
THE CASE FOR CHANGE

PEOPLE IN THE METROPOLITAN POLICE SERVICE

The Report of the Morris Inquiry

An independent inquiry into professional
standards and employment matters in the
Metropolitan Police Service

Members of the Inquiry:

SIR WILLIAM MORRIS QC (Chair of the Inquiry) • SIR ANTHONY BURDEN OSTJ, QPM • ANESTA WEEKES QC

Secretary to the Inquiry: AMANDA KELLY

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Sir William Morris OJ Chair of the Inquiry

Sir Bill Morris was born in Jamaica, arriving in Birmingham, England in 1954 and working his way through the ranks of the Transport and General Workers' Union to be elected as Britain's first black General Secretary in 1991 and 1995. He retired from that post in October 2003.



He is continuing his public role in a variety of ways including:

- Non-Executive Director, Bank of England
- Member, Commission for Integrated Transport
- Member, England and Wales Cricket Board
- Member, Employment Appeals Tribunal
- Member, Architects' Registration Board
- Chancellor, University of Staffordshire
- Chancellor, University of Technology, Jamaica
- Member, Board of Governors, South Bank University
- Patron of a number of charities, including The National Black Boys Can Association

Past appointments include:

- Member of the Royal Commission on the Reform of the House of Lords
- Member of the Commission for Racial Equality
- Member, General Advisory Council, BBC
- Member, General Advisory Council, Independent Broadcasting Authority
- Member, Economic and Social Affairs Committee of the European Union
- Trustee, Prince of Wales Youth Business Trust

He has received honorary degrees and fellowships from a number of universities and is a Trustee of the Open University Foundation.

In October 2002, he was awarded the Order of Jamaica by the Jamaican Government for services to international trade unionism.

In November 2003, he received a Knighthood in the Queen's Birthday Honours List.



Sir Anthony Burden, OSTJ, QPM, CCMI, Bsc (Hons)

Sir Anthony Burden was Chief Constable, South Wales Police from 1996 until the end of 2003 when he retired. As Chief Constable, he was responsible for 5,000 officers and staff policing an area with a population of 1.3 million which includes Cardiff, the capital city of Wales. He had previously been Chief Constable of Gwent Constabulary from 1994.

Prior to this he had served for twenty years in Wiltshire Constabulary, his last position being Detective Chief Superintendent in charge of the Criminal Investigation Department and in 1989 he transferred to West Mercia Constabulary as Assistant Chief Constable and was subsequently appointed Deputy Chief Constable.

He was elected and served in the position of the President of the Association of Chief Police Officers (ACPO) from October 2000 to October 2001.

During his career he had responsibility for race and community relations issues, equality and several operational matters dealing with police use of firearms and firearms licensing. He also implemented procedures to send U.K. police officers to take part in the United Nations peacekeeping duties abroad. Sir Anthony has served as a Co-Director of Extended Interviews for the Police High Potential Development Scheme and Police Chief Officer Selection Scheme. He has also served as Chairman of the Police Athletic Association, a Vice President of the Police Mutual Assurance Society and is a Trustee of the British Police Symphony Orchestra.

He holds a B.Sc. (Hons) Degree in Social Sciences and in 1995 received the Queen's Police Medal for distinguished service in the New Year's Honours List. He is also a Brother Officer in the Order of St. John and in 2002 was made a Companion of the Chartered Management Institute. In 2004, he received an Honorary Doctorate from the University of Glamorgan.

He received a knighthood in the New Year's Honours List 2002.

Sir Anthony is married with three children.

Anesta Weekes QC

- 1981 Called to the Bar
- 1999 Took silk and appointed Assistant Recorder
- 2000 Recorder
- 2002 Accredited Mediator (CEDR)
- 2004 Bencher of Gray's Inn

Main area of practice
Criminal Law, defends and prosecutes in all aspects of Criminal Law



Employment Law work
Part-time Chairman of Employment Tribunals.
Arbitrator for Commonwealth Secretariat (dealing with disputes – mainly employment law contracts)

Highlights

Counsel to the Broadwater Farm Inquiry into the death of Police Constable Keith Blakelock

Counsel to the Stephen Lawrence Inquiry

Member of the Government's Review Committee on Gambling

Representing convicted persons on capital cases before the Privy Council and before the Inter-American Commission on Human Rights (Re: Dixon, March 1999)

1999 – Awarded *The Times* Runner-up Woman of the Year

Advocacy trainer for Gray's Inn. (Trained lawyers and judiciary in South Africa and The Hague)

Lecturer and facilitator for Criminal Bar on the Human Rights Act

Speaker for employment lawyers on amendment to Race Relations Act

Television appearances: Crimewatch UK on sentencing, BBC TV Hypothetical on patient consent

Radio 4 – Questioning of victims in rape cases

Membership of Committees

Past Member of Ethnic Advisory Committee for Judicial Studies Board
 Member of Home Office Advisory Committee on race relations
 Vice-chair of Bar Council's Equal Opportunity Committee

Present Chair of the British Caribbean Jurist Group
 Board member of English National Opera

Len Duvall AM
Chair
The Metropolitan Police Authority
10 Dean Farrar Street
London
SW1H 0NY

14th December 2004

Dear Len

A year ago, your Authority asked me to chair an independent inquiry into professional standards and employment matters in the Metropolitan Police Service (MPS).

Joining me on the Inquiry were Sir Anthony Burden, who had recently retired as Chief Constable of South Wales Police Service after a long and distinguished career in the police service, and Anesta Weekes QC, who is an eminent barrister and who sits as a Recorder and part-time Chair of Employment Tribunals.

All three of us believe that we have been given a unique opportunity to make a lasting contribution to policing in London, and we have been very much aware of the high level of expectations held by our stakeholders and wider contributors.

We recognise the vital role that the MPS plays in the life of London; it is the largest police service in the country and the shop window of law enforcement agencies in the UK.

As the frontier of crime expands with the rise of global terrorism and the changing social and demographic profile of London, it is inevitable that the social cohesion between police and citizens will be subject to some stress and much tension. But despite that, let us pause to remember that scores of police officers daily put themselves in harm's way in the defence of the nation's security.

The Inquiry was commissioned by the Metropolitan Police Authority (MPA), but the Members of the Inquiry, its Secretary and its Solicitors are all independent of the MPA, the MPS and all the other organisations and individuals who contributed to the inquiry process.

We launched the Inquiry on 21st January 2004 and spent 6 months gathering evidence. We received over 1,400 documents and heard oral evidence from 109 people over 31 days. We visited other police services across the country and held a forum for 40 MPS women officers and staff.

We examined the way the Service handles complaints, grievances, allegations against individuals and conflict within the workplace. Our focus was the MPS as an organisation and not the individuals who make up that organisation. In our

approach we were determined not to indulge in a culture of blame, yet we would be fearless in challenging what we thought was wrong.

In hearing evidence we made it clear that we wanted to hear what was good about the MPS as well as what was wrong, and we sought suggestions for improvement. To that end, our approach was inquisitorial and not adversarial.

We were not appointed to make findings of guilt or innocence against particular individuals nor to revisit the past or to dwell on what may be past failings. When we examined the actions of individuals it was to identify problems with, or defects in, the procedures or processes that the MPS has in place. Our aim was to find ways in which they might be improved for the future.

There was a common misapprehension that our Inquiry was about race. We have considered discrimination issues as part of our work, and some of our recommendations focus on the way in which black and ethnic minority officers and staff are treated and managed. We hope that our recommendations will help the MPS manage difference in its widest sense.

Whilst we can see much which is good about the MPS, we are nonetheless extremely concerned by the lack of direct accountability at senior levels within the organisation; it appears to us that there is no sanction for getting it badly wrong irrespective of the consequences to the organisation or to those on the receiving end.

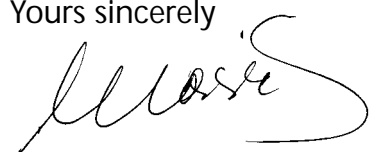
We believe that workplace relationships are the key to good policing and that the community will benefit from a Service that is well motivated and better trained.

My colleagues and I have spent nearly a year on this Inquiry. We are grateful to all those who have contributed to our work and for the evidence we received. We saw many individuals who were proud to work for the MPS and committed to keeping London and Londoners safe. Much of this report consists of what they told us; their voices resonate throughout the pages, and they deserve to be heard.

Our work is now finished, and it will be for others to decide what action to take on our recommendations. However, we hope that our report can make a positive contribution to improving professional standards and workplace relationships and, by extension, the quality of policing in London.

It was a privilege to serve for which we thank our commissioning body, the MPA.

Yours sincerely



Sir William Morris
Chair of the Inquiry

Executive Summary

Overview

1.1 This report is the culmination of the work of many months and the contributions of many people. Our starting point was, of course, our terms of reference which were in themselves very wide. We were asked to examine professional standards and employment matters in the Metropolitan Police Service (MPS). Both are large and important topics.

1.2 However, in discharging the task we were given, we considered it necessary to examine national issues and frameworks, as well as wider issues of leadership and management within the MPS. It was impossible to examine how the MPS deals with professional standards without looking at the legislative framework which governs all police conduct matters. It was also impossible to consider the handling of employment matters without seeing them in the context of how officers and staff are led, managed and motivated throughout the MPS.

1.3 Our report recommends a significant agenda for change, both nationally and within the MPS. We began from the premise that we wanted our Inquiry to help the MPS to improve and learn. We are confident that the recommendations we make in our report will provide the MPS with a route map for improving the way in which it manages its officers and staff. We believe that the changes we are recommending will make a lasting contribution to the future success of the Service.

Enhancing the Office of Constable

1.4 The prime focus of the Inquiry was the policies, procedures and practices of the MPS in dealing with professional standards and employment matters. However, because of the statutory framework governing the terms and conditions of police officers, in particular the Regulations governing complaints and discipline, we realised that any recommendations would have implications for the rest of the police service in England and Wales.

1.5 As a result, our first conclusions and recommendations will require changes in legislation if they are accepted by the Home Office.

1.6 We examined the status of police constables as office holders under the Crown. We received overwhelming evidence in favour of maintaining the office of constable and that is our recommendation.

1.7 However, we also received extensive evidence in favour of enhancing the office of constable by extending employment law rights to police officers so that they enjoy the same rights as police staff and as ordinary employees. We do not believe

that it is necessary for police officers to become employees to gain additional employment law rights. Indeed, there is ample precedent for police officers acquiring employment rights by being treated as if they were employees, rather than losing their status as office holders.

1.8 We are, therefore, recommending that employment law should be extended to police officers within the framework of the office of constable. This will, of course, include the right of recourse to the Employment Tribunal for claims of unfair dismissal.

1.9 We considered the current regulatory framework for dealing with complaints and allegations of misconduct against police officers in great detail. We received overwhelming evidence criticising nearly all aspects of the current regime and its application.

1.10 There is no compelling reason for retaining this framework and for police officers to be treated differently from their police staff colleagues and from the rest of the working population of this country. We are recommending its replacement with a disciplinary procedure based on the recent ACAS Code of Practice on Disciplinary and Grievance Procedures.

1.11 We also believe that there is an argument for revisiting the current Code of Conduct for police officers and devising a new Code, perhaps based on the Code of Ethics for the Police Service in Northern Ireland. This Code would form part of the terms and conditions for police officers, and in so far as is practicable, should also apply to police staff.

People Issues

1.12 As part of our consideration of how the MPS approaches employment matters, we examined the current role and profile of the Human Resources directorate in the MPS. We are firmly of the view that people management issues should be higher on the organisation's agenda.

1.13 We consider that human resource issues require greater prominence and that this can be achieved in a number of ways.

1.14 Human Resources should have a voice at the highest level of the organisation and play a strategic role as the guardian of the welfare of police officers and staff, including in disciplinary cases. The directorate should also be responsible for issues relating to diversity and for Employment Tribunal claims.

1.15 A major part of our task was to examine the current policies, procedures and practices of the MPS for dealing with grievances and workplace conflicts. This led

to our consideration of the MPS' Fairness at Work procedure, which replaced the previous grievance procedure.

1.16 We consider that the Fairness at Work procedure is fundamentally flawed in a number of ways. Firstly, there is concern about the impartiality of the Fairness at Work Advisors and, secondly, the Advisors can only give advice; they do not have the power to resolve the issue, except where the parties agree. In addition, we are concerned at evidence which indicates that, in some cases, people wishing to raise a Fairness at Work issue have not been allowed to invoke the procedure.

1.17 Managers must take responsibility for managing and resolving workplace disputes. We favour a grievance procedure based on the recent ACAS Code of Practice on Disciplinary and Grievance Procedures to cover all workplace conflicts.

1.18 We are also in favour of the increased use of mediation and note the work the MPS is already undertaking in this area. We recommend that the MPS examines best practice elsewhere and ensures that this informs the organisation's own approach to mediation.

1.19 The final recommendation we make in this area is directed at the Department of Trade and Industry, which is the Government department responsible for Employment Tribunals. The Employment Tribunals Act 1996 ensures that discussions with a conciliation officer during the course of a mediation process cannot be used in evidence before an Employment Tribunal. We consider that it would be very helpful if this protection were to be extended to discussions between the parties to a mediation process. We consider that this would act as an incentive to the greater use of mediation and thus, we hope, to earlier resolution of workplace disputes.

Managing Difference

1.20 We have heard much about the approach of the MPS to 'diversity'. Indeed, it dominated the evidence we received. We appreciate that extensive work has been undertaken in developing the policies of the MPS in this area and in trying to implement them across the organisation.

1.21 However, we were left with the concern that there is no common understanding of diversity within the organisation and that it is not embedded in the culture of the MPS. We fear that it remains, at worse, a source of fear and anxiety and, at best, a process of ticking boxes.

1.22 We fear that some of the efforts the MPS has made to promote the message of diversity across the organisation have been counterproductive and that the organisation may now be seeing the beginnings of a backlash. This would be

catastrophic. The policy is right; it is the approach and application which we believe needs to be reviewed and this is essentially what we are recommending.

1.23 Having considered the evidence on complaints and discipline, we are concerned that some managers lack the confidence to manage black and minority ethnic officers without being affected by their race. The statistics indicate clear disproportionality in the way black and minority ethnic officers are treated in relation to the management of their conduct. This represents a serious issue of discrimination which must be tackled as a matter of priority. The same high standards of conduct should apply to all officers and staff.

1.24 Such is the level of our concern that we will be directing the issue to the attention of the Independent Police Complaints Commission and the Commission for Racial Equality for their consideration.

1.25 We have received evidence that managers lack confidence in managing other issues of difference, whether of gender, disability, sexual orientation or faith. The evidence also showed that insufficient priority had been given to differences other than race. Urgent work must be undertaken to build the confidence of managers in managing all aspects of difference, so ensuring that this becomes the golden thread which runs through all areas of the MPS' activity.

Governance, Accountability and Scrutiny

1.26 We were specifically asked to examine how the Metropolitan Police Authority (MPA) discharges its oversight role in relation to all matters within the Inquiry's remit, particularly in relation to sensitive or high profile cases. It was suggested to us that a change was needed in the legislation governing the respective responsibilities of police authorities on the one hand, and Chief Constables (the Commissioner) on the other. We were not persuaded that the evidence merits any recommendation to disturb the current balance of the relationship, but we do consider that there is scope for the MPA to exercise its powers under the current legislative framework more robustly.

1.27 However, we appreciate that effective scrutiny depends equally on the co-operation of the body which is subject to that scrutiny and we believe that there is work for the MPS to do in ensuring that all relevant officers and staff understand the benefits that effective scrutiny can bring.

1.28 Our terms of reference also ask us to consider the progress made in implementing the recommendations of the Inquiry by the MPA into the case involving Detective Sergeant Viridi. We found it difficult to establish the factual position, so far as implementation is concerned, and are recommending that the MPA convenes and chairs a case conference of all stakeholders to establish the true position and to determine what action, if any, should be taken.

1.29 The Independent Advisory Group (IAG) plays a vital role in scrutinising the work of the MPS and holding it to account on behalf of Londoners. We examined this role, particularly in relation to its recent involvement in investigations of officers.

1.30 We were extremely impressed by the IAG members who gave evidence to us and found them to be people of great integrity. However, we are clear that IAG members are holders of public office which requires the highest degree of transparency. We consider that the 'Nolan Principles' should apply to their appointment, which should be made by the MPA. This, together with the proper resourcing of the group, will enhance their credibility even further.

1.31 In this area of our work, we were concerned about the use of lay advisors by the MPS in relation to the case involving Superintendent Dizaei (Operation Helios) and have made a specific recommendation about the rules we believe should govern access by independent and lay advisors to documentation and the rationale for decisions.

Professional Standards

1.32 By far the largest topic we were asked to consider was how the MPS handles matters of professional standards. This is the area where we have made the most recommendations.

1.33 If our earlier recommendations on the extension of employment law rights to officers and the replacement of the current regulatory regime for complaints and discipline are accepted, most of what we say in this part of our report will be superseded. However, we believe that there is much the MPS can do to improve the way it handles cases in the interim while the current regime continues to apply. Essentially our recommendations can be divided into two.

1.34 Firstly, we are concerned about how the Directorate of Professional Standards actually manages investigations and whether senior managers are really held to account for the manner in which investigations are conducted. We received a significant amount of evidence which pointed to problems with the system in respect of delays, the use of suspension, the treatment of individuals and the actual conduct of investigations.

1.35 We are, therefore, recommending that the Commissioner personally oversees a fundamental review of the way the directorate operates. This should include consideration of how officers are appointed to the directorate, since we believe that regular injections of new ideas and fresh thinking will challenge the prevailing culture within the directorate and ensure it does not become stagnant and insular.

1.36 Secondly, we have made a number of recommendations which we consider will address some of the concerns offered to us about the manner in which

investigations are undertaken. We are recommending a new model of case management, with input from outside the directorate to ensure that it is held to account for the progress of investigations, particularly where officers are suspended. We also consider that the MPS should take steps to implement the recommendations of the Review of Operation Lancet to bring consistency to the process of investigation.

1.37 Welfare support must be enhanced and we have already outlined our recommendation that the Human Resources directorate should have responsibility for this role in disciplinary cases.

1.38 We have also made a number of other recommendations designed to improve the way cases are currently handled.

The Capacity to Deliver

1.39 In examining how the MPS handles employment matters, we found it impossible to consider the organisation's policies and practices in this area without considering the wider issues of leadership and management, both of which are critical for operational success.

1.40 We believe that the MPS needs to take a number of urgent steps to become a successful modernised police service. We do not, of course, comment on operational policing but focus on some of the issues of structure and systems that the MPS needs to address in order to improve the way it manages people and other resources.

1.41 We are particularly concerned at some of the evidence we received about administrative issues. We believe that support services are not co-ordinated to the extent that is needed to support operational policing. We make a number of recommendations about how they might be managed better.

1.42 The MPS needs to have strong central functions, whilst maximising the principles of devolved management designed to harness the talents of operational managers and encourage innovation. We have seen and heard from managers who are frustrated by their inability to influence budgetary and staffing matters and we believe this issue should be tackled as a priority.

1.43 Our principal recommendation is designed to improve the strategic executive management of the MPS in the co-ordination of various support services. We are recommending that a strategic executive post be created at Deputy Commissioner level to co-ordinate and deliver the support needs of the MPS. We are confident this will deliver Best Value.

1.44 The issue of communication was also a recurring theme of our Inquiry and we consider that there is much that the MPS should do to improve internal

communication, both by enhancing the systems and by giving more thought to the message.

1.45 From what we have heard we are satisfied that the MPS needs to rethink the way it consults its workforce. This is a subject on which we received much evidence of poor practice. We are therefore recommending that the organisation commits itself to a Code of Practice, which sets out how it will consult and embodies best practice in this vital area of managerial responsibility.

Building Capacity

1.46 An effective organisation depends on the leadership and management of its workforce. However, we found a conspicuous lack of 'people focus' in many areas we examined. This ranged from the treatment of individuals under investigation to the approach to managing difference; from promotion processes to training opportunities; from appraisal to flexible working.

1.47 The MPS acknowledges that the manner in which it treats officers and staff will be the determining factor in its future success and in its ability to meet key policing objectives. A well-managed and well-motivated workforce will deliver better policing.

1.48 However, the evidence we have received indicates that there is some way to go before the workforce is as well-managed and motivated as it deserves to be. We have made a series of recommendations which we hope will help bridge that gap and introduce a stronger people focus across the organisation.

1.49 Some of our recommendations relate to cultural issues and others to the proper implementation of current policies. Some are designed to raise the skills available to the organisation and ensure that they are used to the full.

Lessons for the Future

1.50 Finally, we considered a number of 'high profile' cases. We were asked to identify lessons to be learnt from the process and outcomes of these cases. Following a process of systematic appraisal, we decided to focus on four cases in particular.

1.51 We found much in these cases which struck a chord with the evidence we received from other individuals and we consider that a number of the recommendations we have made in relation to professional standards will go some way towards meeting the criticisms of the way these four cases were handled.

1.52 However, there are some specific recommendations we are making which arise purely from the facts of these cases.

1.53 The case involving Superintendent Dizaei (Operation Helios) requires that a full independent case review is conducted. Our remit did not include such a review and we consider that nothing less will do justice to those involved. In addition, we consider that the issue of race was relevant and remains live. Therefore, this issue must be part of the full case review.

1.54 We also believe that the MPS needs to learn from the fact that it entered into a settlement agreement with Superintendent Dizaei which was ultra vires. This was unfortunate to say the least, and the MPS must ensure that it avoids such an agreement for the future.

1.55 Finally, we were also concerned about the use of Gold Groups in both Superintendent Dizaei's case and that involving Chief Inspector Pendry. Gold Groups should only be used in disciplinary cases where appropriate. If it is necessary to establish a Gold Group in a similar situation in the future, we believe that its remit needs to be clear to ensure lines of accountability are unambiguous and that there are guidelines about the composition of the Group.

