

Localism and police reform – improving or fragmenting accountability?

Lee Bridges asks where accountability over policing will really lie

The *Police Reform and Social Responsibility Act* was originally intended to give effect to the pledge in the Coalition's programme for government to create 'police forces that have greater freedom from Ministerial control and are better able to deal with the crime and anti-social behaviour ...', but which are much more accountable to the public they serve' (HM Government, 2010). Police reform is a key part of the Coalition government's overall 'localism' agenda, other major elements of which are delegating control of National Health Service budgets to GP fundholders, changes to the planning system, the creation of more academies and so-called 'free schools' (which are hardly free to the public purse), and allowing local charities and community groups (as well as private businesses) to take over the running of public services.

Towards elected Police and Crime Commissioners

A common denominator in all of these plans is the bypassing and sidelining of elected local authorities, but in the case of police reform this comes with a twist. While the government has proposed abolishing the current system of local police authorities (made up outside London of eight elected councillors and nine independent members, one of whom is a magistrate), the aim here is to replace them with directly elected Police and Crime Commissioners (PCComms) in each of the 43 police force areas. In London, the PCComms

will be the Mayor, who will be able to appoint a Deputy.

Elections for the first four-year term of the other PCComms was originally planned to take place to coincide with the London mayoral elections next May but has now been postponed until November 2012.

Under the Act the PCComms, once elected, would be responsible within the financial year for producing a Police and Crime Plan (the Plan) setting out policing objectives for their areas, what policing is to be provided and the resources available, and how the Chief Constable is to report and police performance is to be measured. However, the Plan must take account of 'strategic priorities' issued by the Home Secretary (see below). The local Chief Constable must be consulted on the draft Plan, which will then be sent to a Police and Crime Panel (PCPanel), made up of a minimum of ten elected councillors (including any elected Mayors in the area) and two co-opted members. The PCPanel can issue a report and/or recommendations on the Plan, and the PCComms will be required to publish a response to these before adopting the Plan.

The PCComms must also consult the 'people of the area' and 'victims

of crime' on the Plan and 'ratepayers' representatives' on the financial plan. The latter will, of course, be greatly influenced by the resources made available by central government to local authorities. Already, in the cutbacks, many local police forces are being forced to consider privatisation of key elements of their services, such as the running of custody suites.

The PCComms will also have control over crime and disorder reduction grants, and other criminal justice bodies – including the Crown Prosecution Service, Courts Service, youth offending teams, prisons, contracted offender management services and the Probation Service – will have a statutory duty to make arrangements with PCComms 'to provide an efficient and effective criminal justice system' in the police area. The PCComms must publish such information as required by the Home Secretary and an annual report, including appearing in public before the PCPanel. They must also provide any information reasonably requested by the PCPanel, unless the Chief Constable declares that it would prejudice national security, the safety of any persons, the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice. One might imagine, for example, that such an exclusion

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might apply to publication of local authorisations for the use of exceptional stop and search powers under the *Terrorism Act* or section 60 of the *Criminal Justice and Public Order Act 1994*.

Most crucially, the PCComms would have the power to appoint Chief Constables (subject to a veto by a two-thirds vote of the PCPanel), suspend them and require them to resign or retire. The PCComms would also have to be consulted about the number of Deputy and Assistant Chief Constables and their appointments. In London, the

appointment of the Metropolitan Commissioner and Deputy Commissioners would still be by the Home Secretary, who would also have to approve any suspensions or requirements to resign or retire issued by the Mayor.

Politicisation of policing

These proposals met opposition from some Liberal Democrat members of the Coalition and, perhaps more crucially, from the senior police establishment, including a number of former Chief Constables in the House of Lords, who saw them leading to a politicisation of, and potential political interference with, local policing operations. The government was originally defeated in the House of Lords on an amendment that would instead have created local Police Commissions, consisting of the PCPanel and PCComm, but crucially with the PCPanel appointing the PCComm from amongst its own members. In the final Parliamentary 'ping pong' the government succeeded in reversing this amendment and restoring direct elections of PCComms.

However, the government's plans for police reform may be further derailed following the 'phone hacking' scandal and the issues it has thrown up about senior police leadership, alleged police corruption by elements of the press and political influence over the police. The fact that the Metropolitan Police has lost two Commissioners and a Deputy Commissioner through politically influenced or enforced resignations in the past three years will be seen by some as a precursor of what may happen across the country when the government's plans for PCComms, with power over the appointment and dismissal of Chief Constables, come into effect.

It could also be argued that to proceed with the reforms would be to pre-empt key elements of the judicial phone hacking inquiry that has been established into regulation of the press and its relations with the police. Given the traditionally low turnout at local elections, the government seems to be opening up a whole new channel for the

press to influence policing through elections for PCComms and for the capture of these posts – and of local policing policy – by populist-driven but still minority opinions and groups.

Even if the PCComms do come to reflect more majoritarian views on policing, it raises the question of how the rights and civil liberties of less popular minorities will be protected in the process. It is not difficult to envisage PCComms inserting into their Plans policies for 'zero tolerance' and 'no go areas' targeted on certain activities or groups and for their enforcement through blanket stop, search and arrest operations, or mass use of anti-social behaviour orders or their replacements. Protests over these, which currently would be directed to the national level – the Home Secretary and Parliament – would simply be diverted back to a local level, there to be batted around between the Chief Constable, the PCComm and the PCPanel.

Passing the buck

This is just the sort of passing the buck that we have witnessed between the government, the London Mayor and the Metropolitan Police during the phone hacking scandal. However, under the government's reform – the aim of which is said to be to improve police accountability – this scenario would be replicated 42 times over. If anyone should doubt the capacity of the reforms for sowing conflict and public confusion, the House of Lords found it necessary to insert a new duty (now section 79 of the Act) on the Home Secretary to produce a 'policing protocol', the purpose of which is:

To make provisions about, ways in which relevant persons should (in the Secretary of State's view) exercise, or refrain from exercising, functions, so as to (a) encourage, maintain or improve working relationships (including co-operative working) between relevant parties, or (b) limit or prevent the overlapping or conflicting exercise of functions. (House of Lords, 2011)

Who are the 'relevant parties'? None other than the Secretary of State, each elected local policing body, the chief constable of each police force and the PCPanels.

As we have seen with the phone hacking scandal and even more so with the response to the summer riots, where national politicians have quickly intervened to set the tone of the policing response, ministers are hardly likely to give up their power to influence the local policing agenda when their political interests are at stake. The Home Secretary not only will retain financial leverage and be set up as an 'umpire' between the various local police governing bodies, but also will set down strategic priorities to be followed in the PCPlans. Anyone who doubts the influence these 'strategic priorities' might have need look no further than the uproar that has accompanied the issuing of the supposedly simplified national guidance by the Department of Communities and Local Government under the reformed town planning system. This guidance seeks to impose a presumption in favour of 'sustainable development' and growth in such areas as local housing development, over the heads of local authorities and communities. So much for localism.

The Coalition government's police reforms are hardly a recipe for greater police accountability, but rather one for fragmenting accountability and shirking political responsibility. It is also a very dangerous scenario for those who are likely to find themselves at the sharp end of policing, with little or no means of seeking redress. ■

Lee Bridges retired from the School of Law at the University of Warwick in September 2010, although he is currently acting as interim Director of the Warwick ESRC Doctoral Training Centre

References

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