informed, transparent, decisions and manage risk you may need to gain, or acquire, key skills. One of these is to confirm that the force policies, practices and procedures are compliant with Equality and Human Rights legislation. This is a binding responsibility on you. You need to move beyond accepting assurance to seeking evidence of the process that has been applied. To seek and receive evidence that the policies you are asked to endorse, and the operational priorities you are asked to note, have indeed been checked for – and are – Convention compliant. All too often when I have questioned the evidence for the assurances advanced, I have been met with a blank look. As one of the first Human Rights Commissioners appointed by the Scottish Parliament, I know the importance of confirming public confidence in policing by demonstrating that the police are Convention compliant. That’s why other policing bodies have access to a human rights advisor. Maybe this is an issue that the Convenors Forum could consider?

The Ethical Standards in Public Life etc (Scotland) Act 2000 introduced a new framework. Here a starting point might be to realise the potential of the initial work to develop the ACPOS Code of Ethics, and use this as the glue that binds behaviour and performance together, to ensure that the police fully appreciate the practical application of concepts such as necessity and proportionality. Stop and search? Tazers? Restraints?

Another aspect of an ethical approach relates to the need for transparency and rights, in particular a clear divide between you and those you hold to account. Here I think you need to remember that perception is all. Consider, for example, the need to hold all oversight meetings in a public place – not in police Headquarters – and to employ the experience of former police officers in a committee other than that which deals with complaints against their former employer and colleagues.

My final rule relating to governance is the importance of adopting a risk based approach.

Adopting a risk based approach will enable you to assess the adequacy of the ACPOS response to issues you have raised as a concern. The Harvard Business Review has dedicated more than one edition to the benefits of aligning governance and organisation around risk. Think of the range of risks associated with policing, even when it is by consent. Here the Treasury Orange Book provides guidance on the management of risk, and need for assurance. Why not consider placing complaints handling on the risk register, and using the Audit and Risk Committee to manage the response?

There are also a number of things you can do with the information coming out of PCCS.

Every month, police boards get a copy of my Complaint Handling Reviews. These are published reports that follow my own impartial assessment of how a police force has handled a complaint from the public. Where I have found that a complaint has not been handled reasonably and, in some cases, even where the force has handled the complaint reasonably I make recommendations designed to drive up standards in complaints handling. These allow you to hold the police to account, to satisfy yourself that it's not just a case that lessons have been identified, but that lessons have been learned, to follow through to see if the force is acting on my recommendations?

You could also change how you look at complaints.

Instead of dip sampling, which tells you nothing very much, why not carry out some analysis to identify trends, look at demographics and use that evidence to drive the changes you have identified. I attended a meeting of Northern Ireland's Complaints and Human Rights Committee in Belfast last week. They grilled the Ombudsman and, separately, the

police command about trends and patterns in complaints. They stressed the importance of learning from complaints, raised concerns about the attitudes of some officers to the public, and called for these issues to be addressed through changes to the training of officers, particularly supervisors.

Horizon scanning is a key aspect of risk management. It may not protect you from a Black Swan event, something that comes below the radar and has catastrophic consequences. But it will allow you to check whether our practices represent best professional practice. Consider for example the gap that has opened up between Scotland and England and Wales following the Taylor Reforms.

In England and Wales complaints and conduct have been disengaged. Since 2002 a series of legislative changes have contributed to a landscape that has seen a move away from blame to a culture of learning and development and on a practical level a need for early assessment and resolution. I know that Northern Ireland is actively considering adopting similar changes.

Here you have a real opportunity to make a difference, lending your support to helping promote a cultural shift to learning rather than blame and punishment. To uncouple complaints from misconduct, introducing a system which seeks to resolve dissatisfaction before it becomes a complaint. And to build on the potential offered by mediation.

You will hear from my Director later today as to how we might take forward a piece of work designed to develop capability amongst complaints sub committees.

It was Sir Ronnie Flanagan who observed that policing is too important to be left to the police. Today's about how we can, together, enhance our effectiveness. You by holding the police to account, informed challenge, underpinned by an ethical base, with the risks managed.

My challenge is to provide impartial oversight and reform to police complaints handling.

Both our roles are essential to confirm public confidence in policing.

Thank you.