RECOMMENDATIONS

Enhancing the Office of Constable

1. That the office of constable should be retained for all police officers. (Para. 3.18)
2. That employment law should be extended to police officers within the framework of the office of constable. (Para. 3.31)
 - a) That appropriate structures and systems are devised for negotiating national terms and conditions and for deciding which terms and conditions should be national and which left to local determination. (Para. 3.41)
 - b) That the terms and conditions should include disciplinary, capability and grievance procedures in line with the ACAS Code of Practice on Disciplinary and Grievance Procedures. The current regulatory framework for complaints and discipline for police officers would no longer apply. (Para. 3.41)
 - c) That the office of constable is enhanced by the addition of a Code of Conduct, similar to the Civil Service Code and the Code of Ethics for the Police Service in Northern Ireland, which would form part of the terms and conditions of all police officers and police staff. This would replace the current Code of Conduct for police officers. (Para. 3.48)

- d) That a provision dealing with unlawful discrimination should be included in the new Code of Conduct. Additional provisions may also be appropriate. (Para. 3.48)
- e) That disciplinary cases involving serious criminal allegations should continue to be dealt with under the special procedure, which requires cases to be referred to the Crown Prosecution Service out of region, but that more routine matters should be dealt with in the same way as similar allegations against members of the public, that is, by referral to the local Crown Prosecution Service lawyer. (Para. 3.87)
- f) That a procedure, involving conciliation and / or arbitration, is devised to resolve industrial disputes in the police service. (Para. 3.105)
- g) That attestation is delayed until the officer has satisfactorily completed his or her initial training. (Para. 3.113)

People Issues

3. That the post with overall responsibility for Human Resources should be held by a suitably qualified and experienced individual, and that the post-holder should be by designation a member of the strategic management board. (Para. 4.25)

- a) That, in addition to relocating the Employment Tribunals Unit from the Directorate of Professional Standards to the Human Resources directorate, the people management aspects of the work of the Diversity directorate are also moved to the Human Resources directorate. (Para. 4.46)
- b) That the policy review process be given new momentum with a view to simplifying and reducing the number of human resources' policies even further. (Para. 4.18)
- c) That the Human Resources directorate reviews the management information it currently collects with a view to ensuring that it has the data needed for the MPS to fulfil its objectives. (Para. 4.22)
- d) That the MPS should ensure that the Human Resources directorate plays a full part in the management of discipline cases, with responsibility for maintaining contact with officers under investigation and overseeing welfare support and re-entry into the workplace for suspended officers. (Paras. 4.32 and 7.139)

4. That the MPS replaces its Fairness at Work policy with a new grievance procedure, based on the ACAS Code of Practice on Disciplinary and Grievance

Procedures. The procedure should cover all workplace conflicts involving officers and staff. (Para. 4.85)

- a) That any pilot projects on mediation follow best practice, particularly the Northamptonshire model, and take account of the wealth of learning and experience which exists within established organisations such as ACAS. (Para. 4.89)
- b) That the MPS carefully monitors the development of the Thames Valley pilot on mediation. (Para. 4.100)
- c) That mediators should be brought together on a regular basis to share experience and refresh their knowledge of common developments in mediation techniques. (Para. 4.104)
- d) That the MPS reviews its use of mediation to provide appropriate training to its officers and staff and to encourage its use throughout the grievance process in appropriate cases. (Para. 4.104)

5. That the Director of Legal Services invests time and resources in explaining the directorate's work, and how it operates, to a wider section of the organisation and to the Metropolitan Police Authority. (Para. 4.134)

6. That the Department of Trade and Industry gives consideration to a specific provision extending the protection afforded to discussions involving ACAS to discussions that take place between the parties at a mediation so that the discussions become privileged. (Para. 4.108)

Managing Difference

7. That the MPS takes urgent steps to eliminate the discriminatory management practice which has led to a disproportionate number of investigations of black and minority ethnic officers. (Para. 5.76)

- a) That the MPS takes immediate action to engage black, minority ethnic and white officers and staff at all levels in the important practical steps required to ensure that black and minority ethnic officers and staff are not discriminated against on grounds of race. (Para. 5.69)

8. That the MPS gives adequate priority to all aspects of diversity, particularly in light of the Framework Equal Treatment Directive 2000. (Para. 5.55)

- a) That the MPS refreshes and revitalises its work in managing difference and devises a way of truly engaging all officers and staff on this important issue. (Para. 5.55)

- b) That consideration is given to extending the Diversity Excellence Model to other Operational Command Units and directorates. However, we would recommend that its implementation be kept under review to guard against it becoming another 'tick box' exercise. (Para. 5.60)

Governance, Accountability and Scrutiny

9. That the Metropolitan Police Authority enters into greater dialogue with other police authorities to establish best practice in discharging the oversight role. (Para. 6.40)

10. That the Metropolitan Police Authority keeps under review the protocol with the MPS on the provision of information to the Authority on complaints and conduct cases, in order to ensure that it meets its responsibility for scrutiny. (Para. 6.43)

11. That the Metropolitan Police Authority reviews the resources it is able to devote to supporting its role in overseeing complaints and conduct cases, with a view to increasing activity further, particularly in relation to dip-sampling of files. (Para. 6.43)

12. That the Metropolitan Police Authority puts in place comprehensive oversight systems and processes to scrutinise grievances and Employment Tribunal cases as soon as possible, taking account of the Association of Police Authorities' guidance in this area. (Para. 6.9)

13. That the Metropolitan Police Authority should convene and chair a case conference involving the Commissioner and all relevant stakeholders (including, in particular, those individuals and organisations who have given evidence to this Inquiry on this point) to establish what progress has been made in implementing the recommendations of the Viridi Inquiry Report and to determine what, if any, further action should be taken. (Para. 6.54)

14. That the 'Nolan Principles' for public appointments should apply to the appointment of members of the Independent Advisory Group and that:

- i. their appointment should be by the Metropolitan Police Authority;
- ii. they should be appointed in a transparent way following open competition by public advertisement;
- iii. the terms of their appointment, including tenure of office and any remuneration, should be made public; and

- iv. candidates should be assessed for their suitability against a formal specification which should also be made public by the Metropolitan Police Authority. (Para. 6.72)

15. That the Independent Advisory Group is properly resourced and that this should include a budget for expenditure on items such as independent professional advice (this includes legal advice), where the Independent Advisory Group believes this is necessary. (Para. 6.72)

16. That the Independent Advisory Group and the MPS agree a protocol in relation to disclosure of documentation and the rationale for decisions to Independent Advisory Group members. This must be based on the presumption that Independent Advisory Group members see everything that is available to the investigating officers. Where possible, this should be before decisions are taken. (Paras. 6.74 and 10.76)

Professional Standards

17. That the Commissioner orders a fundamental review of the Directorate of Professional Standards, to be personally assured that the policies governing the practices and procedures of the directorate hold senior managers fully to account for the conduct and management of discipline investigations. (Para. 7.45)

- a) That the MPS creates a policy database and reference source that is cogent and succinct, by reducing the number of policies which impact on the process of discipline and conduct. (Para. 7.7)
- b) That the Commissioner takes steps to ensure that the Directorate of Professional Standards appreciates the importance of scrutiny to public confidence. (Para. 6.40)
- c) That the MPS puts in place recruitment processes which are transparent and provide for equality of opportunity. These processes must ensure that people of the right calibre are recruited to posts within the Directorate of Professional Standards and must be extended to all ranks including the most senior positions. (Para. 7.56)
- d) That the MPS puts in place processes to ensure that those recruited receive the appropriate training to undertake the roles to which they are assigned. (Para. 7.56)
- e) That the MPS takes steps to ensure that the future profile of the Directorate of Professional Standards reflects the diversity of the MPS as a whole. (Para. 7.56)

f) That a system of time-limited tenure of posts is considered. (Para. 7.56)

18. That the MPS and the Metropolitan Police Authority adopt our recommended model of case management. (Para. 7.81)

19. That the Home Office, the Independent Police Complaints Commission, the Association of Police Authorities and the Association of Chief Police Officers' Professional Standards Committee consider the introduction of a national model. (Para. 7.81)

20. That the MPS works with appropriate stakeholders to implement the recommendations in the Review of Operation Lancet. (Para. 7.60)

a) That investigations by the Directorate of Professional Standards should be run along the lines of the normal investigative process for criminal cases and arrangements should be made to put the necessary systems in place as a matter of urgency. (Para. 7.115)

b) That the MPS gives clear guidance to Directorate of Professional Standards' officers on the use of powers of arrest where the real objective is to search the premises of an officer under investigation. (Para. 10.133)

c) That, except in the most serious cases (such as allegations of criminal behaviour) where doing so is clearly inappropriate, the MPS should always explore options for early informal resolution. (Para. 10.119)

d) That the Independent Police Complaints Commission should consider issuing detailed guidance as to the proper parameters for disclosure in disciplinary proceedings, including an appropriate timescale for responses to disclosure requests. (Para. 7.120)

e) That, when more than one officer is involved in a case, regular and frequent assessments are made of the facts with a view to determining who, if anyone, is actually culpable and which officers are peripheral to the central facts. (Para. 7.124)

f) That the MPS reviews the existing criteria for suspension to provide greater clarity on when suspension should be used. (Para. 7.135)

g) That the MPS takes steps to ensure that, in each case when suspension is considered, it accords with the recommendation of the Review of Operation Lancet that the use of suspension always needs to be proportionate to both the allegation and the risk. (Para. 7.136)

h) That the MPS examines the adequacy of welfare support to officers under investigation. (Para. 10.85)

- i) That, when an officer is under investigation, the MPS should:
 - i. give the officer a copy of any media release before it is issued;
 - ii. tell the officer when information is likely to be released to the media; and
 - iii. provide the officer with advice for dealing with media intrusion, doorstepping, etc.
(Para. 7.153)
- j) That no comment is made about an officer's guilt or innocence by the MPS until it has been established by the appropriate decision-making body, and no embargoed interviews should be given. (Para. 10.76)
- k) That the MPS reviews its policy in relation to correcting errors in media reporting about its officers and staff. (Para. 10.85)
- l) That the MPS take steps to ensure that discipline matters relating to individuals are kept confidential and not discussed with third parties in a public forum. (Para. 10.119)
- m) That measures are put in place to ensure that officers under investigation (other than covert investigations) are kept informed of developments and that officers are told of the detail of any charges at the time they are told of a decision to discipline them. (Para. 7.161)
- n) That officers under investigation be provided with a written record of the outcome of such an investigation and a summary of the reasons for that outcome. (Para. 10.119)
- o) That the conduct of disciplinary hearings should be reviewed to make them less akin to a criminal court. (Para. 7.164)
- p) That, in sensitive cases, or where there are vulnerable witnesses, thought should be given to the layout of the room and other practical considerations, such as allowing those involved to be accompanied by a friend or partner, so that the process is less daunting for all those involved. (Para. 7.164)
- q) That the MPS strengthens its guidance on Assistant Commissioner Reviews by including provisions:
 - i. making it clear that the reviewing officer should have access to all available documentation as of right; and
 - ii. for the reviewing officer to be satisfied that he or she has all the necessary information required to make a proper decision.
(Para. 7.170)

- r) That the relevant Committee of the Association of Chief Police Officers should consider issuing guidance on Chief Constable (Assistant Commissioner) Reviews. (Para. 7.170)

The Capacity to Deliver

21. That the MPS and the Metropolitan Police Authority create a police staff post, which would undertake the functions of a Chief Operating Officer, to bring all the support services in the MPS (Finance, Human Resources, Communications, Legal Services, Property, Information Systems and Technology, Procurement, Logistical Services, etc.) together under one individual who would be equal in status to the Deputy Commissioner with a remit which spans the whole of the organisation. (Para. 8.27)

- a) That the MPS reviews, with relevant stakeholders, the extent to which existing central processes inhibit devolution of real authority to managers in the Operational Command Units, with a view to streamlining the process to give local managers real responsibility for their budgets and people. (Para. 8.44)
- b) That the MPS takes urgent steps to compile a comprehensive Scheme of Delegation setting out the levels of authority for different decisions throughout the organisation. This should be available to all officers and staff. (Para. 8.52)
- c) That the MPS reviews its internal communication in the light of best practice in other large public and private sector organisations. (Para. 8.68)

22. That the MPS commits itself to a Code of Practice setting out the basis on which it will consult its workforce. This should be based on the following principles:

- i. consulting with an open mind whilst proposals are at a formative stage;
- ii. giving consultees full information about proposals;
- iii. ensuring that consultation information reaches those who are being consulted;
- iv. giving consultees sufficient time to respond;
- v. considering carefully the results of consultation exercises; and
- vi. providing consultees with full information about decisions taken at the end of the consultation period and, if relevant, the reasons for taking a different view from those who were consulted. (Para. 8.104)

23. That the issue of duty time and other resources for all representative groups, including staff support associations, is reviewed. (Para. 8.98)

24. That, in addition to consulting through representative bodies, the MPS takes steps to involve its workforce in decisions on issues that concern them. (Para. 8.104)

25. That the MPS considers the views expressed in our survey and how the issues revealed can be addressed. We would recommend a follow-up survey in one to two years' time. (Para. 8.105)

Building Capacity

26. That the MPS takes active steps to remain vigilant and to monitor the culture at Hendon, and to ensure that all staff and recruits are aware of what constitutes inappropriate behaviour (such as that which is bullying and / or discriminatory) and that any incidents which do occur are treated with the seriousness they deserve. (Para. 9.26)

27. That the MPS ensures that there are effective, formal support mechanisms in place for all recruits. These should cover the period after acceptance and before they arrive at Hendon, as well as their time spent there. (Para. 9.18)

28. That the MPS gives consideration to early implementation of any proposed scheme of multi-point entry for officers. (Para. 9.46)

29. That the MPS evolves effective induction processes to cover entry into the organisation, and all changes of role within it, and that the Human Resources directorate institutes formal mechanisms for monitoring compliance. (Para. 9.52)

30. That the Human Resources directorate takes steps to ensure that the Performance Development Review process is fully implemented across the MPS as a meaningful management tool. This should be centrally monitored and the Human Resources directorate should carry out periodic reviews across the organisation to monitor quality and consistency. (Para. 9.64)

- a) That the Human Resources directorate should keep data on the training undertaken by officers and staff both in terms of the time spent on training and the training undertaken. (Para. 9.71)
- b) That Operational Command Unit commanders and departmental managers should use this data to ensure that the officers and staff for whom they are responsible receive the training they need to do their jobs and that there is fair and equal access to appropriate training opportunities. A pre-requisite of this is full devolution of training budgets. (Para. 9.71)

- c) That the MPS implements a more effective management development programme. (Para. 9.86)
- d) That the MPS introduces development programmes which will increase the opportunities available for cross-fertilisation with those managing other public and private sector organisations. (Para. 9.139)
- e) That the MPS takes immediate action to implement the HMIC recommendation on a High Potential Development Scheme for police staff. (Para. 9.89)
- f) That the MPS' management development programme should be available to police staff as well as police officers. (Para. 9.89)
- g) That the MPS ensures that it has systems in place to develop all its officers and staff. (Para. 9.89)

31. That the MPS develops procedures for promotion and appointments to specialist posts which are fair and transparent and that the Human Resources directorate monitors their application. (Para. 9.104)

32. That the MPS takes steps to ensure that its policy on flexible working is fully understood and implemented, and that the Human Resources directorate rigorously monitors that implementation. (Para. 9.124)

- a) That the MPS establishes a central resource to provide guidance to managers on managing flexible working and to match requests for flexible working with job opportunities. (Para. 9.124)
- b) That consideration is given to a childcare co-coordinator post based on the Greater Manchester Police model. (Para. 9.124)

33. That the MPS sets up a central resource to match officers and staff with disabilities to suitable vacancies and to ensure that any necessary adjustments are made speedily. (Para. 9.131)

Lessons for the Future

34. That there should be a full case review of Operation Helios which is independent of the MPS. The review should include examining the issue of race discrimination. (Para. 10.74)

35. That the MPS avoids entering into agreements in relation to professional standards and conduct matters that are ultra vires. (Para. 10.76)

36. That where Gold Groups are established in relation to disciplinary matters:

- i. their purpose and powers are set out in writing so that all involved are clear about their role and lines of accountability; (Para. 10.76) and
- ii. clear guidelines are established about the make-up of a Gold Group as, for example, it is not appropriate for representatives of complainants or other parties involved to be members of such a Gold Group or to be present at any meetings. (Para. 10.119)

37. That the MPS provides Chief Inspector Pendry with written responses to the questions she has posed in her submission to the Inquiry. (Para. 10.119)

Chapter Summary

This chapter deals with:

- ▶ The Inquiry's work
- ▶ The Metropolitan Police Service
- ▶ Governance
- ▶ Policing London
- ▶ The employment status of police officers and police staff
 - *The office of constable*
 - *The employment status of police officers*
 - *The employment status of police staff*
- ▶ The need for change

“ The primary function of a constable is the preservation of the Queen’s Peace.”

Christopher Fox, President of ACPO

The Inquiry’s work

2.1 The Inquiry was commissioned by the Metropolitan Police Authority (MPA) and its remit was to inquire into professional standards and employment matters in the Metropolitan Police Service (MPS). We were asked to focus, in particular, on the MPS’ policies, procedures and practices for handling complaints and allegations against individuals, grievances and workplace disputes, as well as Employment Tribunal claims. We were also asked to identify lessons to be learnt from recent high profile cases.

2.2 It was a challenging task and our evidence gathering process lasted for over six months. We received in excess of 1,400 documents and heard extensive oral evidence. A wide range of stakeholders contributed to our work. These included the Commissioner, the Deputy Commissioner and other senior officers in the MPS, as well as the MPA itself.

2.3 We also heard from the Police Federation (National and Metropolitan), the Trades Unions operating in the MPS, the National and Metropolitan Black Police Associations, other staff associations operating in the MPS, a number of national bodies, other public sector organisations, and the private sector.

2.4 We are grateful to them all but we are particularly grateful to those individuals who took the time to share their experiences with us. We have anonymised their contributions and they appear either as IND 1 – 51 or as Mr / Ms AA – PP. Individuals in the latter category gave oral evidence at one of our hearings.

2.5 We are grateful for the Commissioner’s personal support for our work, his encouragement to all MPS personnel that they should co-operate with the Inquiry and his determination “that the inquiry will contribute to a different MPS – one that is better able to meet the challenges of policing a complex modern society.” **We hope that this report lives up to his confidence that** “lasting improvements to policing in London and to the reputation of the Service will result.”

2.6 We have been out on patrol with officers from Lambeth Borough Operational Command Unit, visited 14 London police stations, the Hendon Training Centre, New Scotland Yard and other central London MPS buildings, as well as spending a day each with Greater Manchester Police, Merseyside Police and West Midlands Police. We found those visits invaluable and would place on record our thanks to all those who worked so hard to make them a success.

2.7 We were extremely impressed by the professionalism and commitment of all those we met and their obvious pride in their work. We would like to endorse the words of Commander Stephen Allen of the MPS Diversity Directorate: “Thousands of times each day members of this organisation step into moments of crisis or difficulty in people’s lives and respond with compassion and professionalism. Officers consistently risk their lives in pursuit of a more ordered society and suffer abuse and violence on behalf of the people of London.”

2.8 Time after time people came before us, sometimes with harrowing experiences to relate, but always expressing a pride in being a member of the MPS.

2.9 We also carried out a survey of all the officers and staff in the MPS to get their views on some of the issues we were considering. We would like to thank the 16,000 officers and staff who took the time to respond to the survey and give us their views.

2.10 We have one regret. The MPS sought contributions from officers and staff with the intention of making an organisational submission to our Inquiry, based on the experiences of individuals. Ultimately the decision was taken not to make such a submission. The MPS have told us that there was never “any intention to deprive individuals of their opportunity to contribute to the Inquiry’s work”. We accept this but, however, the fact remains that a number of individuals provided material for that corporate submission and we regret that the Inquiry was not able to benefit from the messages that those individuals wished us to receive.

2.11 We were asked to focus on the policies, procedures and practices of the MPS. However, it soon became clear that how the MPS deals with complaints, allegations against individuals and workplace conflicts could not be seen in isolation from the other 42 police services in England and Wales. There is a national framework for police complaints and discipline matters which is not a matter for local discretion. In addition, a number of key policies governing the management of officers and staff derive from statutory obligations or national policies. The Fairness at Work policy is but one example.

2.12 Therefore, much of what we say in this report is of wider application than the MPS and, if accepted, many of our recommendations would have a national impact.

The Metropolitan Police Service

2.13 The MPS was formed in 1829. It was the first organised police service in London. Today the MPS is responsible for policing almost all of Greater London. (The City of London Police, British Transport Police and Royal Parks’ Constabulary also have responsibilities for policing parts of London.)

2.14 The people resources available to the MPS consist of approximately 30,000 police officers and 14,000 police staff (formerly referred to as civilian support staff) with numbers increasing. The MPS represents 20 per cent of policing in England and Wales and has an annual budget in excess of £2.5 billion.

2.15 Until the year 2000, there was no police authority for London. That role was discharged by the Home Secretary. However, in 1999, the Greater London Authority Act created the Greater London Authority (GLA) and its 'functional bodies', one of which was the new Metropolitan Police Authority.

Governance

2.16 "No one person is in overall control of policing in England and Wales. The current governance arrangement which involves chief officers of police, police authorities and the Home Secretary – what is known as the 'tripartite arrangement' – has evolved over time, based on the broad principles of political impartiality of the police, policing by consent of the public, the Government's overall responsibility for ensuring a safe society in which to live, and the need for the expenditure of public money to be properly accounted for."
(Home Office, *Building Safer Communities Together*, 2003.)

2.17 Briefly, the roles of each element of the 'tripartite arrangement' are as follows:

- Chief Constables of Police (this includes the Commissioner) are responsible for the 'direction and control' of their service. They are responsible for operational decisions and the day to day running of their service.
- Police authorities are responsible for ensuring there is an 'efficient and effective' police service for their area and holding the Chief Constable (the Commissioner) and service to account for how well they deliver local policing. They are responsible for appointing chief officers and have specific responsibilities, including consulting with communities, publishing three year service strategy plans and annual local policing plans and setting the annual budget for their service.
- The Home Secretary is answerable to Parliament and the public for the provision of an efficient and effective police service. The Home Secretary sets out the Government's strategic priorities for policing in the National Policing Plan and has a role in helping to drive up police performance and addressing poor performance. It is the Home Secretary's responsibility to determine the total level of grant for policing and its allocation to police authorities, using a funding formula.

2.18 The MPA came into existence in July 2000. It is the first police authority for London. Previously the MPS was only accountable to the Home Secretary.

“For the first time in its 175 years history, the Metropolitan Police Service is accountable to Londoners, open to scrutiny, and required to answer for its performance in public.”

(Submission from Lord Harris, former Chair of the MPA.)

2.19 The MPS is also accountable to the Home Secretary, and other important stakeholders include the Mayor of London, the GLA and the 32 London boroughs.

“I think, chairman, I am on record as saying I am the most accountable police chief in the world. Of that there is no doubt. If one looked at the number of bodies one is accountable to, and I make no complaint about this ... I think there is something in the region of 22/26 bodies that I am accountable to.” (Evidence of the Commissioner, Sir John Stevens.)

2.20 The MPA has the same duties and powers in relation to the oversight of policing as all other police authorities in England and Wales. Specifically, the Authority’s functions are to:

- increase community confidence and trust in London’s police service;
- secure continuous improvement in the way policing is provided;
- publish an Annual Policing Plan in consultation with London’s communities;
- set policing targets and monitor performance regularly against those targets;
- be accountable for the management of the police budget;
- agree the annual costed Human Resources plan and the priorities for training;
- oversee the appointment and discipline of senior police officers; and
- oversee formal inquiries and the implementation of their recommendations.

2.21 Other police authorities appoint their Chief Constable, subject only to the approval of the Home Secretary. In London, the Queen formally appoints the two most senior officers, the Commissioner and the Deputy Commissioner, on the recommendation of the Home Secretary, who must have regard to the recommendations made by the MPA. Other chief officers – the ‘ACPO ranks’ – are appointed by the MPA.

2.22 In addition, other police authorities set their own budget and precept upon the relevant local authorities that raise the local element of the council tax. In London, under the 1999 Act, the MPA prepares an annual budget for policing London and submits it to the Mayor, who has the responsibility for setting the budget in conjunction with the Greater London Assembly. The Mayor then precepts on the boroughs for the element that is payable from local council tax.

2.23 The Commissioner is responsible for the ‘direction and control’ of the MPS and, in discharging that function, must have regard to the Annual Policing Plan, published by the MPA, and to any guidance or code of practice issued by the Home Secretary.

2.24 Thus the Commissioner has full responsibility for all operational matters, and for the management of the Service, although not for appointing his top team. He or she is expected to account to the MPA for the performance of the Service.

2.25 The MPA can require the Commissioner to submit reports on matters connected with the policing of London. He also has to comply with regulations made by the MPA governing financial administration and procurement. These delegate responsibilities exercisable by the MPA with appropriate financial limits.

“I think it is very easy to say that the Met is overregulated and overaccountable, but the reality is that the formal lines of accountability and regulation are fairly clear, and these are the same for any police service, whether it is a small county or the Metropolitan Police. There is an accountability to the Police Authority, and there is an accountability to the Home Office. Now in London, yes, there is the Mayor, yes, there is the GLA, but their responsibilities are limited, and the prime line of accountability is with the Police Authority.”
(Evidence of Lord Harris, former Chair of the MPA.)

Policing London

2.26 As Her Majesty's Inspectorate of Constabulary (HMIC) has recognised, the challenge of policing London is much more than simply the challenge of policing a major capital city:

“The task of policing London is more immense than its size and as complex as the atypical makeup of its resident, commuter and visitor population. Those who argue that scale and size are the only factors of policing difference have failed to comprehend the strategic and day-to-day complexity of policing the capital. It is the view of Her Majesty's Inspectors that, in policing terms, London is both distinct and different.”
(Policing London: ‘Winning Consent’, 2000.)

2.27 As well as the policing issues which might be expected in a large city, the changing profile of London's communities presents a particular challenge. Policing in this country is founded on consent and the MPS cannot win the battle against crime without gaining the trust and confidence (and thus the consent) of all the diverse communities it serves.

2.28 In addition, the capital is the focus for many ceremonial and large public order events. These range from the regular events – Remembrance Sunday, the Trooping of the Colour, the State Opening of Parliament, the Notting Hill Carnival – to the unusual, such as the Queen's Golden Jubilee in 2002, the ‘Stop the War’ march in 2003, President Bush's visit in the same year and the rugby world champions' victory parade.

2.29 The MPS is renowned the world over for its expertise in this area and for the success with which it balances the efficient and effective management of events, with security issues and the rights of individuals to express dissent or simply enjoy themselves. Since 2001, the increased threat of terrorist attack on London and the consequent need for heightened security measures have tested this expertise even further.

2.30 Other notable examples in recent years include:

- major counter-terrorism operations;
- Operation Trident, dealing with gun crime in the capital, and Operation Trafalgar, dealing with non-fatal shootings;
- Operation Emerald, expanding case progression and victim and witness support units across London;
- Operation Bumblebee, tackling burglaries;
- Operation Blunt, to rid London streets of knives; and
- Project Sapphire, improving rape investigation and victim care.

2.31 The MPS thus has an enviable track record for operational success and we concur with words used by the Commissioner in his submission to us "... the MPS has a proud history of achievement and responding to a changing society."

2.32 However, the evidence we have received suggests that it has less of a track record for dealing with workplace issues and responding to the changing needs of its workforce. We will reflect on what we have heard later in this report. We hope that our recommendations will help the MPS to be as good at managing its own officers and staff as it is at keeping London safe.



The employment status of police officers and police staff

2.33 Anyone familiar with policing in this country will know that police officers and police staff are treated differently from other workers in a number of important respects regarding employment rights. However, those who do not have a detailed knowledge of how the police service works will perhaps be surprised to learn that police officers are not *employees* and do not enjoy the same basic rights as the vast majority of workers in the United Kingdom.

2.34 Police officers do not, for example, have a right to claim unfair dismissal in an Employment Tribunal and matters of discipline are regulated by a statutory framework, most recently the Police Reform Act 2002 and the regulations made under that statute.

2.35 It is worth looking at this in some detail as the employment status of police officers and the differences between officers and police staff require closer scrutiny and will be the subject of detailed recommendations in this report. They are also the starting point for many other recommendations.

The office of constable

2.36 Every police officer, of all ranks up to and including Chief Constable, is *an office holder under the Crown*. Police officers are not employees of the Chief Constable (the Commissioner) or the police authority, nor are they Crown servants (although this latter description is often mistakenly used).

2.37 The status of office holder is more commonly associated with holding high civic office, for example as a judge. Officers acquire the authority and status of constable by attestation, that is, swearing an oath pledging to serve the Queen, uphold human rights, preserve the peace and prevent crime.

“The primary function of a constable is the preservation of the Queen’s Peace. From this general function stem a number of particular duties ... For example, the first duty of a constable is to prevent the commission of a crime and if they reasonably apprehend that the action of any person may result in a breach of the peace it is their duty to prevent that action.” (Submission from Christopher Fox, President of the Association of Chief Police Officers (ACPO).)

2.38 Additional functions are conferred by statute. Furthermore, when a police officer is carrying out his or her duties, he or she is not acting under a delegated authority, but an *original* authority.

2.39 Clearly this broad range of duties and the special status of police officers can bring individual constables into conflict with the public in a variety of situations and

are the prime reasons for the need for an open, transparent and independent system for public complaints.

2.40 The potential for complaints from members of the public also means that any system for dealing with such complaints must, so far as is possible, contain safeguards to protect officers who are carrying out their duties in a conscientious manner.

The employment status of police officers

2.41 It is important to bear in mind that the Police Regulations which set out the terms and conditions of officers and the disciplinary framework were born out of the industrial unrest of the 19th and early 20th century.

2.42 The first regulations were drawn up in 1920 and were made under the Police Act 1919, which was enacted in the wake of the strike of 1918. They gave police officers rights which were in advance of those enjoyed by other workers at that time and put the police service in the vanguard of industrial relations.

2.43 However, industrial relations and employment rights have developed significantly in the last 40 years with the establishment of Industrial Tribunals (now Employment Tribunals), the introduction of written terms and conditions of employment for employees, statutory employment rights and legislation on equalities, health and safety, etc. European legislation has also had the effect of strengthening rights conferred by English law.



2.44 Therefore 'ordinary' employees have, it could be argued, 'caught up with' and indeed overtaken police officers by gaining the benefit of written contracts and a number of statutory rights.

2.45 The position of police officers has, of course, not remained static as, incrementally, they have been subject to a wide range of legislation benefiting 'ordinary' employees. Police officers are today covered by:

- Equal Pay Act 1970;
- Health & Safety at Work Act 1974;
- Sex Discrimination Act 1975;
- The Race Relations Act 1976;
- Disability Discrimination Act 1995;
- Human Rights Act 1998;
- Working Time Regulations 1998;
- Part-time Workers (Prevention of Less Favourable) Treatment Regulations 2000;
- Employment Act 2002;
- Employment Equality (Sexual Orientation) Regulations 2003; and
- Employment Equality (Religion or Belief) Regulations 2003.

2.46 The rights conferred by these legislative provisions have served to enhance the rights of police officers in some circumstances and have not proved to be inconsistent with their status as office holders under the Crown.

2.47 Under the previous police complaints and discipline regime of the Police Act 1996, the following regulations governed the relevant procedures:

- Police (Complaints) (Mandatory Referrals) Regulations 1985;
- Police (Anonymous, Repetitious etc Complaints) Regulations 1985;
- Police (Complaints) (Informal Resolution) Regulations 1985;
- Police (Complaints) (General) Regulations 1985;
- Police (Complaints) (General) (Amendment) Regulations 1988;
- Police (Dispensation from Requirement to Investigate Complaints) Regulations 1990;
- (Police Appeals) Tribunal Rules 1999;
- Police (Efficiency) Regulations 1999;
- Police (Conduct) Regulations 1999;
- Police (Conduct) (Senior Officers) Regulations 1999; and
- Police (Efficiency) (Amendment) Regulations 2003.

2.48 Under the new regime created by the Police Reform Act 2002, which came into force on 1st April 2004, the following regulations already have effect:

- Police (Complaints and Misconduct) Regulations 2004;
- Police (Conduct) Regulations 2004;

- Independent Police Complaints Commission (Transitional Provisions) Order 2004; and
- Independent Police Complaints Commission (Transitional Provisions) (Amendment) Order 2004.

The length of these lists carries a message of its own.

2.49 It is worth remembering that the philosophy behind the regime governing police disciplinary matters has its origins in military discipline. As John Wadham, Deputy Chair of the Independent Police Complaints Commission (IPCC), said to us in evidence, "... the history of the discipline process seems to be in parallel with the kind of militaristic courts martial, which, of course, is not about modern management practice."

2.50 The disciplinary regime for police officers involves the same process whether the issue under investigation is a public complaint or an internal allegation of misconduct. Therefore workplace issues, which elsewhere might be dealt with under an internal disciplinary system (for example, irregularities in mileage claims, sexual harassment, etc.) are subjected to the same process as a complaint from a member of the public about the conduct of an officer whilst engaged in active policing. A version of this system has applied for over 80 years.

2.51 The police complaints system was first codified under the Police Act 1964. The Police Act 1976 established the Police Complaints Board (PCB), with powers to *scrutinise* investigation reports, and first introduced the double jeopardy protection for police officers.

2.52 Thereafter, the system was subjected to periodic reform, with incremental rather than fundamental change. Each new statute was accompanied by a number of underlying regulations outlining the various procedures within the system and any differences, where appropriate, for senior officers.

2.53 The PCB was ultimately superseded by the Police Complaints Authority (PCA), which was created by the Police and Criminal Evidence Act 1984. The PCA had additional powers to *supervise* police investigations. There was also accompanying secondary legislation which introduced a discipline code for police officers, and outlined a procedure for the informal resolution of complaints.

2.54 The Police Act 1996 consolidated a number of legislative provisions relating to the police and abolished the double jeopardy rule. New conduct regulations followed in 1999.

2.55 The most significant changes resulting from the 1999 Regulations were the reduction from a criminal to a civil standard of proof in certain disciplinary hearings, the introduction of a fast-track procedure for a category of 'special cases' and the introduction of written warnings for dealing with less serious incidents of

misconduct. For the first time, procedures were introduced with respect to the unsatisfactory performance and unsatisfactory attendance of police officers.

2.56 The Police Reform Act 2002 created the IPCC to replace the PCA. The IPCC came into existence on 1st April 2004. The IPCC has the capacity to *conduct* investigations itself in defined cases, rather than rely on an investigation by a police service. The new regime involves an open and transparent system for investigating complaints which is designed to engender public confidence.

2.57 Other significant changes are: the inclusion of police staff within the complaints system; a local resolution process; the extension of the system to cover conduct matters and an ability for witnesses and others (not just victims) to make complaints about police behaviour.

2.58 We have heard extensive criticism of the current system of dealing with police conduct and disciplinary matters. Whilst we have heard particular criticisms of how these issues are handled within the MPS, we have also received evidence about shortcomings in the system itself.

2.59 We will deal with issues peculiar to the MPS later in our report, however at this stage, we will concentrate on rehearsing some of the perceived difficulties with the current regime for police complaints and discipline. "I think there is no doubt that there is consensus that the current system is not working."
(Evidence of John Wadham, Deputy Chair IPCC.)

2.60 The system has been variously described to us as "too time consuming", "too resource intensive", "too legalistic" and "not meeting the needs of those who complain nor dealing fairly with those complained against".

"The consistent messages that we have been hearing from officers, police staff and non-police stakeholders is that the current system is:

- Too slow
- Too adversarial and legalistic
- Too bureaucratic and doesn't allow lessons to be learnt;
- Too closed; and
- Stressful for everyone involved."

(Submission from Nick Hardwick, Chair of the IPCC.)

2.61 The Regulations are generally regarded as being too prescriptive and difficult to follow. They are accompanied by Home Office Guidance which is then translated by the MPS into Special Notices. An officer seeking to follow the Regulations has many different layers of documents to consult.

2.62 The formality of the process has other disadvantages. “The complaints system is perceived as them punishing us. It prevents investigators getting to the truth.”
(Evidence of Ian Bynoe, PCA (now an IPCC Commissioner).)

“In our view, the current regulations encourage a system that is legalistic and does not promote opportunities for quick resolution that could be of benefit to both the police service and police officers.” (Submission from the Association of Police Authorities (APA).)

2.63 Disciplinary Tribunals have been likened to an extension of the Crown Court, with “... barristers arguing intricacies of the law often to the bewilderment of the police onlookers”, rather than a management process.
(Submission from Ken Jones, Chief Constable of Sussex.)

“Other employers manage perfectly well with far more informal, less legalistic disciplinary hearings, and in fact manage better: quicker, more transparent, more focused on the employer and the employee. It seems simply unnecessary to introduce all these sort of bureaucratic legalistic elements to what is, in effect, an employment disciplinary hearing.”
(Evidence of Jane Deighton, Police Action Lawyers Group (PALG).)

2.64 But it is not just the hearing process that is governed by legal process. Officers are interviewed under caution (despite the civil standard of proof) and this can cause officers to be defensive and to take the option of making ‘no reply’ to questions from the investigating officers.

“In many years at the Police Complaints Authority ... I have to state that I am staggered at the occasions one sees officers performing, one hopes, a professional role but being completely unprepared to tell their managers or investigators what happened. They will attend an interview, read a pre-prepared statement and then refuse to answer any questions, and believe that that is entirely consistent with the role of professional police officers. Now they are subject to a regulation 9 notice and the current caution means that they are perfectly entitled in law not to say a word in answer to a question. But it offends, I think, the public sense of what it is to be a police officer, that there is this inhibition which seems to be ingrained in some ways in the service.”
(Evidence of Ian Bynoe, PCA (now an IPCC Commissioner).)

2.65 In addition, sub judice rules apply and can delay progress in the misconduct investigation as, in practice, if there is any prospect of that investigation prejudicing any criminal proceedings, the misconduct investigation cannot proceed until the criminal proceedings are concluded.

2.66 Indeed, the current Regulations do not allow conduct matters to be dealt with in advance of any related criminal trial. Thus officers, who might be dismissed relatively quickly under an ordinary disciplinary procedure, stay suspended on full pay, at the expense of the tax payer, sometimes for many years while they wait for the criminal matter to be concluded.

2.67 As an example, we received evidence of one case where serious allegations of corruption were made against two officers in 1994. The officers were suspended in 1997. Further allegations were made and in 1998 the officers were charged with criminal offences in relation to these later allegations. The case was dismissed at committal proceedings in 1999. A disciplinary investigation then began with disciplinary papers being served in 2002. The case was heard in 2004 and both officers were required to resign. We make no comment on responsibility for the delays in this case but simply use it as an example of the unsatisfactory operation of the current system.

2.68 In addition the proceedings are characterised by the extensive involvement of lawyers:

“If one considers that it is quite possible that the existing framework can create a situation whereby the Presenting Officer is represented by Q.C. (and junior) instructed by the Force Solicitor, with another Q.C. likewise instructed to act as legal advisor to the Tribunal, and with yet another Q.C. representing the accused officer in a hearing scheduled over a period of many months (several weeks of which may be taken up with arguments on abuse of process and disclosure), then one sees at times the true nature of a system that has as its ultimate sanction the power to dismiss an individual from his or her employment. Such a scenario is impossible to reconcile with any easily understandable concept of a ‘management process’ as referred to in the submission of Ken Jones, the Chief Constable of Sussex Constabulary.”
(Submission from the Metropolitan Black Police Association (MBPA).)

2.69 The Inquiry has heard that delays have many causes and can sometimes be attributed to the investigating officers or to so-called ‘tactics’ employed on behalf of the officer to prolong or defer an investigation. “These range from abuse of ill health procedures to solicitors failing to consult their clients causing interviews to be delayed.”
(Submission from Ken Jones, Chief Constable of Sussex.)

2.70 Officers subject to disciplinary investigation can be left suspended for several years while the process rolls on, or alternatively grinds to a halt. No one benefits from this antiquated and anachronistic system other than the guilty officer. An ‘innocent’ officer, most likely under great strain, is left to languish at home when he or she should be ‘on the streets’ protecting the public. The ‘guilty’ officer remains on the payroll at the taxpayers’ expense.

“It is well known that police officers can wait for up to a year to go before a disciplinary tribunal. Such delays are seriously damaging to the credibility of the disciplinary system and the complaints system. Delays of this magnitude mean difficulties in sustaining charges because witnesses’ memories have faded or they are unwilling to give evidence.”
(Submission from Sir Alistair Graham, former Chairman of the PCA.)

2.71 There is clearly a serious potential for such a long drawn out process to undermine public confidence in the police service. The APA drew our attention to the recent cases following from the BBC documentary, *The Secret Policeman*, as an

example of this. In fact the probationers concerned resigned from the service soon after the programme was broadcast. However, in order to dismiss them, the service would have had to invoke the Regulations resulting in delay, etc. despite the strong video evidence against them. This is because, as sworn officers, they were entitled to the same protection as officers who have completed their probationary service.

2.72 Another concern is the use of 'abuse of process' arguments (which we accept an accused officer is entitled to raise) to frustrate the proceedings. It is not unusual for the first day of a disciplinary hearing or even longer to be dominated by legal arguments of this kind.

"... legal issues such as 'abuse of process' etc. are often raised. This does tend to cause bureaucratic delay in the process." (Submission from DAC Stephen Roberts, MPS.)

"Sometimes those abuse of process arguments go on for three weeks." (Evidence of Commander Phillip Hagon, MPS.)

"We have been taking some cases to the courts, and winning them on abuse of process. Now that is in nobody's interest, for us to win a case on abuse of process, because at the end of the day, the question is not answered, either for the complainant or for the officer." (Evidence of Clint Elliott, General Secretary, Police Federation.)

2.73 Given the characteristics of the system which we have outlined above, it is **hardly surprising** "that misconduct proceedings regularly relate to events that happened many years before and, in the more complex of cases, that the whole process is routinely measured in terms of years rather than months, with a corresponding cost to the public purse that can be difficult to reconcile in the public opinion with a process that ostensibly is there to determine whether an individual should retain their current employment or not." (Submission from the MBPA.)

2.74 The creation of the IPCC will undoubtedly bring some improvements to the system but it is faced with implementing a system which the Commission itself considers is "not working". We will outline our recommendations for change in the next chapter of this report but, given the weight of evidence we have received, we, like the MBPA, "... find it hard to believe that anyone could seriously argue that such a system, even through what we hope will be the corrective filter of IPCC, represents the best and most efficient system available for resolving public and internal complaints against police officers."

The employment status of police staff

2.75 In contrast to the complex regulations governing police officers, police staff are dealt with in a more straightforward and recognisable way.

2.76 They are employees of the police authority under the direction and control of the Commissioner (Chief Constable outside London) who is deemed the employer for the purposes of discipline and employment law. They have contracts of employment and have full employment rights under the law – including unrestricted access to an Employment Tribunal.

2.77 In addition to the employment statutes and regulations set out earlier, they have rights conferred by:

- Employment Rights Act 1996;
- Employment Relations Act 1999; and
- Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

Issues of discipline are dealt with under local disciplinary procedures with the usual rights of appeal etc.

2.78 In 2002, the first Police Community Support Officers (PCSOs) joined the MPS. They now number approximately 1,400. They are uniformed police staff employed to support the public and assist police officers. They provide a visible presence on the street and act as an additional resource to deal with many of the tasks that do not require the experience or powers of police officers but which can take officers away from duties which do require that experience and those powers.



2.79 In London, PCSOs' powers include the power to issue fixed penalty notices, the power to use reasonable force to detain someone, the power to detain someone for up to 30 minutes pending the arrival of a police officer and the power of entry to save life or limb or prevent serious damage to property.

2.80 It is likely that the role of the PCSO will be enhanced over the next few years, yet, for employment purposes, they are treated in the same way as police staff rather than officers. They are employees of the police authority and subject to staff disciplinary codes and procedures with full rights of access to Employment Tribunals.

The need for change

2.81 There is a powerful case for the wholesale review of the terms and conditions of police officers and for bringing them in line with their police staff colleagues and, indeed, the majority of the working population of the United Kingdom.

2.82 As indicated earlier, employment legislation has been constantly evolving over recent years with employees acquiring a multiplicity of new rights. Police officers have been the beneficiaries of some of these rights but remain subject to the same disciplinary procedures which have applied for years and which have their roots in the courts martial system of the 19th century.

2.83 The rationale for police officers having fewer rights than other workers in this country is not obvious and indeed flies in the face of commonsense. The rationale for police officers having fewer rights than their police staff colleagues is even more difficult to understand. There is, of course, the important issue of the office of constable but reconciling this office with ordinary employment rights ought not to be an insurmountable task.

2.84 Indeed, there is a compelling argument for a solution to be found. In addition to the criticisms we have already outlined, in our view, two recent developments now make it an imperative.

2.85 Firstly, the creation of the IPCC and its jurisdiction over complaints involving police staff mean that, in future, the situation is likely to arise where individuals involved in the same incident will be treated differently because one is a sworn officer and the other a member of police staff. One will be dealt with under the Regulations and the other under an ordinary disciplinary procedure.

2.86 Secondly, the introduction of PCSOs and the likelihood of their taking on an enhanced role mean that increasingly police staff will be carrying out duties hitherto discharged only by sworn officers. This again points to the unattractive

certainty of differential treatment for two groups of people performing broadly similar roles.

2.87 To quote the President of ACPO's submission to us: "It would be manifestly unjust if police officers and their unsworn colleagues should be subject to different systems. If a member of the public were to have cause to complain about an incident involving a constable, a police community support officer or a member of the police staff they would find the difference in procedure hard to understand or accept when all were attending the same incident. So would our staff."

2.88 In the context of this changing policing environment, we consider that the time is overdue for a root and branch reform of the employment status of police officers and the Regulations which govern complaints and discipline.

Chapter Summary

This chapter deals with:

- ▶ The office of constable
- ▶ The extension of employment rights
- ▶ Code of Conduct
- ▶ Complaints and discipline
- ▶ How will our proposals work in practice?
- ▶ Industrial relations
- ▶ Attestation

“ The sledgehammer of regulations and statutory guidance is being used to crack the nut of an allegation of incivility.”

Ken Jones, Chief Constable of Sussex

3.1 This Inquiry's prime focus is, of course, the handling of professional standards and employment matters by the MPS. We are required to consider the MPS' policies, procedures and practices. However, as we have already said, because of the statutory basis of the terms and conditions of police officers, and, in particular, the regulatory framework for dealing with complaints and discipline, it is impossible to view the MPS in isolation from the rest of the police service in England and Wales.

3.2 We therefore make no apology for looking wider than the MPS, since we believe it is essential to examine the statutory framework in order to fulfil our terms of reference and to do justice to the task we have been given.

3.3 Indeed, we are specifically asked to comment on whether the MPS' policies, procedures and practices “represent good effective practice” (Paragraph 3, terms of reference) when compared, not just to other police services, but also to other public service organisations.

3.4 We are also asked to examine “whether it is possible for the investigation of complaints and allegations to be dealt with in a swifter, less bureaucratic and less resource intensive way, so that the investigative effort can be seen to be proportionate to the gravity of the allegation.” (Note 6, terms of reference.)

3.5 Finally, we are asked to consider “the extent to which the current requirements of the relevant legislation and regulations hinder the swift resolution of cases.” (Note 7, terms of reference.)

3.6 This chapter will, therefore, concentrate on the office of constable, the national framework for complaints and discipline and contain our observations on that framework, as well as our recommendations for change.

The office of constable

3.7 “Well, the office of constable, as you are well aware, is steeped in history. I think I speak for all of my colleagues here, we are all proud to be Metropolitan Police officers, and all that goes with that. It is a very responsible role; society invests in their police officers some powers which ordinary citizens do not have, and they are powers that have to be used correctly, and in ... strict accordance with the law.”

(Evidence of Don Ratcliffe, General Secretary, Joint Executive Committee, Metropolitan Police Federation.)

3.8 We have already referred to the status of police officers as office holders under the Crown. We have heard much evidence that, whatever changes we may propose in relation to employment rights for police officers, the office of constable must be retained.

3.9 The arguments centre on the independence and impartiality of the role and its importance in a democratic society. To police by consent, the police service is dependent on the confidence of the community.

“The Office of Constable is a unique employment status that recognises the important and distinctive role that police officers perform in society. Police officers hold powers to arrest and can detain people against their will. They are required to comply with the lawful orders of their senior officers, but they also have individual discretion as to how they perform their duties.

“Most importantly, police officers are required to be, and must be seen to be, independent of government, unbiased in their approach to the public and non-political. Their independence is guaranteed by the office of constable and the operation of the tri-partite agreement between Chief Constables, the Police Authority and the Home Office. This is the very foundation of policing by consent.”

(Submission from the National Police Federation of England and Wales.)

3.10 To quote Jane Stichbury, Chief Constable of Dorset, “... the more pragmatic reality that consistently inspires the confidence of the community is the undeniable fact that the office is not directable and that it retains political independence and objectivity.”

3.11 This independence has been reinforced over the years by rules setting out what activities officers may undertake in their private lives. This is to ensure that their objectivity cannot be compromised in the eyes of the public.

3.12 The special employment status of police officers is seen as part of this. A recurring theme in the evidence of those who favour retaining the office of constable was that, while police officers might perhaps be given employment rights, which would include increased access to the Employment Tribunal, they should not become employees and thus, potentially, subject to operational interference.

“Police officers must remain, first, free from national or local political influence and, secondly, free from operational interference. To subject officers to the control of the Crown – in practice the government of the day – in the way that employees are subject to the control of their employers, would be constitutionally wrong.”

(Submission from the Deputy Commissioner, Sir Ian Blair.)

“I have heard, and am not persuaded by, arguments that suggest the solution lies in abolishing the office of constable and embracing employee status. This goes too far and would have significant unintended consequences.”

(Submission from Ken Jones, Chief Constable of Sussex.)

"The MPS does not advocate retention of the historic status of the office of constable for its own sake, but because we believe the public rightly regards the independence which that office guarantees as one of the great strengths of our police service across the country, of profound significance to the maintenance of a liberal democracy."

(Submission from the Deputy Commissioner, Sir Ian Blair.)

3.13 The weight of evidence is therefore in favour of retaining the office of constable. This is the case put forward by, amongst others, the Association of Chief Police Officers, the Association of Police Authorities, the Police Superintendents' Association of England and Wales (National and Metropolitan), the Police Federation (National and Metropolitan) and the Metropolitan Police Service itself. All of these, with the exception of the Police Federation, also advocate an extension of employment rights for police officers but not replacing the status of office holder with employee status. We will deal with the position of the Police Federation later in this chapter.

3.14 We have, however, heard one dissenting voice. In their written submission to us, the Police Action Lawyers Group (PALG), a group of lawyers who represent complainants against the police in England and Wales, stated: "We see no reason why any special status for police officers should be retained, we accept the need for independence and the exercise of discretion by officers when exercising their policing powers. We see no reason why this cannot be safeguarded in their contracts of employment."

3.15 When representatives from PALG appeared before the Inquiry, they were asked what they perceived to be the disadvantages of keeping the office of constable whilst moving to enhanced employment rights for officers and improving management. Their response was: "the disadvantage would be that the structural difference – or constitutional difference between police officers and the rest of us would remain, and it is our experience that part of the problem with policing and controlling bad behaviour by police officers is a sense that they are outside the law."

(Evidence of Jane Deighton, PALG.)

3.16 Ms Deighton went on to say that, in her opinion and that of her colleagues, the starting point for both effective management of the police and also for public confidence in the police, is that the public knows that police officers are subject to the same laws as the rest of the population.

3.17 We have considered PALG's arguments carefully but are not persuaded that it is necessary to abolish the office of constable in order to achieve both effective management of the police and public confidence. We are, therefore, persuaded by the weight of evidence in favour of retaining the office of constable.

3.18 However, we will go on to make proposals on the issue of enhanced employment rights for officers and reform of the regulatory regime governing conduct and discipline. We believe that the changes that we are proposing will go some way to meeting PALG's concerns, in particular about the interrelationship

between criminal and disciplinary proceedings and the application of 'double jeopardy'.

We therefore recommend that the office of constable should be retained for all police officers.

The extension of employment rights

3.19 Although police officers do not enjoy employee status, since the Equal Pay Act 1970, they have acquired a range of employment rights on an incremental basis. They have the right to apply to an Employment Tribunal in respect of discrimination but they are not able to claim unfair dismissal.

"The constable has been defined as an employee in a number of specific circumstances for administrative and organisational reasons. For the purposes of income tax and national insurance, for matters of race and sex discrimination, for tortious liability, for health and safety at work matters and most recently for disability discrimination."

(Submission from Christopher Fox, President of ACPO.)

3.20 In addition, the Framework Equal Treatment Directive 2000 requires the establishment of a new framework for equal treatment in employment. It prohibits discrimination on grounds of religion or belief, disability, age and sexual orientation.

3.21 The necessary regulations have been introduced implementing the United Kingdom's obligations under the Directive in relation to discrimination on grounds of religion or belief, disability and sexual orientation. The Regulations make it unlawful for employers to discriminate against, or harass, job applicants and employees.

3.22 The Government intends issuing draft regulations on age discrimination for consultation. However, the provisions will probably not come into force until October 2006 to allow sufficient time for preparation.

3.23 Under these provisions, as with race and sex discrimination and health and safety legislation, the holding of the office of constable is treated as employment by a Chief Constable (the Commissioner). Where the issue relates to an act of the police authority, the authority itself is treated as the employer. Therefore both Chief Constables and police authorities are subject to this legislation in the same way as employers are.

3.24 In addition, it has already been established that there is nothing inconsistent in an office holder having a fixed term appointment since this is the arrangement which applies to Chief Constables.

3.25 It is clear that there is ample precedent to demonstrate that police officers can be made subject to legislation which applies to employees without compromising the office of constable.

3.26 In our opinion, therefore, there is no reason why employment law could not be extended to the office of constable in the same way as it is in respect of other issues, such as health and safety, equal pay and discrimination. This would necessarily include police officers acquiring a right of recourse to an Employment Tribunal to claim unfair dismissal, in addition to their current rights.

“All staff could then be afforded necessary employment protection and the advantages of simplified procedures whilst retaining their independence and discretionary legal autonomy.”
(Submission from Jane Stichbury, Chief Constable of Dorset.)

3.27 We have received a mountain of evidence arguing for this change including from ACPO, the APA, the MPA and the MPS.

3.28 The National Police Federation of England and Wales takes a different view, although this seems to be based on the other potential consequences of the change, in particular the effect on the disciplinary framework, rather than an objection to enhanced employment rights per se.

3.29 The Police Federation suggested in their evidence to us that we should support their request for a Royal Commission to consider all aspects of policing and that police officer terms and conditions could be part of the Commission’s brief.

“The Police Service has generally responded to criticism by changing rules and policies rather than getting to the core issue of changing attitudes and procedures. This piecemeal and disjointed process mirrors the government’s approach to police reform. What is needed is a thorough, informed and independent examination of every aspect of policing. We invite this Inquiry to support our call for the appointment of a Royal Commission to identify holistic solutions and take policing into the 21st century.”
(Submission from the National Police Federation of England and Wales.)

3.30 Whilst we appreciate the Federation’s concern about piecemeal reform, we believe that employment rights for police officers is a discrete issue which is capable of being resolved without considering all aspects of policing, and without the cumbersome machinery of a Royal Commission.

3.31 Therefore, having considered the arguments for enhanced employment rights for police officers, we find them overwhelming. Indeed, we cannot see any compelling reason for police officers to be treated differently, and arguably less favourably, than the rest of the workforce.

We therefore recommend that employment law should be extended to police officers within the framework of the office of constable.

3.32 Currently the terms and conditions of police officers result from negotiations at the Police Negotiating Board (PNB). The PNB involves representatives from ACPO, the APA and the Home Office as well as officers' representatives. Its decisions need to be ratified by the Home Secretary before police officers' conditions of service are changed.

3.33 If approved by the Home Secretary, they are laid down in Determinations underpinned by Regulations. "The Determinations set out police officers' basic terms and conditions of employment in respect of their pay, hours, overtime, recall to duty, annual leave and sickness. They also allow that managers can change duties at relatively short notice if there is a pressing policing need. They attempt to draw a balance between management's need to manage and officers' need to have an adequate work / life balance."
(Submission from the National Police Federation.)

3.34 These terms and conditions are in effect the 'employment contract' of police officers.

3.35 If our recommendation is to be accepted, and employment law extended to officers, there will have to be a mechanism for negotiating the detailed terms and conditions. This could be a task for the PNB or it might be appropriate to create another body. To a certain extent it would depend on what local discretion, if any, were thought appropriate for the Commissioner, Chief Constables and police authorities. For example, it might be thought appropriate for there to be local discretion in respect of the procedures for discipline and grievance handling. On the other hand, a national system might be considered to be better.

3.36 As we have received no evidence on this point, we make no recommendation as to the mechanism for deciding the detail of terms and conditions. We would, however, suggest that there is no need for any terms and conditions to be embodied in legislation.

3.37 We will comment on the kind of provisions that we believe should be considered as part of any new terms and conditions. In addition to provisions dealing with pay, hours, leave entitlement, etc., we consider that there should be a disciplinary procedure along the lines of the procedures currently used for police staff and based on the ACAS Code of Practice on Disciplinary and Grievance Procedures. This would replace the current regulatory framework under the Police Reform Act 2002.

3.38 We recognise that the day to day work of police officers means that there are particular issues which need to be taken into consideration when devising a disciplinary framework to replace the Regulations. We also recognise that there are differing views on the efficacy of the Regulations and that this recommendation is likely to be controversial. We will therefore say more about complaints and discipline later in this chapter.

3.39 We also recognise that, in addition to any disciplinary process, there needs to be a formal process for dealing with non-performance and capability. Again this should be more straightforward than the current Regulations, which we understand are rarely, if ever, used.

3.40 Additionally, we believe that another key term or condition for police officers should be a grievance procedure. We have considered the Fairness at Work policy operating in the MPS and will deal with it in more detail in the next chapter. But we consider that it would be better to adopt a grievance procedure based on that recommended by ACAS, as we believe that this is likely to provide a more effective route for officers and staff to raise issues of concern arising from their work.

3.41 We have received a significant amount of evidence to support the convergence of police officers' terms and conditions with those of police staff. Although the wider issue of terms and conditions is outside our terms of reference, we are specifically asked to consider complaints and discipline, grievances and workplace conflicts. We can see no compelling reason why the procedures applying to police officers and police staff should not be the same.

We therefore recommend that appropriate structures and systems are devised for negotiating national terms and conditions and for deciding which terms and conditions should be national and which left to local determination.

We also recommend that the terms and conditions should include disciplinary, capability and grievance procedures in line with the ACAS Code of Practice on Disciplinary and Grievance Procedures. The current regulatory framework for complaints and discipline for police officers would no longer apply.

Code of Conduct

3.42 We would suggest that, as part of the consideration of appropriate terms and conditions for police officers, the current Code of Conduct (in Schedule 1 to the Police (Conduct) Regulations 2004) should be reviewed, with a view to extending its provisions and incorporating the Code into the terms and conditions for police officers.

3.43 Our attention has been drawn to the *Civil Service Code*. This contains a number of provisions relating to integrity, honesty, political impartiality, use and misuse of information, the proper use of public money, gifts and hospitality, misuse of their position and rules on disciplinary procedures.

3.44 We have also seen the *Code of Ethics for the Police Service in Northern Ireland*. This includes provisions dealing with professional duty, police investigations, privacy and confidentiality, use of force, equality, integrity and property. We were

impressed by the positive language used in this Code. It sets standards of behaviour rather than rules which must not be transgressed.

3.45 We think there is great merit in extending the current Code of Conduct. A new Code would set out clearly the standard of conduct expected of police officers and it would follow that disciplinary action would be taken against those who failed to attain this minimum standard. We see no reason why the same Code should not also apply to police staff.

3.46 One provision that it could usefully contain, which is not in either the Civil Service Code or the current Code of Conduct for police officers in England and Wales, would deal with discrimination and the obligation to promote equality by not discriminating unlawfully against any person.

3.47 A provision dealing with discrimination was included in the previous version of the Code of Conduct but omitted from the 2004 version. We are grateful to the PALG for drawing this to our attention.

3.48 We consider that the provision in Article 6 of the Code of Ethics for the Police Service in Northern Ireland on Equality would provide a useful model:

"6.1 Police officers shall act with fairness, self-control, tolerance and impartiality when carrying out their duties. They shall use appropriate language and behaviour in their dealings with members of the public, groups from within the public and their colleagues. They shall give equal respect to all individuals and their traditions, beliefs and lifestyles provided that such are compatible with the rule of law.

"6.2 In carrying out their duties police officers shall not discriminate on any of the following grounds, i.e. sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, disability, age, sexual orientation, property, birth or other status."

We therefore recommend that the office of constable is enhanced by the addition of a Code of Conduct, similar to the Civil Service Code and the Code of Ethics for the Police Service in Northern Ireland, which would form part of the terms and conditions of all police officers and police staff. This would replace the current Code of Conduct for police officers.

We also recommend that a provision dealing with unlawful discrimination should be included in the new Code of Conduct. Additional provisions may also be appropriate.

Complaints and discipline

3.49 Before we consider the regulatory framework governing complaints and discipline in detail, we would like to emphasise the fact that most police officers will have no involvement with the disciplinary process throughout their entire careers. The overwhelming majority are fundamentally honest and their conduct above reproach. They will never find themselves in a situation where their integrity is called into question.

“Police officers, and increasingly police staff, are frequently engaged in difficult and dangerous work. Not many days go by when I am not humbled by the selfless altruistic actions of the people I work with. They go forward when their instincts demand that they hold back.”
(Submission from Ken Jones, Chief Constable of Sussex.)

3.50 We recognise that police officers have a very difficult job to do and, in the main, they do it well. However, when an officer’s conduct requires investigation, he or she should be dealt with under a system in which both they and the general public can have confidence.

3.51 We have already outlined a number of the criticisms we have heard about the complaints and discipline system. We have also recommended that police officers should be made subject to the standard of disciplinary procedures which apply to police staff and other employees. We have received a wealth of evidence arguing for this reform but we have also received extensive evidence from the Police Federation – both National and Metropolitan – that the current system should not be abolished.

“So in those circumstances, there is a lot to think about, but all I would say... is the regulations are not broke, they do not need fixing; what they need is better interpretation and training and implementation by the management of the MPS”.
(Evidence of Don Ratcliffe, General Secretary, Joint Executive Committee, Metropolitan Police Federation.)

3.52 Before we analyse that evidence in more detail, it is worth examining the environment in which police officers carry out their duties.

“It is important to remember that policing is often a difficult and dangerous job. Individual operational officers, predominantly of the Constable rank, are the frontline representatives of policing for the people of England and Wales. Officers regularly perform their duties in difficult confrontational situations dealing with members of the public who do not recognise or adhere to the laws of society, many of whom threaten the officer’s personal safety and make malicious complaints as part of their defence strategy.”
(Submission from the National Police Federation.)

3.53 This analysis is shared by ACPO. The President stated in his submission:

“The police constable is unique amongst public figures for a combination of reasons,

- 1.They have a very wide range of discretion and therefore operate in a quasi-judicial role taking action or not in respect of apparent offences and making judgements.
- 2.They have a leading role in the application of lawful and reasonable force for the person and liberty of the public.
- 3.They may consequently be subject to attacks from criminals and other persons where because the officers have used their discretion or their powers those attacks may have a different motivation than that which might be applied to other employees in different sectors.”

3.54 We accept that this is the situation and that the misconduct and complaints system must therefore make proper provision to protect officers in these unique circumstances. However, as the police family grows, and police staff take on what were formerly duties only carried out by police officers, the same issues are as relevant to them as they are to officers.

3.55 In addition, the ability of the police service to police by consent requires that any system of dealing with public complaints is open and transparent and enjoys public confidence.

3.56 Any system for dealing with allegations of misconduct by police officers must therefore balance the need to be fair to the officers, and appreciate the circumstances in which they have to operate, on the one hand, and the need for the service to be properly accountable to the public it serves, on the other.

3.57 Let us rehearse the criticisms which we have received in evidence and which we outlined in the last chapter. We have heard the current regulatory framework described as:

- archaic;
- antiquated;
- a product of the courts martial system;
- cumbersome;
- unduly complex and lengthy;
- too bureaucratic;
- difficult to understand;
- too slow and unwieldy;
- easily susceptible to delay, thus frustrating effective management of disciplinary issues;
- too legalistic;
- too resource intensive;
- too closed; and
- like a runaway train.

3.58 In addition, it:

- involves too many lawyers and is therefore costly;
- allows officers under investigation to exercise a right to silence;
- can result in days, sometimes weeks, of ‘abuse of process’ arguments when a case finally comes before a disciplinary hearing;
- focuses on proving (or disproving) ‘guilt’, rather than addressing conduct and performance in an appropriate ‘employment’ context;
- often results in officers being suspended on full pay (at public expense) for long periods – in some cases years;
- does not promote opportunities for quick resolution;
- does not allow lessons to be learnt; and
- does not meet the needs of those who complain nor deal fairly with those complained against.

“As things stand the sledgehammer of regulations and statutory guidance is used to crack the nut of an allegation of incivility.” (Submission from Ken Jones, Chief Constable of Sussex.)

“How can anybody say it is justice for equitable dealing with people when people wait for four to five to seven years to achieve a decision one way or the other, where you have a bureaucratic legalised process which, quite frankly, is scandalous in some cases.”
(Evidence of the Commissioner, Sir John Stevens.)

“Justice delayed is justice denied”. (Evidence of the Commissioner, Sir John Stevens.)

3.59 These views are a digest of the views of individuals who have contacted us to recount their own experiences, the Association of Chief Police Officers, the Association of Police Authorities, the Metropolitan Police Authority, the Metropolitan Police Service, the Independent Police Complaints Commission, the Police Complaints Authority, the Metropolitan Black Police Association, the Discrimination Law Association and the Police Action Lawyers Group.

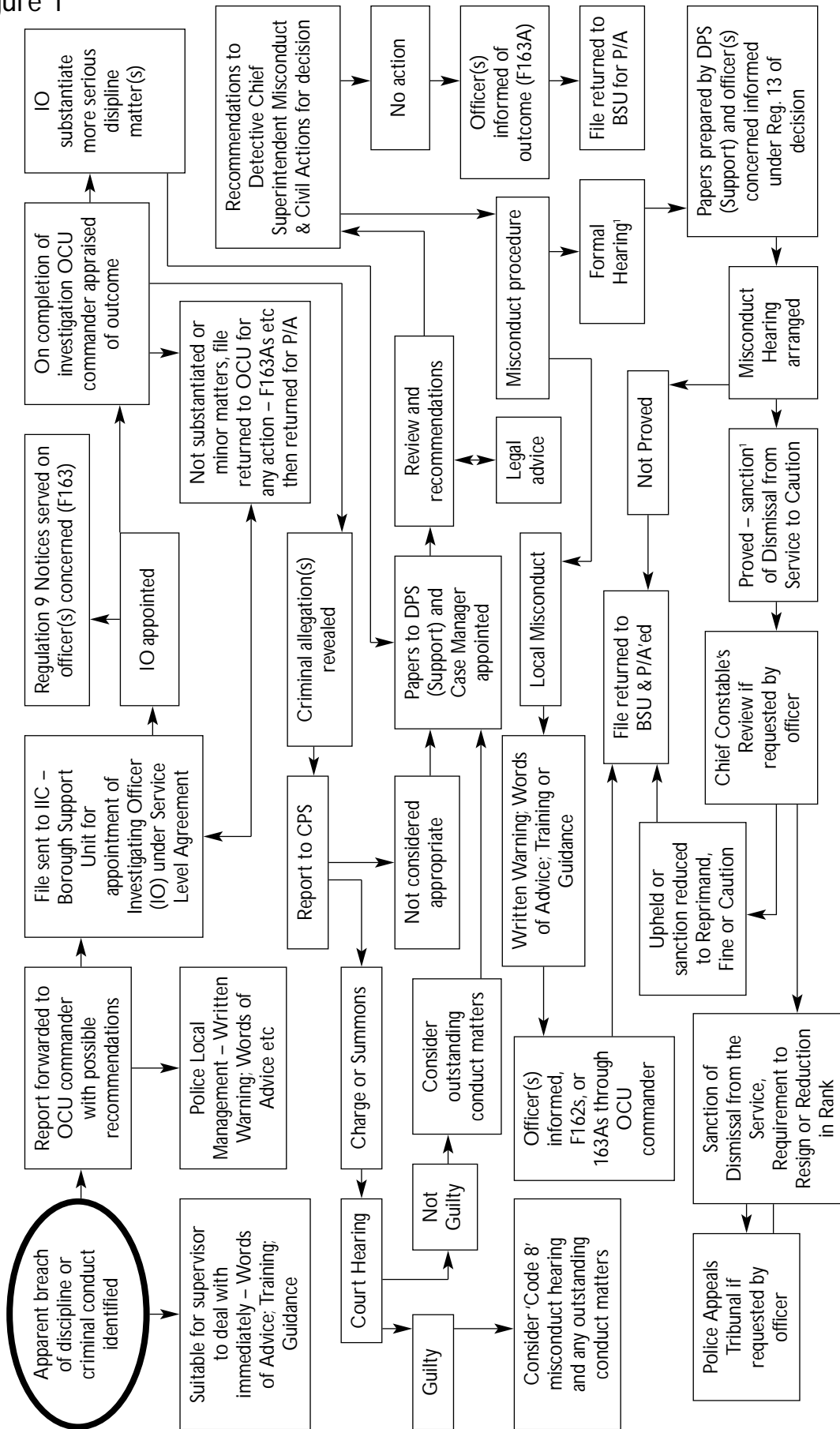
3.60 Figure 1 (opposite) illustrates a number of the criticisms vividly. In diagrammatic form, the procedure looks more like a complex board game than a management process.

3.61 However, it is important to record that we have heard evidence from the Police Federation – both National and Metropolitan – which is less critical of the regulatory framework. They point out that it has been subject to consultation with the affected parties and to regular review.

“We do have this view that the regulations are archaic, but, of course, as I have said to you in my evidence earlier, these are fairly new regulations that were arrived at over a period of two or two and a half years’ consultation.”
(Evidence of Don Ratcliffe, General Secretary, Joint Executive Committee, Metropolitan Police Federation.)

Figure 1

Flow Chart of Significant Actions in Internal Investigations



¹Sanctions available: Dismissal from Service; Requirement to Resign; Reduction in Rank; Fine; Reprimand; Caution
Source: MPS

3.62 The Police Federation, both nationally and within the MPS, considers that any problems with the Regulations are due to the way they are applied rather than any inherent defects.

3.63 The National Police Federation believes that the procedures “provide managers with a wide scope of discretion and flexibility in the way they deal with officers.” **They also told us** “it is our view that these Regulations have not been robustly managed at senior level. There has been little or no training given to managers to deal properly with the procedures.”

3.64 In their written submission, the Metropolitan Police Federation told us: “We would consider that the suggestion that the discipline procedures are inappropriate is misguided and may be being used as an excuse for management inadequacies.”

3.65 It is important that we give due consideration to the views of the Police Federation on this important matter. The Federation represents all police officers of the rank of Chief Inspector, Inspector, Sergeant and Constable; that is, over 136,000 individuals. In addition, Federation representatives have a reservoir of expertise on the operation of the Regulations, as it is part of their role to assist members who are subject to disciplinary proceedings.

3.66 However, we are not persuaded that the defects in the current system, on which we have received so much evidence, are due simply to a lack of training of managers and that the issue is solely one of managerial competence.

3.67 We accept that the Regulations are poorly understood by some managers but the essence of a good disciplinary regime is, in our view, simplicity. It should be easily accessible to both managers and those who may be subject to it. Managers should not need to receive extensive training to be able to use a disciplinary or incapability procedure.

3.68 We do not accept that the existing Regulations provide the flexibility managers need to manage. This is underlined by the fact that the Police (Efficiency) Regulations 1999 and the Police (Efficiency) (Amendment) Regulations 2003, which are designed to deal with unsatisfactory performance and unsatisfactory attendance, have rarely, if ever, been used.

3.69 Therefore, we do not accept the Police Federation’s defence of the current regulatory framework. We are persuaded that there is a sound case for radical change to the current arrangements and agree that “Careful planning and thought could provide a system that extends the normal rules of employment to matters of misconduct and the system simplified in line with best employment practice elsewhere whilst ensuring the rights of complainants and police officers are properly balanced ... Changes ... are overdue.” (Submission from Christopher Fox, President of ACPO.)

3.70 We are not prescribing the disciplinary processes which should apply – beyond saying that they should accord with best practice in the employment field. The detail should be the subject of negotiation between those involved.

3.71 In short, we consider that the system is “broke” and that it does need fixing. It does not represent “good effective practice” (see our terms of reference) and it is clear that it hinders the swift resolution of cases. We consider that there is ample scope for the investigation of complaints and allegations to be dealt with in a quicker, less bureaucratic and less resource intensive way.

3.72 The Police Federation has suggested that, because the IPCC is a very new body, no changes should be made until it has had time to establish itself. We could see force in this argument were it not for the fact that the IPCC itself is persuaded of the case for change.

“The IPCC cannot at this stage detail what the changes should look like ... A reform of the system to place an emphasis on fairness for both members of the police family and complainants is in the best interests of all users of the system. (Submission from the IPCC.)

“What we want to do, I think, is to move closer to an employment ACAS kind of model, without losing the important protections that officers should have. That will require changes in the law and in the regulations, and we would want to see those changes, and we want to participate in that.” (Evidence of John Wadham, Deputy Chair of the IPCC.)



How will our proposals work in practice?

3.73 We believe that more flexible disciplinary processes are needed; processes that allow managers discretion in the way investigations and misconduct hearings are conducted, whilst at the same time preserving the rights of the officer under investigation.

3.74 We can see no reason why the disciplinary procedures which apply to most employees should not be adapted to apply to police officers. Outside the police service, disciplinary procedures must be applied in a manner that is fair to the employee. There is no reason why the same proposition should not apply to police officers.

3.75 This view is shared by the Commissioner, the Deputy Commissioner and by others we have heard from. The Chief Constable of Sussex, Ken Jones, favours a “management process” with the facility in less serious matters, where the conduct is admitted, for a sanction to be administered without a formal hearing.

3.76 The MBPA would like to see “far greater attention ... paid to informal resolution, proportionality and mediation in cases that may be suited to an alternative model of resolution.”

3.77 The APA “fully supports the need for a less adversarial approach to disciplinary proceedings. In our view, the current regulations encourage a system that is legalistic and does not promote opportunities for quick resolution that could be of benefit to both the police service and police officers.”

3.78 The MPA expresses its view that it would “wish to see legislation to fundamentally reform disciplinary processes against police officers so that the ‘courts martial’ approach currently reflected in Regulations is replaced by a conventional disciplinary procedure reflecting ACAS guidance and standards. Police Officers would, in turn, be able to have resort to Employment Tribunals in respect of alleged unfair dismissal.”
(Submission from Lord Harris, former Chair of the MPA.)

3.79 We accept that “the proper price that has to be paid for that is to give officers access to tribunals to make unfair dismissal claims.” (Evidence of David Hamilton, Director of Legal Services, MPS.) Indeed, we have already dealt with this earlier.

3.80 Before we outline how a new system could work, it is useful to set out how issues of misconduct may arise. Essentially there are three ways:

- a complaint from a member of the public;
- a complaint or allegation made by a colleague; or
- as a result of management identifying a conduct issue.

3.81 In our view, both internal allegations and shortcomings identified through the management process should be dealt with under an internal disciplinary procedure (or a capability procedure depending on the facts of the case).

3.82 The details of the disciplinary procedure adopted will, as we have said, be a matter for discussion and negotiation but, in accordance with established practice elsewhere, it should include:

- an informal stage, if appropriate, depending on the conduct involved;
- provision for a management investigation;
- definitions of what may constitute misconduct and gross misconduct;
- guidelines on the use of suspension;
- reasonable time limits for each stage;
- provision for a hearing;
- a range of sanctions, from counselling to an oral warning, to written warnings and ultimately to dismissal; and
- one (or possibly two) appeal stages. This could be internal or with an external element perhaps at the second appeal stage. Anyone involved at a previous stage would, of course, be excluded.

3.83 Any formal disciplinary hearings would have to be conducted in a way that was fair to the officers, as with all disciplinary hearings, but would be much less formal and, in our view, would not require the parties to be legally represented. The Police Federation would, as a matter of course, retain its important representative role.

3.84 Where the conduct complained of could also constitute criminal behaviour, management would decide whether it is appropriate to initiate a criminal investigation. However, this would be in addition to any internal process and totally separate from it. The internal disciplinary process would not have to wait until the criminal process was concluded.

3.85 The appropriate manager will be responsible for the disciplinary process. Criminal investigations will be dealt with by professional standards officers – or by other officers whose responsibilities include investigations.

3.86 In short, the officer will be treated just like any other person whose conduct at work might constitute a criminal offence.

3.87 Cases involving criminal allegations should still be referred to the Crown Prosecution Service (CPS) because we recognise that public confidence requires that there be independent oversight of the process. However, we also recognise that referrals to the CPS can be a factor in the time taken to dispose of some investigations.

We therefore recommend that disciplinary cases involving serious criminal allegations should continue to be dealt with under the special procedure, which requires cases to be referred to the Crown Prosecution Service out of region, but that more routine matters should be dealt with in the same way as similar allegations against members of the public, that is, by referral to the local Crown Prosecution Service lawyer.

3.88 As the management process will be totally separate, there will be no question of cautioning the officer, nor of a right to silence in the way that it currently applies, nor of decisions in the disciplinary process waiting until the criminal investigation is concluded. Most importantly, criminal investigations will not take precedence over the management process.

3.89 Where the conduct issue arises from a public complaint, the matter will be overseen by the IPCC. It has a range of options available to it: referral to the service for local resolution, managed and supervised investigations and initiating its own investigation.

3.90 We are not recommending any reduction in the role of the IPCC. However, the distinction between cases involving an allegation where the conduct complained of could constitute a criminal offence and one where the conduct is of a lesser order, would also apply to IPCC cases. In the latter circumstances, depending on the facts of the case, the IPCC might wish to refer the matter to the service concerned so that it could be dealt with under the internal disciplinary procedure.

3.91 Where the allegation is of potentially criminal conduct, again a criminal investigation would be initiated and the case would either proceed to court in due course or the IPCC would recommend another course of action depending on the outcome of the criminal investigation.

3.92 However, there would be nothing to stop the Commissioner (or Chief Constable outside London), once made aware of the details of the complaint, deciding that the matter warranted internal action under the disciplinary procedure in advance of any determination by the IPCC. Again, the two processes would be totally separate.

3.93 We note that the IPCC consider that they should have a role in overseeing internal disciplinary cases and we agree with this. Public confidence requires that, where a case has a public interest element, the IPCC should have an involvement. However, there will be many cases where the IPCC would not need to have a role.

3.94 In his submission to us, the President of ACPO argued that “any changes must be carefully considered to balance the independence of the role, the proper and speedy resolution of misconduct and complaint and protection of the individual in a high risk occupation.”

3.95 We consider that what we are proposing above will meet these concerns as well as dealing with the criticisms of the current system made by others and which we set out earlier.

3.96 We are confident that our proposals will be a significant step forward in dealing with the systemic problems in the regulatory framework and should give managers the tools they need to manage effectively.

3.97 The changes we are proposing are not without precedent in other jurisdictions. We have received evidence from David Hamilton, Director of Legal Services at the MPS, on the employment status of police officers in Australia. They too are office holders and not employees. Their terms and conditions and disciplinary regime are regulated by statute, as is the case in England and Wales. However, they are entitled to claim unfair dismissal.

3.98 In contrast, in Queensland, unlike the rest of Australia, police officers are not only entitled to claim unfair dismissal but legislation actually deems them to be employees and there is a statutory disciplinary code which is based on the 'managerial model'. The right to claim unfair dismissal is excluded in cases where there is a statutory right of review of the dismissal.

3.99 Another example is the Australian Federal Police, which was reformed in 2000 to give officers employee status and a recent review, the Fisher Review, has recommended that the existing Regulations should be repealed and replaced by a 'management model', based on the Queensland system. Implementation is underway.

3.100 Our information is that the managerial model is very similar to what we are proposing but that it retains a statutory basis. We do not consider this necessary or desirable. Police officers should, in our view, be subject to the same regime as ordinary employees, with, of course, the important safeguard of the IPCC in the case of public complaints.

Industrial relations

3.101 Thus far, we have looked at the issue of employment rights from the perspective of the individual. However, we appreciate that there is another aspect, that is, the collective rights of a body of employees. These will include rights of consultation, collective bargaining arrangements and mechanisms for resolving industrial disputes. Central to the rights of most employees is the right to take industrial action.

3.102 Although we are advocating the extension of employment law rights to police officers, we accept that it would not be appropriate to restore the right to withdraw labour which police officers lost under the Police Act 1919.

"I would suggest to you that if we were to be given employee status, then certain parts of the protection that is given to the ordinary employee would be withheld from our members. What do I mean by that? Without skirting round it, my suggestion to you would be the right to withdraw our labour: and I cannot ever see that ever being given to the police officer in the United Kingdom, let alone England and Wales, or let alone London."

(Evidence of Don Ratcliffe, General Secretary, Joint Executive Committee, Metropolitan Police Federation.)

3.103 We agree with this analysis. However, we do not see this as a barrier. We have received evidence from the Prison Service and the Prison Officers' Association, who attended the Inquiry together. They explained the arrangements which apply to prison officers.

3.104 Prison officers have a number of the powers of constables and are also subject to situations in their day to day work which can render them vulnerable to allegations and complaints. They enjoy employment rights not available to police officers and are employees and subject to ordinary disciplinary procedures. They no longer have the right to strike but there is an agreement between the Prison Service and the Prison Officers' Association which provides a mechanism for resolving industrial disputes.

3.105 We see no reason why a similar mechanism could not be devised to resolve industrial disputes in the police service. Given that the right to withdraw labour does not exist, it is imperative that there is a mechanism to resolve industrial disputes.

We recommend that a procedure, involving conciliation and / or arbitration, is devised to resolve industrial disputes in the police service.



Attestation

3.106 There is one final point we need to deal with in this chapter. We have expressed our support for retaining the office of constable and one of its important features is the attestation from which the authority of the office is derived.

3.107 However, we have considered whether the timing of the administration of that attestation should be reviewed, with officers only taking on the full powers of a constable once they have completed their initial training.

3.108 This issue has become more prominent following the broadcast of the BBC television programme, *The Secret Policeman*. As the probationers featured in the programme were already constables, they were entitled to the full protection of the Regulations despite not having yet acquired a full understanding of the obligations of the office. Therefore, there was no quick way for the service to dismiss them, despite the compelling evidence against them.

3.109 In the aftermath of the programme, the Commissioner asked Assistant Commissioner Tarique Ghaffur to undertake a Thematic Review of Race and Diversity in the MPS. Mr Ghaffur commented as follows: "The issue of recruits holding the Office of Constable can hinder direct action being taken against recruits exhibiting overtly racist behaviour. Strong consideration should be given to recruits and officers holding regular employee status rather than the Office of Constable."

3.110 This would involve delayed attestation. Whilst we support Mr Ghaffur's stance in relation to the need to be able deal swiftly with recruits who exhibit racist behaviour, we believe the issue is much wider. It is important that the system allows for those who are not suited to the police service – for whatever reason – to be removed from the service at an early stage. The Regulations do not facilitate this.

3.111 There is a specific provision referring to probationers but it has been established that 'summary dismissal' under Regulation 13 of the Police Regulations 2003, on the grounds that the officer was not likely to become a 'well-conducted' constable, should not be used where the allegations amount to misconduct under the appropriate misconduct regulations and the probationer disputes the factual basis of the allegation.

3.112 It is unusual, in our experience, for an individual to be made a full member of any profession or occupation without a probationary period during the time they are being trained and do not have the status of a qualified member of the profession. The police service is even more unusual in that trainees are paid as constables and not at a reduced rate, a practice which is common in other fields.

3.113 We are aware that delayed attestation is being considered in the context of the new probationer development programme with its 'key stages'. (*The Evaluation of the New Probationer Development Programme*. Discussion paper. Mike Griffiths LLB, M.Ed., PGCE November 2003.)

We recommend that attestation is delayed until the officer has satisfactorily completed his or her initial training.

Attestation would then act as an incentive to probationers to complete their training successfully.

3.114 We appreciate that if our recommendations on the Regulations are accepted, the issue of being able to dispense with the services of unsuitable candidates will become less of a concern. However, we believe that there is merit in considering delayed attestation in any event.

3.115 We also appreciate that consideration will have to be given to the status of the unattested 'officer', that is, whether he or she will be an employee or simply a student.

Chapter Summary

This chapter deals with:

- ▶ The role of the MPS' Human Resources directorate
- ▶ The structure of the MPS' Human Resources directorate
- ▶ Fairness at Work
- ▶ Resolving disputes
 - *Mediation*
 - *Ombudsman*
- ▶ Employment Tribunal claims

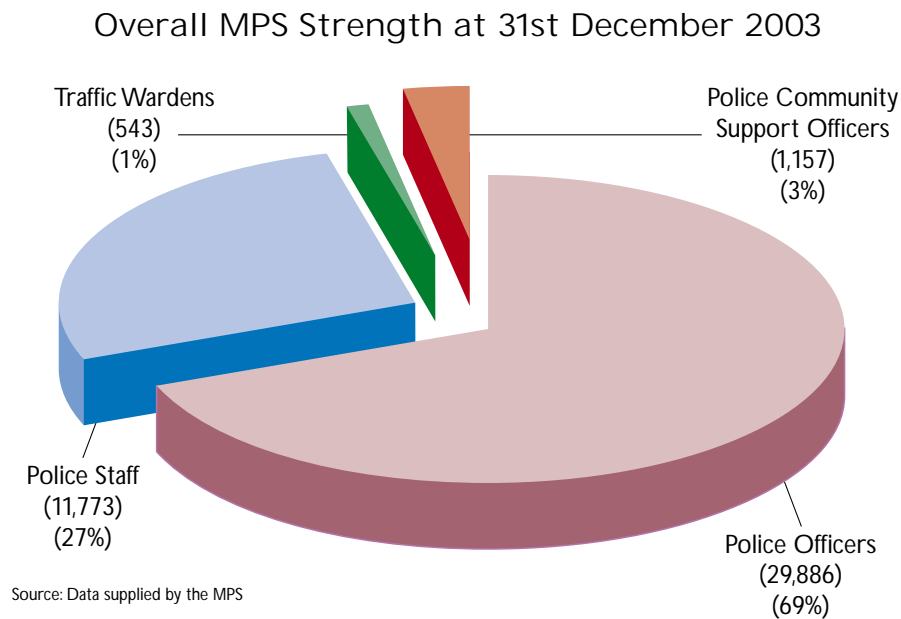
“ Staff will judge procedures by outcomes not intentions.”

HMIC

4.1 The Inquiry’s terms of reference oblige us to look at professional standards and employment matters in the MPS. This chapter focuses on employment matters.

4.2 The MPS’ reputation for operational excellence is due to the exceptional efforts of the officers and staff who work for the Service. Of all the resources at the MPS’ disposal, people are by far the most valuable and can make the difference between success and failure. However, a committed workforce cannot and should not be taken for granted. It requires leadership, motivation and support.

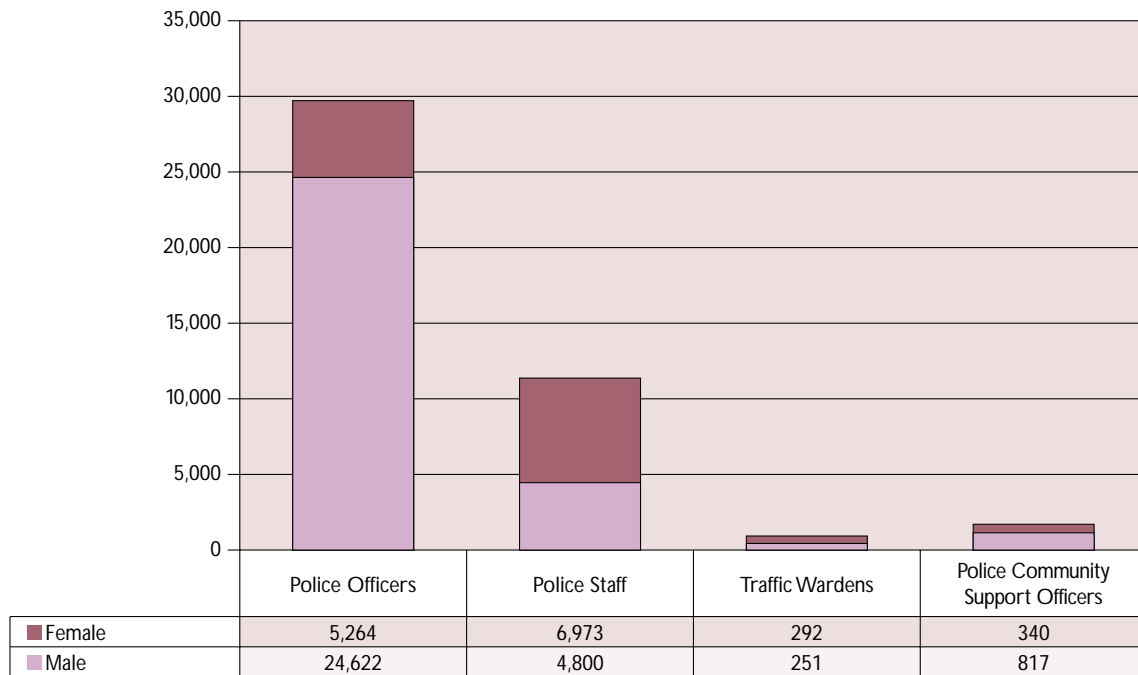
Figure 2



4.3 In this chapter we will consider the role and structure of the Human Resources (HR) directorate, the handling of workplace disputes (including Employment Tribunal claims) and the role of the MPA in people matters. We will examine and comment upon relevant policies, procedures and practices.

Figure 3

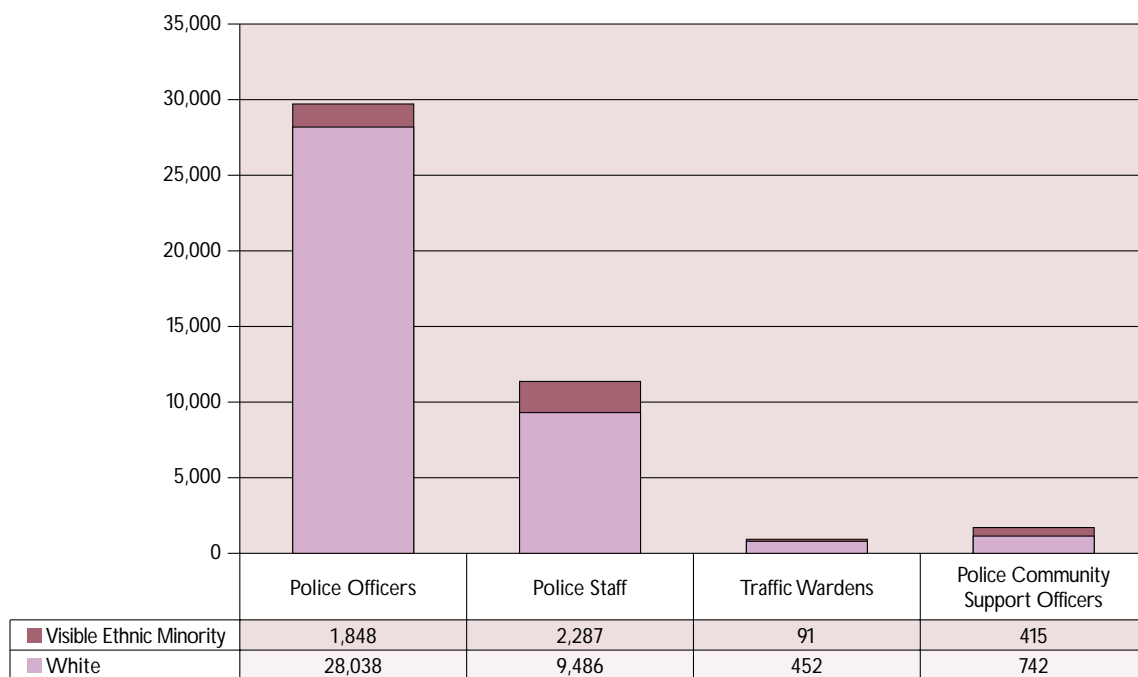
Overall MPS Strength by Gender at 31st December 2003



Source: Data supplied by the MPS

Figure 4

Overall MPS Strength by Ethnicity at 31st December 2003



Source: Data supplied by the MPS

The role of the MPS' Human Resources directorate

4.4 The MPS' Human Resources function is the responsibility of an Assistant Commissioner (AC), who reports to the Commissioner. Below the AC there is a Director of Human Resources, who is professionally qualified and a member of police staff.

4.5 The HR directorate has five sections: Training and Development (including the Hendon Training Centre), HR Services, HR Recruitment, People Development and Strategy. HR staff are not located solely in the HR directorate. Devolution means that increasingly HR staff are located in Operational Command Units (OCUs) and work with OCU commanders and other managers on a day to day basis.

4.6 A human resources directorate will naturally have responsibility for recruitment, induction, training and development, performance management, promotion, grievances, discipline and welfare. But these functional responsibilities are subsidiary to the important strategic role of HR as custodian of all aspects of people management.

4.7 The HR directorate must be at the heart of the organisation, with HR planning and management fully integrated into the overall business planning process. It must ensure that management information plays its proper role in organisational development and that the organisation maximises the potential of its most valuable resource, its officers and staff.

4.8 It also has a responsibility for promoting leadership and management of the highest quality, setting the framework in which managers manage and supporting them in their work. It must ensure that good practice is shared across the organisation.

4.9 HR is therefore a vital function in any organisation but particularly in one the size of the MPS, where 80% of the budget is spent on people. Achieving the MPS' mission and vision depends on the commitment of the people who work for the organisation and they need to be managed in a way that motivates them.

4.10 We have heard evidence that, whilst operational management is the great strength of the MPS, people management is not as consistently strong, with some managers lacking confidence in managing their staff and avoiding difficult issues.

4.11 This evidence must be seen in the context of the survey we commissioned of all MPS officers and staff. This gave a high approval rating to managers with 63% of respondents having confidence in their line managers to manage them.

4.12 However, we have formed the view that people management does not appear to be as highly valued as operational management. It appears that people management is in practice treated as a 'softer' skill. We do not agree with this

description. Management decisions will be some of the hardest decisions MPS personnel will make in their working lives.

4.13 We will be dealing with leadership and management in more detail later in this report but we wish at this stage to say something about the role of HR in creating an environment which helps managers manage.

4.14 Good leaders and managers require clear objectives and a framework in which to operate. This means clear and simple procedures which are easy to understand and which facilitate effective management.

4.15 The HR directorate must have responsibility for leading the policy development process, involving relevant stakeholders and ensuring that policies are fit for purpose. However, it also needs to have a guardianship role, ensuring that policies are complied with, that they are kept under review and adapt to changing needs. HR policies must therefore be at the forefront of the corporate agenda.

4.16 We have noted the work that has already been undertaken within the directorate in terms of reducing the number of HR policies. However, we are concerned that the total of 89 core HR policies (at the time that Mr Hogan-Howe gave evidence to us) appears somewhat excessive, although we understand that work is in progress to reduce that total further.

4.17 The HR directorate leads the policy development process in the MPS and the efficacy of policies is checked through the work of the HR evaluation unit which assesses the application of policies on the ground.

4.18 However, we are concerned by the information from our survey of all officers and staff which indicates that only 19% of those who responded agree that HR / employment policies are consistently and fairly applied across the organisation, a result which falls short of the Work Foundation's benchmark score (established by reference to similar surveys with other public and private organisations) by a significant margin (-0.45 as compared with -0.13).

We recommend that the policy review process be given new momentum with a view to simplifying and reducing the number of human resources policies even further.

4.19 HR also needs to support managers in their work. Increased devolution means that day to day support is likely to come from personnel managers working side by side with the borough and departmental managers they support. But a devolved structure also requires a strong central HR service which can support local personnel managers as well as local management.

4.20 The central function also has a leadership role with responsibility for identifying and spreading best practice throughout the organisation.

4.21 Good management information is key to this process and HR needs to play an active role in both gathering data and initiating action as a result of what is revealed. This will include the compilation of statistical information, as well as monitoring and evaluating performance in relevant areas such as policy compliance, grievance handling, disciplinary proceedings involving police staff, recruitment, training, promotion and Employment Tribunal claims.

4.22 Although we received evidence on the work of some parts of the HR directorate in gathering management information, we are concerned that currently important and useful workforce data is not always collected. For example, we were unable to obtain OCU level statistics on promotion, broken down by gender and ethnic origin. We requested this information because we were aware of a particular problem in one Borough Operational Command Unit (BOCU). If the information is not kept, problems will not be identified and addressed.

We therefore recommend that the Human Resources directorate reviews the management information it currently collects with a view to ensuring that it has the data needed for the MPS to fulfil its objectives.

4.23 Policy implementation also appears to be a concern. The MPS was described to us as “policy rich but implementation poor”, (submission from Lord Harris, former Chair of the MPA) and we have heard from individuals whose experiences indicate that there may be some truth in this analysis. It is therefore vital that HR actively monitors policy implementation and is in a position to initiate action when problems are identified.

4.24 The leadership of the HR function is crucial. It must be led by a suitably qualified and experienced individual who is able to operate with sufficient authority to influence HR practice across the MPS. This means that he or she needs to be both of a seniority which will guarantee credibility amongst colleagues and a member of the strategic management board, and therefore involved in all significant organisational decisions. Salary will also be an important factor to enable the organisation to attract a candidate of the right calibre.

4.25 We are not persuaded that the HR function currently has the profile it needs within the MPS, at the heart of the organisation, playing a key role in how it runs. This will necessarily influence operational effectiveness, since it will mean that the organisation will lack the strong people focus which will ensure its officers and staff are nurtured, developed and motivated and, as a result, give of their best.

We recommend that the post with overall responsibility for Human Resources should be held by a suitably qualified and experienced individual, and that the post-holder should be by designation a member of the strategic management board.

4.26 If the changes we are proposing in relation to police officers’ terms and conditions are accepted, then the role of HR will become even more important since

the procedures for dealing with discipline, capability and grievance will be the same for both officers and police staff. HR will be the custodian of these procedures.

4.27 Currently, the HR directorate has no role in police officer disciplinary matters and we believe this to be an anomaly that should be remedied.

4.28 It appears to us that there are at least two facets to a police disciplinary case under the current system. There is the investigation, which is the responsibility of the Directorate of Professional Standards, but there is also a human resource issue, that is, the welfare of the officer. He or she is a member of the MPS and, therefore, the organisation has a continuing responsibility to ensure that they are treated fairly and not unnecessarily damaged by the process.

4.29 We have heard much criticism of the lack of welfare support during the disciplinary investigation, particularly in respect of suspended officers and the difficulty of absorbing them back into work once the process is concluded. We will deal with this in more detail later in the report. We consider that this is an area where HR should play a greater role.

4.30 The Inquiry has been informed about the way in which Martin Tiplady, the Director of HR, monitors the progress of police staff disciplinary matters to ensure they are dealt with in a timely fashion and that staff do not spend long periods on suspension unless this is unavoidable. This appears to have been effective in introducing a sense of urgency into disciplinary matters and in holding the managers involved to account.

4.31 We feel that HR should be involved in police officer discipline cases from a people management perspective and look particularly at issues such as welfare support, keeping the officer informed of progress and, if appropriate, overseeing the arrangements for absorbing the officer back into the workforce.

4.32 This was put to Mr Hogan-Howe, Assistant Commissioner (HR), when he attended the Inquiry on a second occasion. Although he was initially concerned about confused management responsibilities, he warmed to the idea as the discussion proceeded:

"I can see there is a power in it ... that if you said that the purpose of that meeting ... was in fact that DPS was responsible for the discipline inquiry, the HR department was responsible for the care of the individuals ... and that might be about, well, is the manager doing their job? Are they keeping in touch with them if they are suspended?"

We therefore recommend that the MPS should ensure that the Human Resources directorate plays a full part in the management of discipline cases, with responsibility for maintaining contact with officers under investigation and overseeing welfare support and re-entry into the workplace for suspended officers.

The structure of the MPS' Human Resources directorate

4.33 Note 3 to our terms of reference asks us to consider “whether the organisational structures and allocation of functions ... within the MPS is effective”.

4.34 We have described the top level structure of the HR directorate above. We have also commented on the level at which it should be led. We do not intend to make further detailed observations and recommendations on the structure of HR other than to raise two issues. These relate to the Employment Tribunals Unit (ETU) and the Diversity directorate.

4.35 During the course of the Inquiry we heard much evidence about the ETU. We have heard from the Head of the Unit, Esme Crowther, as well as from the Assistant Commissioner (HR), Deputy Assistant Commissioner (DAC) Roberts, who heads the Directorate of Professional Standards (DPS), his colleague Commander Phillip Hagon and David Hamilton, Director of Legal Services.

4.36 At the time we were taking evidence, the ETU was situated within DPS; that is, in the Deputy Commissioner's Command, and totally separate from HR. We heard that, until October 2001, the ETU was part of the HR directorate but that “for reasons of linkage ... and to facilitate more effective management of risk and sharing of intelligence across the range of DPS activity, Management Board decided that the Unit should be placed within DPS.” (Submission from Esme Crowther, Head of ETU.)

4.37 This was echoed by DAC Roberts and Commander Hagon when they gave evidence: “... essentially the rationale was to bring within one directorate a whole range of activities where the Met faced a risk that needed to be managed, short-term and long-term ... So it is really about managing organisational risk, if I can put it that way.” (Evidence of DAC Roberts.)

“... prior to it coming across to the Directorate of Professional Standards, it actually sat within human resources, and logically, you might think that is perhaps where it should be, but quite frankly, it did not work very well within that particular domain, and so the decision ... was that it came across to, if you like, those people that are best charged with looking and dealing with risk, and moreover, were best versed in dealing with the Directorate of Legal Services.” (Evidence of Commander Hagon.)

4.38 Whilst we can understand the rationale, we do not applaud it. It is clear from the evidence we have received from individuals that lodging an application to an Employment Tribunal is not a decision taken lightly but perhaps only after someone has “run head first into a wall of indifference, incompetence or intolerance whilst trying to raise and resolve a complaint ...” (Submission from the MBPA.)

4.39 We consider that the focus on risk management, when coupled with the location of the ETU, carries an unfortunate message; that the MPS sees the issues raised by an Applicant to an Employment Tribunal more as issues of organisational risk, rather than as a management problem that needs to be resolved.

4.40 Ms LL, an individual who has taken an Employment Tribunal claim against the MPS, was asked about her perception of the ETU being within DPS. She told us that she thought it should be a totally separate unit “where you look at mediation first ... and do not automatically think ‘right the tribunal has been lodged, we are going to tribunal’. We should say ‘Okay, what can we do to do with the issues’. **When pressed about the personal impression she had gained by having to contact a unit in DPS, she said that** “they were taking a defensive position immediately ... I think it should be taken out ... and be independent.”

4.41 We think that such an impression is an almost inevitable consequence of the location of the unit and reflects more than a modicum of reality when those in charge refer to the Employment Tribunal process as one that is about risk management. We are therefore reassured to have learnt from the Deputy Commissioner, when he came to give evidence to the Inquiry, that the ETU is to be moved back into the HR directorate.

4.42 The MBPA has argued for the ETU to be placed within the Diversity directorate. For the reasons we outline below, we prefer to see it in the HR directorate but we also consider that closer working between HR and Diversity should be facilitated and this is the second structural issue which we wish to address.



4.43 The Diversity directorate is also part of the Deputy Commissioner's Command and thus totally separate from the HR directorate. We understand that the Diversity directorate has both outward and inward looking roles and we are aware of some of the advances that have been made by the Diversity directorate in relation to operational policing and work with London's communities. These matters are of course outside our remit. However, we are concerned that the split of responsibilities between the Diversity and HR directorates may mean that diversity issues relating to people management receive less attention.

4.44 We have seen the feedback provided to the MPS by Mr Robin Field-Smith on completion of the HMIC Diversity Matters Thematic Inspection fieldwork. This stated: "However little evidence was found of a robust, structured inter-relationship between the diversity strategy and the human resources strategy. This results in confusion and difficulties in progressing some internal issues."

4.45 When Mr Hogan-Howe appeared before us, he appeared to concede that the two directorates could work better together and that structural change could perhaps be considered. "We do some good things and we could tell you a list of those things, but perhaps we could do more, and I accept that entirely ... But I think that the structure is likely to cause people to have to compensate for the gap all the time."

4.46 We support this view. We therefore believe that a change in structure would ensure that this "gap" was no longer a matter which needed to be factored into addressing workforce issues and that this would benefit the organisation.

We therefore recommend that, in addition to relocating the Employment Tribunals Unit from the Directorate of Professional Standards to the Human Resources directorate, the people management aspects of the work of the Diversity directorate are also moved to the Human Resources directorate.

Fairness at Work

4.47 Our terms of reference require us to inquire into the MPS' policies, procedures and practices for dealing with grievances and workplace conflicts.

4.48 A well-managed organisation needs to have a clear and accessible mechanism for its employees to raise issues of concern. In most organisations, such a procedure is known as the grievance procedure.

4.49 The *ACAS Code of Practice on Disciplinary and Grievance Procedures* argues that a grievance procedure is necessary because "anybody in an organisation may, at some time, have problems or concerns about their work, conditions or relationships with colleagues that they wish to talk about with management."

4.50 We endorse the view of HMIC in their report on Police Integrity (1999):

“Her Majesty’s Inspector is of the view the number of grievances can be an indicator of the health of the force. It is unrealistic to expect that with several thousand people working in an organisation there will not be some conflict, and a reasonable number of grievances suggests confidence in this very important resolution system. A force that has very few grievances reported might be an idyllic workplace or, much more likely, it may simply not have created a sufficiently healthy and safe environment for those wishing to report wrongdoing to speak out.”

4.51 In May 2003, the MPS replaced its Grievance Procedure with a new Fairness at Work policy (FAW). The policy applies to both police officers and police staff. FAW was introduced in response to a staff survey, consultation with staff support associations and recommendations contained in the Viridi Inquiry Report. The MPS decided to overhaul the previous procedure for dealing with grievances and introduce a process that was designed to be quicker and involve greater impartiality.

4.52 In 1995, HMIC recognised in its Equal Opportunities Thematic Inspection Report on *Developing Diversity in the Police Service*, that existing grievance procedures were not working effectively. In particular, HMIC noted that existing grievance procedures were under-utilised by black and ethnic minority officers.

4.53 Since the MPS introduced FAW, and after consultation with stakeholders such as the APA and ACPO, the Home Office has issued guidance to all 43 police services relating to the introduction of Fairness at Work schemes. Under this guidance, each police service is at liberty to implement its own grievance procedure with best practice compelling them to adopt minimum standards detailed in the ACAS Code of Practice.

4.54 However, the national framework differs in some important respects from the policy which the MPS has adopted. Firstly, it envisages a role for management with a stage manager, who will frequently be the appropriate line manager, taking the lead and arranging to meet the parties and their representatives once a written request for the procedure to be invoked has been received. Secondly, although a role is envisaged for facilitators or mediators, it is stressed that they should not be from the same team or workplace, other than in exceptional circumstances.

4.55 In addition, if stage one of the process proves unsuccessful, the case is then passed to another stage manager but it is made clear that seniority is an issue and that the objective is for the ‘Originator’ (within the language of FAW) “to see a senior manager and to explore, where appropriate, wider options for resolution.”
(Home Office, National Fairness at Work Procedure.)

4.56 The MPS’ FAW policy encourages line managers to take early action to resolve the concerns of their staff, with an emphasis on early resolution of issues in the workplace. This is a strength of the policy. Should such action not resolve a

grievance, the officer or staff member in question must fill in a form, outlining the issue he or she wishes to raise. It is intended that all employment related concerns should be capable of being raised under FAW.

“There are no ‘rules’ about what the matter may or may not concern. Any member of staff who feels that they have not been treated fairly or appropriately by a colleague, manager or other member of MPS staff may use the policy.” (MPS’ Fairness at Work policy.)

4.57 This leads to the appointment of a Fairness at Work Advisor (FAWA) who, in the MPS, is independent of previous attempts to resolve the issue, although under the national guidelines may be the Originator’s line manager.

4.58 The FAWA must examine the circumstances of the concern raised, with a view to resolving it, and produce a report. If the Originator is not happy with the result of this process, he or she may appeal to a Fairness at Work Appeal Advisor (FAWAA), who will look at the matter afresh. The MPS has trained 330 FAWAs and FAWAAs.

4.59 Tight time limits are intended to apply to the process, so that the entire FAW procedure is normally to be completed in less than 28 days. The evidence we have received suggests that the normal timetable may be the exception rather than the rule and the MPS acknowledges that timescales for dealing with cases are often breached.

4.60 We have received a large volume of evidence, both written and oral, in relation to FAW. The policy is relatively new and our witnesses have been divided in their views. The prevailing organisational view seems to be that FAW is a valuable new tool.

“I believe the new procedure represents a major improvement, which commands greater confidence. While it is too early to make a definitive judgment based on long experience, it is already apparent that real benefits are being derived from the new system.”
(Submission from the Commissioner, Sir John Stevens.)

“The relatively new Fairness at Work policy seems to be having a significant effect in early resolution of conflict. This is undoubtedly because of the impact of mediators from outside line management.”
(Submission from the Metropolitan Police Superintendents’ Association of England and Wales (PSAEW).)

“... the majority of the cases thus far have actually been resolved to the satisfaction of the originator. I cannot recall the percentage off the top of my head, but it is very high.”
(Evidence of George McAnuff, Fairness at Work Co-ordinator, MPS.)

“The new Fairness at Work policy and procedures adopted by the MPS appear to be delivering results, although it is still early in their development across the organisation.”
(Submission from Lord Harris, former Chair of the MPA)

"There are no disproportionality problems with the New Fairness at Work procedure, and it is being well used, although cases are taking a long time to reach completion."
(HR Directorate Strategic Assessment, Jan 2004.)

4.61 Our survey of all MPS officers and staff revealed that 65% of those who responded agreed that they were aware of the FAW policy, although respondents from the Borough Operational Command Units were less likely to be aware of the policy (59%) than those in the Deputy Commissioner's Command (76%) or in Human Resources (84%). PCSOs had the least awareness of the policy – 48%.

4.62 Of those who were aware of the policy:

- 65% agreed that they had a good understanding of what it contained;
- 77% said that they knew what procedure to follow if they had a grievance;
- 44% believe that FAW will help in mediating and resolving workplace issues; and
- 51% are confident that their manager has a good understanding of FAW.

4.63 Although awareness of the policy is relatively high, we are concerned at the low level of confidence in its effectiveness and in managers' understanding of it.

4.64 We have also received evidence from a number of individuals and staff association witnesses who question whether FAW is really working in the way that was intended. Some of the comments that have been made appear to question the degree of impartiality of the FAWAs:

"Fairness at Work doesn't work. There's a lot of bias. Everyone just seems to close ranks. That meant I didn't go ahead with my grievance as I didn't think there was any point."
(Speaker during a London Police Station visit.)

"We were forced to withdraw our support when the MPS insisted that local Personnel Managers identify and select FAWAs for their own units."
(Submission from the Trade Unions in the MPS (MET-TUS).)

"The new fairness at work procedure is only as good as the advisers and their training. It is our experience that many managers do not sit easily in the role of an arbiter and tend to be on the side of management." (Submission from the Christian Police Association (CPA).)

"It is not as effective as the previous grievance procedures, and there seems to be a very woolly process. I do not think a lot of people understand it, and also the number of Fairness at Work [advisors] is very limited, and the choice is limited. If you have a perception that that person, the Fairness at Work [advisor], is actually allied with the management or a particular part of the station, that is a bit hard for you to go to another Fairness at Work [advisor]."
(Evidence of Kashmira Singh Mann, Metropolitan Police Sikh Association (MPSA).)

"The FAW Advisor appointed was [redacted]. I was dismayed and furious for the following reason ... [redacted] is a colleague of mine ... I had previously stated in an email to

[the Fairness at Work Co-ordinator] that I was embarrassed and humiliated about discussing my past previous relationship. [He] disregarded what I said and appointed a colleague. How could I possibly be placed in a position where I was forced to discuss personal matters with someone who I work with? ... FAW advisors should not just be appointed on a whim; there should be a profiling / selection procedure to ensure the best outcome for the organisation and the individual."

(Further submission from Chief Inspector Julia Pendry (High Profile Case).)

4.65 We understand that a new FAWA was appointed in response to Chief Inspector Pendry's objections. We also understand that it is always open to an Originator to object to the FAWA who has been appointed to deal with the case and any "reasonable / objective concerns will be fully considered and if appropriate an alternative Advisor may be appointed". (MPS Fairness at Work Policy.)

4.66 Another issue is whether it is always realistic to expect a very junior officer or member of staff acting as a FAWA to challenge a senior colleague: "... we come back to the fear factor there: how do you tell a commander that his decision on a Fairness at Work case was wrong, and that he should actually have done something differently?"

(Evidence of the MET-TUS.)

4.67 Others raise wider issues about the fundamentals of the system:

"It is a big deal putting in a Fairness at Work; a Fairness at Work, in my opinion, is usually doomed to fail, because it is non-participatory unless the people wish to participate. They do not have to follow any of the outcomes that come. It is an academic exercise, so management can tick boxes and pretend they have listened. There is nothing between Fairness at Work and an employment tribunal." (Speaker at the Inquiry's Women's Forum.)

"The grievance procedure and its replacement, the Fairness at Work Policy are potentially procedures without results. Any unscrupulous individual who administers the processes can, by deciding application of policy, prevent an outcome."

(Submission from individual (IND 17).)

"I would suggest the following measure might assist in doing this: A system between Fairness at Work and Employment Tribunal that could look at complaints with the power to resolve them." (Submission from Ms GG.)

4.68 Despite the good intentions of the MPS in introducing FAW, we believe it is flawed. This is because there are two fundamental aspects of the policy which, as were pointed out to us, make the system ultimately unworkable in our view:

- concern over the impartiality of the FAWA who is appointed; and
- the advisory aspect of his / her role.

4.69 In our view, the procedure entails the snatching of a grievance out of the hands of local management (whose proper responsibility it is to resolve workplace

disputes) by someone who has no power to resolve the issue by doing anything other than encouraging co-operation and producing a report.

4.70 The MBPA has suggested that managers are not disempowered by the process because it is essentially a last resort and is only invoked after all local efforts have failed. We do not agree with this analysis. Local management is disempowered because if an Originator and manager cannot initially agree, the policy takes the issue out of the hands of the only people who have the ability to resolve it and puts it in the hands of someone who has no power to do so.

4.71 The MPS was given the opportunity of responding to our criticisms of the policy. The MPS believes that the FAW "system is highly credible and in many respects at the leading edge of improving internal working relationships". It also considers that FAW "is not only workable but a generation ahead of whatever public organisations have in place".

4.72 In particular, the MPS has told us that it does not accept that the procedure entails the snatching of a grievance out of the hands of local management because: "The ethos of FAW supports early resolution through the line management chain. It is only after all avenues for informal resolution have been exhausted that FAW can be initiated."

4.73 The MPS also contends that it is not the case that the role of the FAWA is purely advisory: "The recommendations made by an appointed FAW Advisor cannot be ignored. Overseeing the implementation of outcomes is an important part of the role of the FAW Co-ordinator: compliance with a FAW ruling is mandatory to the extent that an OCU would be directed to comply with the findings of a FAW Advisor or give an explanation of why it cannot be complied with. The explanation would then be considered by senior HR management and the recommendations either amended in the light of it or the original recommendations enforced."

4.74 Having considered the points the MPS make carefully and having reviewed the policy, we still believe that the policy is flawed. Despite the emphasis on early resolution by management, invoking the procedure (which can be done at any time) necessarily involves removing the matter from line management control.

4.75 FAWAs have a variety of functions as Advisors. Their 'job purpose and scope' is set out in the policy as follows:

"Upon appointment to examine the circumstances of the concern(s) raised. To liaise with the Originator in order to discuss an action plan to consider the concern(s). To liaise with all relevant parties including the Subject of the concern(s) raised with a view to resolving the issue(s) of concern. At the completion of their work to produce a written report highlighting the action(s) taken regarding the concern(s) raised. To communicate the outcome of their work to the originator and to all other relevant parties."

4.76 It is, therefore, clear that the policy requires that FAWAs make a written report of their findings but they lack the authority of a manager to make decisions to resolve disputes.

4.77 The Trades Unions in the Metropolitan Police Service have suggested to us that FAW had been the “last chance” for the MPS to implement a grievance policy which had the trust and confidence of the workforce and that the only option now is for external advisors to be used, as is the case in the Crown Prosecution Service (CPS).

4.78 We are informed by the Director of Human Resources at the CPS that the use of external advisors is subject to review as there are concerns about the scheme in terms of its cost, consistency and the length of time investigations can take. The CPS also wants its “managers to be more accountable and skilled in this area.” (Submission from Angela O’Connor, Director of HR, CPS.)

4.79 We share Ms O’Connor’s concern that managers should be accountable and skilled in the area of grievance resolution and therefore we start from the premise that any procedure must focus on resolution by local management. As a consequence, we do not support the MET-TUS suggestion of external advisors.

4.80 The FAW policy expressly states that: “There are no ‘rules’ about what the matter may or may not concern. It also states that “if the concern arises from another MPS policy, which has its own appeal process, the appeal process will be used in preference to the Fairness at Work Policy.”

4.81 We have received evidence of a restrictive interpretation of access to the policy which causes us concern. For example, it took one of the individuals involved in one of the Inquiry’s ‘high profile’ cases, Chief Inspector Pendry, three months and 12 days to have her ‘Form 1’ (the initial step in the procedure) accepted, as it was initially said that the issues she wanted to raise related to disciplinary matters. That is over three times as long as the *entire* FAW process is intended to take.

4.82 The MPS has told us that her case was not accepted initially because its view was that she was seeking to raise issues that had formed part of a disciplinary investigation and that only one issue she had raised was suitable for FAW. Having seen the relevant papers, we do not agree with that analysis but, in any event, we cannot see why it should have taken so long to accept part of her original complaint as suitable for the FAW procedure.

4.83 In addition, another individual (IND 14) was denied the opportunity to use FAW, as it was said the issue he wanted to raise related to promotion, which has its own appeals process.

4.84 In our view, the important feature of a grievance procedure is that it should be available for any member of staff who feels aggrieved about an issue. The national FAW procedure makes it clear that “A ‘grievance’ is so defined by the complainant, and Forces should not refuse to deal with the matter.”

4.85 Declining jurisdiction has the effect of making the individual feel even more frustrated and aggrieved and does not, in our view, represent good management

practice. To quote the HMIC's report on Police Integrity again: "staff will judge procedures by outcomes not intentions."

We therefore recommend that the MPS replaces its Fairness at Work policy with a new grievance procedure, based on the ACAS Code of Practice on Disciplinary and Grievance Procedures. The procedure should cover all workplace conflicts involving officers and staff.

Resolving disputes

4.86 Note 4 to our terms of reference asks us to consider "whether appropriate consideration is given to early resolution of grievances and conflicts, through mediation / conciliation or an internal ombudsman or other restorative justice techniques and whether there are adequate processes to achieve such resolution."

4.87 We are, therefore, asked to consider the use of mediation, conciliation, an internal ombudsman and restorative justice to resolve workplace conflicts in the MPS. We received much evidence on some of these issues but we are uncertain as to whether the concepts were always properly understood by those using the terminology and whether individuals using the same terms had the same understanding of their meaning.

4.88 We believe it might be helpful if we set out our understanding of what each involves:

- 'Mediation' is a non-binding private dispute resolution process in which a neutral person helps the parties try to reach a negotiated settlement. ACAS uses the term 'mediation' to refer to a process for tackling disagreements at an early stage and "to nip problems in the bud."
- 'Conciliation' is a process similar to mediation but in which the third party takes a more active role in putting forward terms of settlement or an opinion on the case. ACAS uses 'conciliation' to refer to a process *after* a formal claim has been lodged to try to help the parties resolve their difficulties without the need for a tribunal hearing.
- 'Restorative justice' is more commonly used in the criminal context and involves individuals taking responsibility for their own actions and finding their own solutions to repairing any damage which may have been caused. In the employment context, it has been linked closely with mediation and the parties finding a mutually acceptable settlement to any differences between them.

- An 'internal ombudsman' is a less familiar concept. An ombudsman investigates and decides complaints and disputes and is typically a route for consumers to raise concerns about services received, which may be in addition to other legal rights. We are uncertain what this means in the employment context and have received no evidence which has helped to clarify the concept.

Mediation

4.89 Since this Inquiry started work, the MPS has decided to pilot mediation. It is arranging for 50 FAWAs to be trained as mediators. It appears that it is intended that mediation will be aligned to FAW. We consider that it will be invaluable to have mediation available well before the policy is invoked and we consider that it should continue to be available whilst the dispute or conflict is ongoing.

We recommend that any pilot projects on mediation follow best practice, particularly the Northamptonshire model, and take account of the wealth of learning and experience which exists within established organisations such as ACAS.

4.90 It is necessary to distinguish between mediation as a management tool to resolve conflicts or grievances in the workplace and its use in the context of complaints against police officers, where the IPCC can consider mediation and other techniques, such as local resolution and restorative justice.

4.91 In this section, we are concerned only with its use as a management tool, an important skill for managers, either when a problem is embryonic or later once formal procedures have been invoked. We do not intend to make any meaningful distinction between mediation and conciliation.

4.92 We have already recommended that FAW be replaced by a procedure based on the ACAS Code of Practice, which will apply to both police officers and police staff. However, the ACAS Code effectively dictates the minimum framework that an employer should provide. It is, therefore, open to an employer to use other methods to attempt to resolve workplace conflicts. One such method is mediation. Its benefits include speed, privacy and informality.

4.93 The evidence we have heard suggests that it can effectively be used at two stages: before a grievance enters the formal procedure and after that formal framework has been exhausted.

4.94 However, when mediation has not resulted in resolution, the MPS will gain credit in any subsequent proceedings for the fact that it is a feature of its internal procedure and that genuine attempts have been made to seek a resolution.

4.95 Furthermore, in the light of the Employment Act 2002 (Dispute Resolution) Regulations 2004, which impose minimum requirements for handling grievances, it is now crucial that organisations have effective dispute resolution procedures. If an Applicant does not take advantage of an internal resolution procedure, he or she may be prevented from presenting a claim. On the other hand, if the employer is in breach of the minimum requirements, a successful Applicant can be awarded increased compensation.

“We would certainly favour the use of mediation, we would certainly favour the use of informal resolution where it is possible to do so. You can get into a very messy process whereby you have to go through an attempt to resolve things informally before you can take things forward formally, but it is our view that many of the matters that end up being bogged down in very formal grievance procedures or disciplinary processes could have been resolved at an earlier stage in an informal way.” (Evidence of Lord Harris, former Chair of the MPA.)

4.96 Whilst we believe that mediation should be encouraged both before and, if necessary, after the formal process has been invoked, we also recognise that it may not be appropriate in all cases and, while the regulations governing discipline are still in place, it may not be possible to engage in such a process.

“The main danger is there could be a potential serious allegation of discrimination that is actually dealt with under the grievance process and mediated away. Now that is unacceptable, and we have to have checks and balances in place to make sure that that does not happen.” (Evidence of William Pickup, HM Customs & Excise.)

4.97 We see important benefits arising from its early use, which may help save the organisation a substantial amount of energy and resource by resolving issues quickly.

4.98 This is frequently what the individuals who raise grievances and even Employment Tribunal claims really want. Ms LL, one of the individuals who gave evidence to us, was asked to identify one issue, from her submission to the Inquiry and her evidence, that she felt merited greater importance and that she would like to see included in our report:

“Early mediation. Talk to us. If I could have talked to somebody who had the authority, the power, the sanction to do something, I probably would not be sitting here today.”

4.99 We see the pilot study in Thames Valley Police as providing a useful analogy for the type of approach that we propose:

“Now there are some good examples round the country, you asked earlier; I would point you towards Thames Valley police, who have a grievance procedure which says really two things: one is that all employees are expected to resolve issues at the earliest possible opportunity, and to take some responsibility for making that happen; and secondly, that if they get stuck with the person they are trying to resolve it with, there is immediate access to external mediators who

are within the Thames Valley police structures, but are independent to line management. That seems to me a very healthy situation.” (Evidence of Philip Aspey, Deputy General Secretary, PSAEW.)

4.100 The Thames Valley example relies on mediators from within the service. We believe that this is appropriate, although care must be taken to select a mediator who is outside the OCU or part of the service in which the parties work. This should not be a problem in an organisation as large as the MPS, but we are mindful of the criticisms that we have heard about the selection of FAWAs:

“... we are an organisation of 44,000 people or thereabouts; I think we have a lot of skills within the organisation. People can be found who are independent of the particular issues and individuals in some of these cases, and I think we should make best use of the skills within the organisation before considering the external option, and of course there is the cost implication if we start to go outside on a regular basis.” (Evidence of Esme Crowther, Head of the ETU)

We recommend that the MPS carefully monitors the development of the Thames Valley pilot an mediation.

4.101 Mediation is a skill. John Taylor, Chief Executive of ACAS, told us what skills he considered were involved in being a mediator.

“I guess there are two levels of skills or attributes that we are looking for. The first one, if I could describe them, is intellectual; someone needs to have the capacity to quickly cut through the detail and understand what the issues are ...

“... the second area I would say would be about their personal skills, and it would seem to me that there are two which are crucial. One is this capacity to be objective and not to be a prisoner of the past, in terms of what your experience or what your history says. So there is an issue about objectively collecting the evidence, if you like, the facts, on which there should be no disagreement; you know, trying to get consensus on the facts.

“The second personal attribute, I think, is judgment, sound judgment, which I would say is rooted in common sense, but ... not a lot of people have got common sense. It is just the capacity to sit down and make a sensible judgment based on common sense.

“The third one is impartiality, that if the mediator cannot project themselves as being impartial, then they will have lost the confidence of either of the parties. So it is an interesting person that you are after now.”

4.102 There are various organisations (including ACAS) that can help the MPS develop mediation skills amongst its staff and we are pleased that the MPS, having seen the evidence we have received, is now exploring mediation training.

4.103 We agree with the advice that the Chief Executive of ACAS said that he would give the MPS: “It is much better for you to create your own, to train your own staff in-house”. However, we can see that there may be the occasional, possibly high

profile, case where the relationship between the individual and the MPS has broken down to such an extent that internal mediation would not be a serious proposition and that, therefore, external mediation should be tried in an effort to resolve the issue.

"... I am conscious that we keep talking about police culture, but the police culture is not particularly amenable to outside interference, if I can put it in that way, so I think the long answer to your short question is that there might be some resistance to ACAS or any other external mediator coming in and trying to mediate a solution, but if it had appropriate support at an appropriate level within the organisation, I am sure you could make it work."

(Evidence of Michael McAndrew, Secretary, MPS branch, PSAEW.)

4.104 It has also been suggested to us that a dedicated unit of mediators could be established within the MPS:

"Following the high profile nature of the Viridi case the IAG recommended that a new unit be established that would act as a specialist unit to 'troubleshoot' and provide mediation and restorative justice approaches to grievance cases."

(Submission from the Independent Advisory Group.)

We are not persuaded that formation of such a unit is necessary.

We recommend that mediators should be brought together on a regular basis to share experience and refresh their knowledge of common developments in mediation techniques.

We recommend that the MPS reviews its use of mediation to provide appropriate training to its officers and staff and to encourage its use throughout the grievance process in appropriate cases.

4.105 ACAS' formal involvement as a mediator in the Employment Tribunal process is acknowledged by section 18(7) of the Employment Tribunals Act 1996. This provides that nothing communicated to a conciliation officer in the course of the mediation process is admissible in evidence before an Employment Tribunal if that process is unsuccessful. Our attention has been drawn to the fact that, in the absence of a similar specific statutory provision in relation to grievance procedures, any notes or statements arising from the mediation process are disclosable in subsequent Employment Tribunal proceedings and any admission or apology could be relied upon in those proceedings.

4.106 Although this can act as a disincentive to engage in mediation, we do not believe the issue to be fatal to the introduction of mediation and highlight the practice drawn to our attention by Mr Hamilton, the MPS' Director of Legal Services, of:

"... other employers who operate workplace mediation schemes have a rule of 'no notes' as a mechanism of providing some protection and encouraging parties to participate fully in the

process without the concern that discussions will be referred to in any subsequent employment tribunal proceedings.”

4.107 We can see some advantage in a ‘no notes’ procedure in relation to mediation discussions but we can also see disadvantages with disputes over who said what occurring later in the Employment Tribunal. We think that it should be left to the parties to the particular mediation to agree a ‘no notes’ procedure if they consider it appropriate.

4.108 We do, however, consider that there would be an advantage in extending the protection under the Employment Tribunals Act 1996 formally to mediation discussions.

We recommend that the Department of Trade and Industry gives consideration to a specific provision extending the protection afforded to discussions involving ACAS to discussions that take place between the parties at a mediation so that the discussions become privileged.

Ombudsman

4.109 It has also been suggested that the grievance procedure would benefit from the referral of issues not capable of early resolution “to an outside body, independent of the Service, for swift resolution by either mediation or a determination binding on both the complainant and the person complained against.”

(Submission from the Commissioner, Sir John Stevens)

4.110 The MBPA argues for the introduction of an ‘ombudsperson’ and suggests that he or she would receive referrals from the FAW Co-ordinator during or after the FAW procedure. The ombudsperson would complete a report with recommendations and this will be made available to the Co-ordinator and his or her team. It would also be available to the parties but only after the FAW procedure has been concluded.

4.111 The MBPA does not believe that the majority of cases would be referred to the ombudsperson but only exceptional cases. No party would be obliged to follow his or her recommendations.

4.112 The argument seems to be that, by going outside the MPS, to an ombudsman figure, the parties would be involving an independent person who could recommend a resolution.

4.113 Mr Hogan-Howe suggested such an arrangement to deal with the perception of a lack of independence in FAW:

“This could be overcome by augmenting the standard Fairness at Work arrangements with the potential for referral to either an external figure such as an ombudsman or a recognised

external conciliation service, such as ACAS. ACAS ... could provide a valuable independent step. There might be other bodies which could also provide such a facility."

(Submission from AC Bernard Hogan-Howe, MPS.)

4.114 We are, however, not attracted to the idea. We strongly believe that managers should be responsible for resolving grievances. We think the best way for the MPS to deal with grievances is to enable managers to own and resolve them quickly on the ground by providing them with a sound grievance procedure and proper support, rather than bringing in outsiders such as ombudsmen, or even insiders such as FAWAs.

4.115 Staff confidence in both the procedures and those who are responsible for applying them is crucial. We believe that the way to create that confidence is for managers to be seen to manage fairly and transparently, treating issues that arise on their merits. We are, therefore, not persuaded by the arguments proposed in favour of an ombudsman.

4.116 Note 4 to our terms of reference ask us specifically to consider the use of an *internal* ombudsman. The evidence we have referred to above deals solely with an external ombudsman. However, the reasoning we have used to reject the notion of an external ombudsman applies with equal force to an internal one.

Employment Tribunal claims

4.117 We would emphasise the need to adopt strategies to attempt to resolve issues before the employee feels he or she needs to take legal proceedings, whether that is through a sound grievance procedure, mediation or some other route.

4.118 However, it may not always be possible to avoid an Employment Tribunal claim and it is important that the lodging of the claim does not mean that those involved focus on handling the legal proceedings, to the exclusion of continuing to attempt to resolve the issues involved. We endorse the following extract from *Learning the Lessons from Employment Tribunals*, a joint publication from the Home Office, the Police Federation, ACPO and the PSAEW, which was published during the course of the Inquiry:

"By asking an Employment Tribunal to determine a workplace dispute a Force will have failed its workforce. Although people appear before an Employment Tribunal in order to get an acknowledgment that they were right, there are no real winners. Appearing at an Employment Tribunal is a traumatic experience for all concerned, and is costly in terms of money, publicity and careers ... There should be a duty on everyone to ... come to the table to resolve complaints."

4.119 It is also important to understand what an Applicant may be seeking by way of resolution. It is sometimes assumed that the motivation for lodging a claim is

money. Whatever the reason, management should not use that assumption as a reason for failing to attempt to resolve the matter.

4.120 In fact, all the Applicant may want is an apology or an acknowledgement that something has gone wrong and that he or she has not been treated fairly. Often a motivation is to ensure no one else suffers what they have experienced.

“It is actually all right to be wrong in terms of dealing with a subjective area like employment relationships. What is not all right is to not admit that you are actually wrong, and put the thing right.” (Evidence of John Taylor, Chief Executive of ACAS.)

4.121 *Learning the Lessons* identifies a number of different ways of resolving a dispute on an informal level and these are just as relevant once a claim has been lodged. They include an apology, policy revision, addressing a personal need (e.g. different working hours), special leave, transfer or simply some acknowledgment that feelings have been hurt.

4.122 In our view, it is always important to continue to try to resolve a case, once a claim has been lodged. Not only does this represent good management practice but it is often the case that what the Applicant wants is not something which an Employment Tribunal could order.

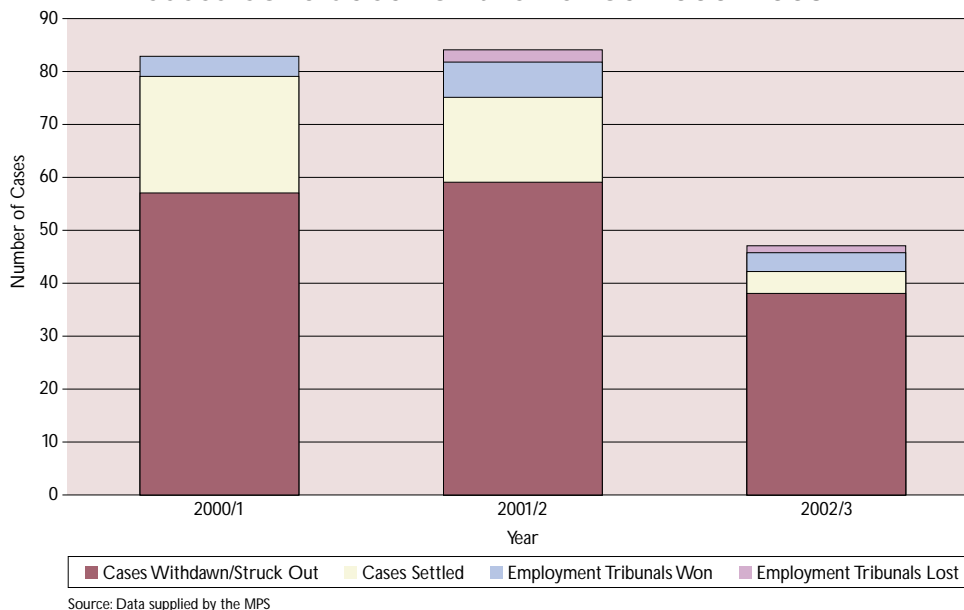
4.123 On the positive side, an Employment Tribunal claim can provide a valuable opportunity for any organisation to learn lessons about its own procedures and management processes. However, this depends on there being a formal opportunity for a debriefing which ideally should involve all those involved. The value of a debriefing is not confined simply to Employment Tribunal cases, any workplace issue or dispute should be examined in this way to see if lessons can be learnt for the future.

4.124 We have been told that the total number of Employment Tribunal cases received by the MPS between 2000 and 2003 was 97 (2000/1), 95 (2001/2) and 71 (2002/3).

4.125 This is not a particularly large number in view of the size of the organisation but it must be borne in mind that police officers only have a right to claim race or sex discrimination at present.

4.126 It is therefore likely that the earlier recommendations of this report will, if accepted, increase the number of Employment Tribunal cases brought against the MPS, as officers gain means of redress which are not currently open to them. It is therefore important that the Service has an effective system for dealing with grievances and workplace disputes with a view to resolving them before an Employment Tribunal claim is lodged.

Figure 5 Outcome of Discrimination Employment Tribunal Cases Concluded for the Period 2000–2003



4.127 We have commented above about where we see the ETU best placed structurally within the organisation and we think this will help address perceptions about the manner in which the ETU operates.

4.128 We have received a number of criticisms about the interaction of the ETU and Directorate of Legal Services (DLS). Indeed, right at the start of the Inquiry, our commissioning body, the MPA, expressed concern about what it called the “widely held view that decision making is driven by legal advice, and that the legal advice tends to be overly defensive and insensitive to wider issues of community relations. It is not clear to the Authority that the client function within the MPS is robust and mature enough to be able to challenge legal advice and make a considered judgement what is best for the service”. (Submission from Lord Harris, former Chair of the MPA.)

4.129 We subsequently received comments from other organisations and individuals which supported this view.

“It seems that the blinds are brought down, everybody gets behind their own barriers, and leaves it – you know, the solicitors go out and do the fighting, you stay behind the barrier where it is safe, because you do not want to step out of line, you do not want to be seen to be making some headway to try and solve the issue.” (Evidence of Ms LL.)

“The attitude of the DLS seems to be that the MPS must adopt a ‘win at all costs strategy’ at all times and, if the case cannot be won in a legalistic sense, the Applicant should be dragged through an extensive Tribunal process before being finally presented with an offer to settle at the eleventh, if not twelfth, hour. Whilst there may be some arguable legal justification for such an exercise, there seems to be little consideration of the effect that this

process has on Applicants and their subsequent retention within the MPS in any meaningful capacity following the conclusion of the Employment Tribunal process.”

(Submission from the MBPA.)

“Our experience having represented many black staff and been involved in their race discrimination claims shows that the lynch pin behind a majority of disputes spiralling out of control is the intransigence and dogmatic manner which this department treats members of the Metropolitan Police Service.” (Submission from the NBPA.)

“The Directorate of Legal Services should be held to account for aggressive and ‘defend at all costs’ mindset which preoccupies its current culture and is indicative of police legal departments nationally.” (Submission from the NBPA.)

4.130 However, having received evidence from both Esme Crowther, the Head of the ETU, and David Hamilton, the Director of Legal Services, we are not persuaded that either service is performing its respective role in anything other than the correct manner. Staff in the ETU are extremely experienced in dealing with Tribunal cases and David Hamilton outlined his directorate’s approach as follows:

“DLS lawyers are instructed to maintain objectivity and take a realistic merits based approach to their cases. Strong or deserving claims are identified as soon as possible. The MPS endeavours to settle them swiftly. However, DLS will recommend defending those claims where important points of principle are at stake, and/or the MPS has a good prospect of winning.” (Submission from David Hamilton, Director of Legal Services, MPS.)

4.131 This is clearly the correct approach to take. The MPS must, of course, assess the merits of each claim when it is received, and then proceed quickly either to resolve the issue where the points made are good, or to defend the organisation if they are not.

4.132 One of the key recommendations in *Learning the Lessons* is that “Lawyers should advise and Managers decide.” We completely agree with this approach and it seems to be consistent with how the MPS deals with Employment Tribunal cases.

4.133 We believe that the criticisms of the way in which the ETU and the DLS interact may largely arise from perception and perhaps also a misunderstanding of the role of an in-house legal service:

“I entirely understand the perception of applicants and those who represent applicants that somehow the proceedings are being driven by lawyers because of course we are the ones who go along to tribunals for directions hearings, full hearings, we are the ones who actually send the letters. But we are not the decision-makers.”

(Evidence of Sandra Burrows, Assistant Director of Legal Services, MPS.)

4.134 We think the changes we have proposed to the location of the ETU will assist in changing these perceptions.

We also recommend that the Director of Legal Services invests time and resources in explaining the directorate's work, and how it operates, to a wider section of the organisation and to the Metropolitan Police Authority.

Indeed, some form of regular bulletin might be valuable both as a source of useful information for stakeholders and as a public relations tool for the legal service.

4.135 As part of our work, we reviewed approximately 60 Employment Tribunal case files spanning a three year period, 2001 – 2004. The purpose of the exercise was to obtain an understanding, where possible, of the procedures and practices adopted by the MPS when dealing with claims.

4.136 We are acutely aware that there is often deadlock between the parties once a claim has been lodged and that it is frequently difficult to get to the root of a problem at that stage. Nonetheless, greater effort can be made on both sides to continue to seek settlement even though a Tribunal hearing may seem inevitable.

4.137 Whilst we do not claim to have carried out a scientific or statistically valid exercise, the following findings highlight areas for improvement and examples of good practice.

- *Understanding the 'real' reasons for the Applicant's claim.* There needs to be a greater understanding of the reasons why the Applicant has lodged a Tribunal claim. Sometimes the claim arises out of a minor dispute, which because it has not been dealt with, has festered and developed into something which is more serious. The ETU and HR directorate would be better able assist in resolving the dispute if they had a short written summary of the Applicant's initial complaint before the lodging of the claim and a summary of any management action and / or response.
- *Timeliness.* Many cases we looked at took far too long to conclude. There is a greater need for both sides to ensure that intervals between the various stages in preparing the case are kept to a minimum.
- *Greater use of advice from the ETU.* We noted that some files contained written advice from the ETU on the issues central to the claim. We would have liked to see this more often. Often the advice was of a high standard and comparable to that of external counsel. Wherever possible, such written advice should be obtained at an early stage after consideration of the summary from Applicant and management. This would allow the parties to concentrate upon the central issues for settlement whilst fulfilling the procedural steps necessary for the Tribunal.
- *Greater use of informal discussions between the parties during preparation of a Tribunal case.* Arranging meetings in a busy police service is difficult even when there is no conflict. However, we have found that there is an

increased chance of resolving the dispute where the parties actively communicate with each other. The tendency to get on with preparing the Tribunal case and to abandon further settlement discussions should be resisted.

- *Does the Applicant simply want an apology?* In a number of the cases we looked at, the Applicant made it clear from the outset that he or she was merely seeking an apology. It is not possible to lodge a claim simply to obtain an apology. These cases might have been settled earlier and more economically if management had been prepared to admit to errors and apologise. We found evidence of the 'blame culture' we have referred to elsewhere in this report.
- *Learning lessons from Employment Tribunal cases.* We consider that it would be helpful to the MPS if a pro forma were to be kept recording the reasons for settlement. There is a need to monitor management practice and responses to workplace conflicts to ensure that proper steps are taken to resolve disputes at an early stage. In addition, where things go wrong (which is inevitable) lessons can be learnt. Annual reviews of trends and lessons to be learnt from Employment Tribunal cases should become common practice within the MPS. We are greatly encouraged by the MPS' response that they already do this.

4.138 We are asked in note 5 to our terms of reference to consider "whether there should be arrangements for employment tribunal claims, particularly those involving allegations of discrimination or harassment, to be subject to independent review as part of the MPS handling of such cases, in order to encourage and facilitate efforts to achieve resolution by agreement."

4.139 While we have not received extensive evidence on this point, we are firmly of the view that the MPS should manage its own disputes and problems without involving external assistance. We are, therefore, not persuaded that external review would assist the organisation in the long term.

Chapter Summary

This chapter deals with:

- ▶ Recognising the importance of managing difference
- ▶ Managing difference
- ▶ The MPS' approach to managing difference
- ▶ The views of MPS officers and staff
- ▶ How the MPS manages difference in the workplace
- ▶ The Diversity Excellence Model
- ▶ Disproportionality in managing conduct
- ▶ Disproportionality in complaints and discipline

“ Rhetoric needs to be converted into reality.”

Introductory Booklet on the Diversity Excellence Model

Recognising the importance of managing difference

5.1 Before we comment on the approach of the MPS to managing difference, we consider it helpful to examine the reasons why the MPS and other public and private organisations should place much emphasis on issues of diversity.

5.2 ‘Diversity’ can be a valuable organisational tool which allows the organisation to state its values and deliver its message and mission. It demonstrates that the organisation sees people as individuals with a set of individual characteristics which should be understood, respected and valued.

5.3 It goes without saying that there is a strong moral case for an organisation to respond to individual needs but there is also a strong business case, which includes:

“Widening the pool of potential recruits, improving service delivery to diverse groups by increasing the diversity of staff and meeting the requirements of legislation.”

(Directions in Diversity, the Audit Commission)

5.4 However, managing difference is not just about having a policy. A policy cannot be a substitute for action. Process, however important, is in reality a means not an end and must never eclipse outcomes. Achieving outcomes requires leadership and commitment at all levels of the organisation.

5.5 Any organisation which is not focused on managing difference will risk failing to meet its legal obligations and, most importantly, non-delivery of high quality services.

5.6 For the MPS, the consequences are even more serious. Without the right approach, it will not achieve its aspiration of becoming the employer of choice in London but, even worse, there is a danger of the real advances it has made in policing the capital being thrust into reverse.

Managing difference

5.7 When we use the term ‘managing difference’ we are not simply referring to managing people. The concept is much wider and also refers to strategic management, as well as managing resources, reputation, risk, communications and, of course, service delivery.

5.8 We endorse the Audit Commission's view that:

"Action on diversity and equality must be managed effectively. This means:

- addressing the agenda at strategic and policy levels;
 - active top level management support: 'walking the talk', not just lip service;
 - middle management buy in; building diversity issues into management as well as strategic objectives;
 - mainstreaming diversity into organisational strategies, planning and performance, objectives and targets;
 - a co-ordinated and varied package of procedures within employment and retention, training and other HR areas;
 - training to include not just awareness, but understanding to achieve 'cultural competence';
 - recognition of the needs of the different groups or people who are in receipt of goods, facilities and services and having procedures in place to meet those needs;
 - monitoring the implementation and outcomes of diversity initiatives to measure and evaluate effectiveness;
 - involving service users and consulting them and diverse staff groups when changing practice; and
 - perhaps, above all, determined and passionate leadership."
- (*Directions in Diversity*, Audit Commission, 2002.)

The MPS' approach to managing difference

5.9 The MPS has made great strides since the Macpherson Report into the death of Stephen Lawrence. It has provided a significant response to its statutory duties under the Race Relations (Amendment) Act 2000, as a public authority, to eliminate unlawful racial discrimination, to promote equality of opportunity and to promote good relations between persons of different racial groups.

5.10 No witness from whom we have heard has criticised the way in which the MPS now approaches diversity issues in relation to operational policing and this is undoubtedly due to the personal commitment of both the Commissioner and the Deputy Commissioner, together with the work of many individuals throughout the organisation and the major training and awareness raising programmes developed over recent years.

5.11 We accept that, to quote Lord Harris: "The MPS leads the field in policing in many aspects of diversity, following the McPherson [sic] Report. It has developed effective models for managing critical incidents, improved family liaison and victim support practices very well. Much of this does not get the public recognition that it deserves."

5.12 However, it is five years since Lord Macpherson delivered his report, and this Inquiry provides a valuable opportunity to assess the progress of the MPS in

implementing the diversity agenda internally against the background of its achievement in operational policing.

5.13 We have heard much about the MPS' approach to diversity. Indeed, it has dominated the evidence we have received. We appreciate that extensive work has been undertaken both in developing the MPS' policies in this area and in trying to implement them across the organisation. We do not doubt the sincerity or the commitment of those involved; indeed, we commend it.

5.14 However, in relation to managing difference in the workplace, the evidence we have heard has left us with a number of concerns:

- we consider that the focus on a multitude of initiatives, however well intentioned, has led to the message becoming diluted rather than the management paradigm we see as essential;
- whilst the policy has been driven hard from the top of the organisation, commitment at lower levels is not universal;
- the evidence we have received indicates there is no common understanding of diversity within the MPS, the lack of which leads to confusion;
- we consider that the confusion we have detected about what the MPS means by diversity could result in the concept being devalued, leading to some of the efforts of the MPS to promote its message becoming counter-productive;
- managers are fearful of issues of diversity and lack confidence in managing situations where difference is an issue. This is partly due to the fact that when they get it wrong they are not challenged or coached through the process; and
- we have detected what we think are the beginnings of a backlash. We are concerned at the fact that a number of white officers have lodged Employment Tribunal claims in recent years claiming discrimination on grounds of race.

5.15 The concerns to which we have drawn attention may have detracted from the significant advances the MPS has made since the Macpherson Report. The MPS now needs to refresh and renew its approach to managing difference.

5.16 It is not appropriate for this Inquiry, or any other third party, to tell officers and staff in the MPS how to address the problems we have identified. Through the evidence offered to us we are able to identify some of the issues to be addressed and we have made appropriate recommendations, but, in the end, the MPS needs to manage the process and own the solutions.

5.17 Whilst we completely accept the value of diversity as an organisational tool, we are concerned that, improperly applied, it can be a liability rather than an asset and allow managers who are reluctant to manage to evade their responsibilities.

The views of MPS officers and staff

5.18 We have already referred to the major training programmes that the MPS has run over recent years to raise awareness of diversity issues. However, the evidence we have received indicates that some officers and staff may not have a real understanding of issues relating to difference.

5.19 On one hand, the findings of our survey indicate that the vast majority (83%) of those who responded agree that they have a good understanding of what is meant by diversity, and 81% say that they understand why diversity is important to the MPS. However, other responses in this area are less positive.

5.20 The analysis of this data was greatly assisted by the fact that the Work Foundation, who devised and analysed our survey, have a database of benchmark scores which reflect the results of all the various public and private sector organisations for which they have conducted similar surveys. For example:

- 54% agree that the MPS treats people equally regardless of their gender. (This gives a 'mean' or 'average' score of 0.25 which compares with a benchmark score of 0.72);
- 49% agree that the MPS treats people equally regardless of their ethnicity. (The mean score here is 0.14 compared with a benchmark of 0.78);
- 46% agree that the MPS treats people equally regardless of disability. (This is a mean score of 0.34 compared with a benchmark of 0.79);
- 51% agree that the MPS treats people equally regardless of their age. (This is a mean score of 0.34 compared with a benchmark of 0.68); and
- 53% agree that the MPS treats people equally regardless of their sexual orientation. (A mean score of 0.41 compared with a benchmark of 0.83).

As these figures show, the mean scores fall well below the benchmark scores for responses to similar questions for other public and private sector organisations.

5.21 The MPS has suggested to us that there "could well have been some confusion over what these questions meant". We do not share that view.

5.22 However, 56% agree that the organisation demonstrates that it values the diversity of its workforce. This score exceeds the benchmark (0.55 compared with 0.43) but nonetheless indicates that only just over half of those who responded agree that the MPS values the diversity of its staff.

5.23 The Inquiry notes, with interest, the difference between the evidence on the generality of understanding when compared with responses on the specifics of treatment.

5.24 We are also concerned that the evidence we have received suggests that, for many in the MPS, diversity equals race, rather than respect for difference of every kind.

"I think a lot of people, when you say 'diversity', will immediately think 'people of colour', that is the first thing they think of, and they forget that you have got – you know, the broad spectrum of the populace of London in particular, being everything."

(Evidence of Franco Iannelli, Police Anglo-Italian Association.)

5.25 The MPS seems keen to take all opportunities to draw attention to its commitment to race-equality:

"A friend of mine who is a black officer has had pressure to join the BPA. He just wants to do his job. He gets pushed to the front in photos or if there is a visit. He finds it annoying and offensive." (Speaker during a London Police Station visit.)

5.26 Our survey also demonstrated that officers and staff think race has eclipsed other aspects of difference. Only 32% agree (and 38% disagree) that the MPS is placing equal emphasis on all aspects of diversity not just focusing on ethnicity issues. (Benchmark scores are not available for this question.) But non-white respondents are more likely than the white majority to think that the balance is right.

5.27 Responses differ amongst officers and staff of the different religions but responses are negative regardless of sexual orientation. Respondents with disabilities are significantly less likely than the average to agree that the MPS has got the emphasis right.

5.28 In addition, it now seems to be generally accepted that issues of gender have been somewhat neglected in recent years:

"There is a widely held perception that gender has not featured sufficiently in diversity training thus far. This may, in part, be responsible for an apparent willingness in parts of the MPS to condone, or at the very least, ignore sexist banter and language."

(Submission from the MPS Association of Senior Women Officers.)

5.29 However, we note that, since we began work, and presumably in response to some of the evidence we have received and the discussions at our hearings, the MPS has begun to redress the balance and renew efforts to address issues which are relevant to its women officers and employees.

"We have been having a large number of women officers and police staff officers coming to sessions where – I have been shocked, I will tell you. There is a woman officer... who was at the Yard and then went back to a station in [redacted] London.

"... I have been absolutely shocked as to some of the language that is being used down at this particular station, the chauvinist attitude, which I think has pushed us back to the time when I first worked in Northumbria, for instance, and we will not put up with it.

"I can tell you now we will get to grips with this, because, for the right reasons, I think we have been focusing on race, for the right reasons, no one can criticise that, and I have to say I think we have taken the eye off the ball in relation to the way women officers and women staff are

treated in this organisation, and it will stop. I am determined to stop it. You cannot treat people in the way that I have been hearing about for the last five months. Outrageous behaviour; outrageous comments; scandalous. And it will stop, because if not, any issue would be like corruption, they are out, as far as I am concerned.” **(Evidence of the Commissioner, Sir John Stevens.)**

“I have recently invited Carole Howlett to set up a commission on the experience of women as employees of the MPS, work which is only just beginning. This indicates, I hope, the way in which the MPS is continually striving to make changes in the way in which a modern organisation can be expected to do.” **(Submission from the Deputy Commissioner, Sir Ian Blair.)**

5.30 We have also received evidence that would indicate that other aspects of difference may have been as, or perhaps even more, neglected. Indeed, we received evidence from representatives of the various staff support associations who expressed concern about the MPS’ insensitivity to their beliefs, needs, contribution and even their existence.

“The lack of understanding – I do not mean to sound like mindless whining, but even to the point of, say, food. If you do not eat certain types of food and you are dealing with a riot, or you have been asked to do aid, and in that box is food that you cannot eat, and you have gone along and you have had your feeding and there is food there that you cannot eat at the feeding, except for maybe a banana, then you are going 12 hours without eating.” **(Evidence of Josephine Poole, Jewish Police Association.)**

“... an example is there is a disability fair being held at Scotland Yard, across the road, today, where a number of disabled charities have been invited to come along, and staff can come in and meet them. The Disabled Staff Association have not been invited to it, or offered to set up any stands or anything, and that would have been an excellent opportunity for us to work in partnership with disabled charities, and also for our staff to see that they have an association, but we have just been ignored ... the organisation has not bothered.” **(Evidence of Mr PP.)**

“We had more complaints coming into the Gay Police Association, because officers were being told, for example, ‘When you stand up in class and give this pen portrait of yourself’, which some people find very, very difficult – one example was, ‘Excuse me, love’, and this is from one of the instructors, ‘You have not said, married, single, what is going on?’ And she said, ‘I am single’. She was most unhappy about that, because when she then phoned the GPA, she said, ‘Well, that is my first lie in the police, because I am not single, I happen to have a same sex partner, but I was not able or prepared or willing to divulge that in those circumstances’, and so forth.” **(Evidence of Kevin Boyle, Gay Police Association (GPA).)**

“It is not uncommon for a committed Christian member of staff to be ostracised or treated with suspicion if they mention their faith to their colleagues. There are examples of staff being bullied and prevented from promotion. This applies to all ranks and grades across the M.P.S. and across the Police service in general. Many because of fear will remain silent and their full talents within their role are not fulfilled. Blasphemous comments and jokes about religion (that also offend Muslim and Jewish staff) are littered in everyday job speak.” **(Submission from the Christian Police Association (CPA).)**

5.31 We understand, given the recent history of the MPS, why race may have commanded such a high priority and we recognise the efforts that have been made to implement the findings of the Macpherson Report. However, we believe that it is now timely for the MPS to move forward with this agenda and to manage all areas of difference effectively. To quote Mr Hogan-Howe in his evidence to us:

“I think probably we have come to a point where we need to make clear what diversity means for us and whether we say specifically it is not just race, or whether we say these are the other things, that it also means disability, gender. You must consider this as a really important issue. I think it is in the message that it is time to move on.”

5.32 The eclipse of other issues of difference by race may be a national failing.

“It is our view that the issue of ‘diversity’ in Forces has been progressed on a reactive, piecemeal basis at senior level. Each ‘issue’ appears to be treated in turn and in isolation. There appears to be no appreciation at senior level of the benefits of mainstreaming fairness and equality throughout the Service. Rather there has been a ‘tick-box’ mentality to the delivery of equality and diversity targets. It does not run as a golden thread through all policies and practices. There is a focus on systems management rather than people management.”
(Submission from the National Police Federation.)

5.33 We also consider that, in certain respects, the emphasis the MPS has placed on diversity in recent years has led to a culture of ‘ticking boxes’; that is, allowing people to act in a way which goes through the motions and implies a commitment to valuing difference but which lacks any real substance.

5.34 An example that was drawn to our attention was the establishment of the Disabled Staff Association. The MPS encouraged staff to form such an association and facilitated its recognition as an official group but we were told by one of those involved that:

“I feel very much that we are like a tick box, that they have felt that we need to have a disabled association set up, and now it has been set up, we will not support it, we will not help it or empower it in any way, it is just there, and we have our token disabled people that we can now wheel out to the press any time we like. That is how I perceive it.” (Evidence of Mr PP)

5.35 The danger of diversity becoming a tick box exercise appears to have been recognised at a senior level within the MPS: “I think there have been some ticked boxes.” (Evidence of the Deputy Commissioner, Sir Ian Blair.)

5.36 We have received evidence that things are changing, but it is clear that much change is needed and at a much faster pace to permeate through the MPS.

“We understand it takes a while to bring that change about, and with [the Association of Muslim Police’s] help and our help and with the Sikh Association’s help, there have been changes. And there is a learning curve, they are learning, they are opening their doors and learning, but it is not filtering down, it is not – yes, here, at New Scotland Yard, they understand it now, but it is not going sideways.” (Evidence of Josephine Poole, Jewish Police Association.)

5.37 On the other hand, we have also received evidence that the needs of the white majority may have been neglected in recent years:

"The Job's got to be seen to be reflective of the community. But it needs to slow down a bit and look at white officers, they are forgotten about." (Speaker during a London Police Station visit.)

How the MPS manages difference in the workplace

5.38 A number of people have commented on the difficulty within the MPS of managing situations where difference is an issue.

"I suspect that part of the difficulty is the way in which the Met responds when there are issues of race, or indeed other diversity issues, involved in particular cases. There is a sense that, you know, the rabbit is frozen in the headlamps, and as a result there is an overcompensation, 'We must review this really thoroughly, we must do more', rather than, again, managing things at the earliest possible stage in the way any good manager would try and resolve issues and deal with them appropriately." (Evidence of Lord Harris, former Chair of the MPA.)

5.39 Lord Harris was speaking about the way the MPS handles conduct issues in particular but this 'rabbits in the headlights' analogy clearly struck a chord with others.

"People freeze every time they hear the word race." (Speaker during a London Police Station visit.)

"The perception is that if someone is not good at their job, if they are VEM or a woman, managers won't manage." (Speaker during a London Police Station visit.)

5.40 We have received compelling evidence that many in the organisation are not yet confident with, or do not fully understand, the principles of managing difference. Indeed, many are fearful and anxious when faced with issues of difference, particularly at more junior level. This means that in parts of the MPS there is now a culture of 'management by retreat'.

"... if senior management and very senior management support and are open-minded and want to learn about different backgrounds and effects, that is wonderful, but you still cannot get rid of the fear factor in the lower ranks; and they fear change, they fear difference. They would fear me because I am a woman, they feared me because I was 40 when I joined the police service, and they feared me because I was Jewish. So I had the three fears." (Evidence of Josephine Poole, Jewish Police Association.)

"Unfortunately, people are afraid to manage. They want to tick boxes when it suits them. Suddenly diversity is a buzz word when promotion time comes around. The number of enquiries we get, 'Oh, Mahommed, can you tell us a bit about diversity? I have got my promotion interview tomorrow'. That is not what diversity is about." (Evidence of Mahommed Mahroof, Association of Muslim Police.)

“The organisation can't deal with difference. Most officers are white upper working class by background. They have no experience of different groups. Their first experience of different groups will be negative – arresting someone.”

(Speaker during a London Police Station visit.)

5.41 Some management inaction could be interpreted as indifference to the issues rather than fear.

“I was diagnosed with Osteoarthritis of the hips, and in August that same year, I went on sick leave. I returned to work in December, and was posted to permanent control room duties at [redacted], which was my OCU at that time. In June 2002, I was then transferred to [redacted] to take up the post of OCU armourer. I remained there until [redacted]. I was very content in this post, as it involved light office-based work, as recommended by the CMO (Chief medical officer) at that time, [redacted]. Whilst at a CMO appointment last year, I had occasion to raise a matter of concern with him. I mentioned that travelling to work on public transport was now becoming a health issue. The reason for this was that I had to stand on trains and the underground system for my entire journey, which is 23 miles. He made a recommendation to [redacted], that a suitable transfer to a division nearer home would cut down my travelling time and distance, and therefore reduce the amount of daily pain and discomfort I was suffering. To date, that recommendation has gone no further. As far as I'm aware, enquiries were made at several boroughs, and the problem, (so I was told) was either down to my bad sick record, or budget. That means I will still have to make the daily journey as before, still suffering from the same disability problems ... I am then informed that I was being transferred to [redacted] based in [redacted] for 3 months, to assist them with Operation [redacted], which began on [redacted]. I asked if I had an option on this matter, and you can guess what the answer was. Management insisted that I was the only 'sick' officer available, even although there were other officers placed on light duties. I was then faced with the dilemma of having to travel even further to work, and as you can gather, this did my disabilities no favours whatsoever. What ever happened to going to a division nearer home ... I was sent further away! As it turned out, I enjoyed the attachment, and managed to secure a further 3-month extension. But that does not get away from the fact that management did absolutely nothing to aid my disabilities.” (Submission from IND 50.)

“‘S’ [redacted] had a CPA poster next to his desk which was set on fire, local management declined to do any action. Again such inaction by managers on this occasion perpetuates the belief that they do not care. It is not an uncommon experience for Christian literature to be defaced or removed from notice boards.” (Submission from the CPA.)

5.42 We have even received evidence of what appears to be direct discrimination. This is predominantly in the area of complaints and discipline which we will deal with in more detail later in this chapter. However, there is other worrying evidence:

“‘E’ was informed not to bother applying for a post because Christians were not welcome.” (Submission from the CPA.)

5.43 The results of our survey are also interesting in this area. 71% of respondents say that they *personally* feel confident in dealing with diversity issues but only 31% agree that managers are confident in dealing with diversity issues. Furthermore, only 34% are confident that managers are following the right process and procedures when dealing with diversity issues. (No benchmark scores are available for these questions.)

5.44 Whilst it is encouraging that such a high percentage of individuals say they are confident in dealing with diversity issues, it is less encouraging that only a third are confident that managers are following the right processes and procedures and agree that managers are confident in this area.

5.45 The apparent difficulty of some officers and staff to feel at ease and to be confident with colleagues who are different, whether because of some personal attribute or characteristic, or even simply because they are a member of police staff and not an officer, can lead to a disproportionate response when management issues arise.

5.46 We have received evidence that officers dealing with difficult cases involving issues of difference have not been supported by senior officers.

Case Study – High Profile Case (HPC) 3

A man received homophobic threats and intimidating telephone calls, letters, and blackmail. A Detective Sergeant was appointed as the Investigating Officer because his manager considered that he, as a gay man, would be able to build a rapport with the victim and offer support.

A close friend of the man then received threatening telephone calls and a homophobic fax. The man himself also received a further threatening letter. The Detective Sergeant identified two suspects. Following interviews and a review of the evidence, they were both served with anti-harassment notices and released without charge.

Shortly afterwards, the Commissioner received a complaint about the arrest. The letter asked for a written apology to the individuals. This letter was passed to a senior officer within the MPS, who decided to meet with the individuals concerned instead of treating the letter as a formal complaint. At the meeting he agreed to write a letter of apology to Mr A and Mrs B despite the fact that the complaint had not been investigated.

When he found out about the apology, the Detective Sergeant formally raised his concerns. Ultimately, the senior officer apologised to him, acknowledging that his investigation was of a high professional standard and that his integrity had never been in doubt.

5.47 It appears to us that this unfair treatment of the Detective Sergeant concerned was due in part to the apparent desire of the senior officer to appease influential members of the community. Instead of dealing with the complaint fairly and carrying out an investigation, the officers involved seem to have panicked in the face of a homosexual officer dealing with a homosexual victim and rushed to apologise for conduct which was in fact entirely professional.

5.48 We have already referred to one example of box ticking in relation to managing difference. Mr Mahroof, of the Association of Muslim Police, does not appear to be alone in being sought out at certain times:

"... in my last job, at [redacted], I had a colleague who was gay and very into diversity and very knowledgeable, and whenever they wanted to know about diversity, they used to come and communicate with him, and after that, they did not communicate with him, so just to give you an idea. He found that very amusing." (Evidence of Josephine Poole, Jewish Police Association.)

5.49 If dealing with difference can be reduced to a box that has to be ticked when a promotion board is on the horizon or at other significant times, it is not truly embedded in the organisation and managers in the MPS are not likely to understand how to get the best from the people they manage.

5.50 The Deputy Commissioner has made clear where the MPS wishes to be.

"... diversity is the only agenda possible for the future. It is just as straightforward as that. And when I say that, I really want to make clear this point: this is not just a moral issue, although it is a moral issue: it is actually a purely brutal business case. The Met is the largest single employer in London. If we do not make ourselves the employer of choice within our financial ranges for Londoners, we will not get the people we need. And I am utterly determined that the service should be welcoming to everybody. If it is not welcoming to everybody we will just not get the best people." (Evidence of the Deputy Commissioner, Sir Ian Blair.)

5.51 We support the aspiration of the MPS to become the "employer of choice" and agree that realising this ambition is key to delivering excellent policing to the people of London. We are nevertheless concerned that at present the overall approach of the MPS is not managing difference in a way which will enable it to achieve its goal.

5.52 The paradigm of managing difference must be turned into concrete action and be the golden thread which runs through all areas of MPS activity. We are concerned that this is not the reality at present, and unless the organisation's approach to managing difference is reviewed, diversity will remain poorly understood and remain a tick box exercise for a significant part of the organisation.

5.53 In reaching this conclusion, we wish again to recognise the genuine commitment and efforts of many officers and staff in the MPS over the past few years. The policy is right; it is the approach which needs to be reviewed.

5.54 An approach needs to be devised which engages all within the workforce of the MPS community which would overcome the cynicism and resistance we have seen. This approach would emphasise that diversity encompasses all aspects of difference, including gender, faith, disability, sexual orientation and transgender issues, as well as race. It is as applicable to the majority group as to minorities.

5.55 Officers and staff must become more confident with discussing issues of difference on a daily basis as part of their normal interactions with colleagues in the workplace.

We recommend that the MPS gives adequate priority to all aspects of diversity, particularly in light of the Framework Equal Treatment Directive 2000.

We recommend that the MPS refreshes and revitalises its work in managing difference and devises a way of truly engaging all officers and staff on this important issue.

The Diversity Excellence Model

5.56 One tool that has been suggested to us is the Diversity Excellence Model (DEM). Devised by the civil service, the DEM provides a framework to assess the integration of diversity in an organisation's business processes and to evaluate its effectiveness.

5.57 The assessment tool is a detailed questionnaire which enables assessors to find out what their organisation is and is not doing in respect of equality and diversity and whether they are at the stage of moving towards best practice or excellence.

"Rhetoric needs to be converted into reality."
(Introductory Booklet on the Diversity Excellence Model, Centre for Management and Policy Studies.)

5.58 HMIC has recommended the use of the DEM. Members of the MBPA executive have been able to introduce the DEM in their respective OCUs. The MBPA argues that these pilot sites "have shown the merits of having a 'diversity lead' in each of the MPS business groups who will feed directly into the Diversity Directorate, carrying out numerous internal and external benchmarking exercises to ensure the exchange of good practice and the raising of standards; thus developing the lateral golden thread of diversity among the business groups."

5.59 We understand that the DEM is now operating in the Child Protection Team, the Information directorate, Special Operations and Westminster BOCU.

5.60 We welcome the progress that appears to have resulted from the use of the DEM and the work of the 'diversity leads'. The model seems to be an effective tool. However, we believe that the 'golden thread' will only be when all officers and staff in the MPS see managing difference as part of their individual responsibility, rather than the work of designated champions.

We also recommend that consideration is given to extending the Diversity Excellence Model to other Operational Command Units and directorates. However, we would recommend that its implementation be kept under review to guard against it becoming another 'tick box' exercise.

Disproportionality in managing conduct

5.61 The lack of confidence in managing issues of difference which we have identified has resulted in a culture where managers are not able to manage issues of conduct and discipline consistently.

5.62 Several senior officers in the MPS have told us that the organisation has difficulties managing conduct and discipline matters in relation to black and minority ethnic officers:

"... front line managers are very nervous about giving robust leadership and management when dealing with ethnic minority officers. There is a fear of allegations of racism and, in consequence, when faced with minor misbehaviour by an ethnic minority officer, they will either retreat into the formal disciplinary process, with all the protections that the rules provide, or will turn a blind eye to the minor matters and only intervene at some later stage where more serious misbehaviour has occurred and formal investigation is the only possible course. Thus, we either let down our minority officers by failing to administer 'tough love' or we retreat into the safety of formal processes."

(Submission from DAC Stephen Roberts, MPS.)

"I do perceive a drawing back by some supervisors and managers from addressing staff issues, whether of a performance nature or related to conduct, because of fears of being accused of discrimination, especially racial, or fears of a Fairness at Work procedure being generated. There is a great sensitivity about race and fairness of treatment in the organisation and I am not suggesting this is a bad thing. However, this sensitivity appears to be manifesting itself in supervisors and managers being reluctant to overtly tackle performance and conduct issues."

(Submission from AC Bernard Hogan-Howe, MPS.)

5.63 It is not just senior managers in the MPS who take this view, as a variety of witnesses have repeated it in different ways:

"You are right. That's what happens as soon as there is any suggestion of a racial context. They do everything by the book instead of risking resolving it informally."

(Speaker during a London Police Station visit.)

"Lots of things are dealt with early but the organisation and lower management are scared to deal with issues when race is involved. They push it upstairs. People will not be more honest under the PDR [Performance Development Review] scheme. I know black people who have been not performing and they have not been dealt with."

(Speaker (minority ethnic manager) during a London Police Station visit.)

"The organisation tries to deal with people fairly but is disproportionate to women and visible ethnic minorities. Race can be used differently. If I was in trouble, I would be treated differently. They have to go further to prove there is a case for discipline."

(Speaker (minority ethnic officer) during a London Police Station visit.)

"I absolutely agree with the people before – I have read all the transcripts previously. There is what I would say now institutionalised cowardice within the Metropolitan Police Service and the issues we have now is that everybody is in fear. Yes, some people obviously are still willing to stand up and be counted but generally speaking there is a fear of dealing with things in case of publicity: what is going to happen? Are you going to be considered a racist or a sexist or whatever else, a homophobic, if you deal with something properly and effectively?"

(Evidence of Chief Inspector Julia Pendry (High Profile Case).)

5.64 We are extremely concerned about the general acceptance that black and minority ethnic officers are treated differently when it comes to managing their conduct. What seems to have been admitted by senior officers in the MPS is that they are treated differently in two important respects.

5.65 Firstly, managers are reluctant to exercise managerial authority in respect of minority ethnic officers on minor matters and so take no action; if the officer was white he or she would have been reprimanded. This effectively deprives minority ethnic officers of the opportunity to learn and to develop in response to constructive criticism and support, which will ultimately damage career progression.

5.66 Secondly, managers seem to resort to formal processes more frequently instead of applying the informal option. The result is that conduct goes uncorrected and reaches the stage where formal action is inevitable. Instituting formal processes then results in the individual's career being put on hold until the matter is resolved.

5.67 This clear failure of management leads to black and minority ethnic officers receiving detrimental treatment on the grounds of their race. They are either subjected to formal processes where white officers would not be so subject or they are deprived of the management support necessary to develop as a police officer.

5.68 We appreciate that often this failure results from managers' fear of being accused of racism. That is why we are recommending that the organisation needs to become more confident in managing a diverse workforce.

5.69 We agree with Lord Harris when he said in his evidence to us: "You must always be able to demonstrate that management is acting in a way which is fair and reasonable, but you must at the same time manage issues rather than simply falling back to very bureaucratic processes and procedures, which inevitably have the effect of spinning things out for a very long period."

We recommend that the MPS takes immediate action to engage black, minority ethnic and white officers and staff at all levels in the important practical steps required to ensure that black and minority ethnic officers and staff are not discriminated against on grounds of race.

Disproportionality in complaints and discipline

5.70 The statistics show disproportionality in the number of internal conduct investigations brought in respect of officers from minority ethnic backgrounds as opposed to those who are white:

"At the very heart of the representations made over the years by the Met BPA has been the belief that a disproportionate number of black and minority ethnic personnel have been subject to investigation by the Department of Professional Standards (DPS) and, once that investigative process had been commenced, that the DPS would pursue black and ethnic minority staff by means of an excessive and disproportionate use of resources within an over rigorous and highly subjective processes of investigation." (Submission from the MBPA.)

5.71 In addition, the MBPA refers extensively in its submission to a statistical review carried out by the Internal Consultancy Group (ICG), *Statistical Analysis of Complaints in Relation to Ethnicity* (November 2003). This review was instigated by DPS and concluded that:

- a higher number of complaints were recorded against black officers than would be expected if the numbers were the result of chance;
- a higher number of internal investigations were recorded of black and Asian officers than would be expected if the numbers were a result of chance; and
- a higher number of written warnings recorded were for black, Asian and other ethnic officers than would be expected if the numbers were a result of chance.

Figure 6 Public Complaints, Internal Investigations, Suspensions and Sanctions by Ethnicity for the Period 1999–2004

Black	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004
No. of Black officers (and as % of total no. of officers)	513 2.0%	516 2.0%	552 2.1%	637 2.2%	761 2.5%
Public Complaints (Recorded) against Black officers (and as % of total no. of Black officers)	180 35.1%	154 29.8%	140 25.4%	132 20.7%	102 13.4%
Internal Investigations (Recorded) of Black officers (and as % of total no. of Black officers)	23 4.5%	24 4.7%	21 3.8%	29 4.6%	40 5.3%
No. of Black officers suspended (and as % of total no. of Black officers)	4 0.8%	4 0.8%	2 0.4%	1 0.2%	5 0.7%
Dismissals or Required to Resign Sanctions as a result of Misconduct/Discipline Hearing arising from Internal Investigations of Black officers (and as % of total no. of Black officers who were subject to Internal Investigation)	1 4.3%	1 4.2%	2 9.5%	2 6.9%	1 2.5%

Asian

No. of Asian officers (and as % of total no. of officers)	295 1.1%	320 1.3%	441 1.6%	570 2.0%	781 2.6%
Public Complaints (Recorded) against Asian officers (and as % of total no. of Asian officers)	109 36.9%	127 39.7%	96 21.8%	100 17.5%	113 14.5%
Internal Investigations (Recorded) of Asian officers (and as % of total no. of Asian officers)	17 5.8%	12 3.8%	14 3.2%	24 4.2%	54 6.9%
No. of Asian officers suspended (and as % of total no. of Asian officers)	2 0.7%	3 0.9%	2 0.5%	1 0.2%	5 0.6%
Dismissals or Required to Resign Sanctions as a result of Misconduct/Discipline Hearing arising from Internal Investigations of Asian officers (and as % of total no. of Asian officers who were subject to Internal Investigation)	2 11.8%	0 0.0%	0 0.0%	1 4.2%	0 0.0%

White

No. of White officers (and as % of total no. of officers)	24,985 96.1%	24,375 95.9%	25,480 95.2%	26,902 94.5%	28,284 95.9%
Public Complaints (Recorded) against White officers (and as % of total no. of White officers)	7,773 31.1%	6,498 26.7%	5,528 21.7%	4,186 15.6%	4,047 14.3%
Internal Investigations (Recorded) of White officers (and as % of total no. of White officers)	610 2.4%	590 2.4%	562 2.2%	571 2.1%	699 2.5%
No. of White officers suspended (and as % of total no. of White officers)	77 0.3%	72 0.3%	32 0.1%	26 0.1%	52 0.2%
Dismissals or Required to Resign Sanctions as a result of Misconduct/Discipline Hearing arising from Internal Investigations of White officers (and as % of total no. of White officers who were subject to Internal Investigation)	41 6.7%	25 4.2%	30 5.3%	26 4.6%	17 2.4%

Other

No. of Other officers (and as % of total no. of officers)	208 0.8%	219 0.9%	296 1.1%	368 1.3%	439 1.5%
Public Complaints (Recorded) against Other officers (and as % of total no. of Other officers)	56 26.9%	56 25.6%	58 19.6%	52 14.1%	83 18.9%
Internal Investigations (Recorded) of Other officers (and as % of total no. of Other officers)	3 1.4%	5 2.3%	9 3.0%	10 2.7%	22 5.0%
No. of Other officers suspended (and as % of total no. of Other officers)	0 0.0%	0 0.0%	0 0.0%	0 0.0%	1 0.2%
Dismissals or Required to Resign Sanctions as a result of Misconduct/Discipline Hearing arising from Internal Investigations of Other officers (and as % of total no. of Other officers who were subject to Internal Investigation)	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%

Source: MPS

5.72 Indeed, in each and every category examined by the ICG, the statistical analysis showed that black and Asian officers had recorded internal and external complaint profiles in excess of those expected. Correspondingly, majority white officers had profiles below those expected in each significant category examined.

5.73 The MBPA regards this survey as persuasive evidence in support of the conclusion that black and other minority ethnic officers are subject to disproportionality in relation to the handling of complaints and investigations within the MPS.

5.74 It is clear that there is disproportionality in relation to the number of investigations and it is important to establish the reasons for this so that the problem can be addressed. We understand that DPS has commissioned further research. However, the MPS also points to the statistics in relation to outcomes.

"There is disproportionality. You can see there is disproportionality. But the disproportionality then does not appear in terms of discipline boards or sanctions; it drops out. And so in fact, I think, that means we must be managerially competent to stop it."

(Evidence of the Deputy Commissioner, Sir Ian Blair.)

"The MPS understands the importance of perceptions and the fact that this perception may exist amongst BME officers or some of their representatives is of grave concern. However, the available statistical information does not support the belief: in fact, it could be argued that the statistics suggest the opposite ... the research carried out by the Internal Consultancy Group, which is cited by the Met BPA does confirm that black and Asian officers are more likely to be subject to internal investigation than their white colleagues. This is a matter of concern and is the subject of ongoing research. However, by the stage that the DPS investigation process is concluded, there is no disparity of treatment as between officers from one ethnic group or another: officers under investigation are not more likely to face a misconduct board on the basis of their ethnicity. This suggests that the objectivity and thoroughness of the DPS investigation actually proves it weeds out any disproportionality in relation to BME officers."

(Submission from Commander Ian Carter, MPS.)



5.75 Like Commander Carter, we too are gravely concerned that any disproportionality should exist between the number of officers from ethnic minorities who are investigated for misconduct and the number of white officers investigated. Whatever the result of these investigations, it is clear that disproportionality exists.

5.76 We are not persuaded that the rigour of the process of the investigation removes the disparity and regard this statement as compounding the complacency about this issue within the MPS.

We recommend that the MPS takes urgent steps to eliminate the discriminatory management practice which has led to a disproportionate number of investigations of black and minority ethnic officers.

5.77 To express our deep concern about this matter, we will be drawing this aspect of our report to the attention of the Commission for Racial Equality and the Independent Police Complaints Commission, and we will request them to continue to monitor trends in this area in order to ensure that the necessary improvements are made.

Chapter Summary

This chapter deals with:

- ▶ The role of the Metropolitan Police Authority in employment matters
- ▶ The role of the Metropolitan Police Authority in complaints and discipline
- ▶ The implementation of the recommendations of the Viridi Inquiry Report
- ▶ The role of the Independent Advisory Group

*“ You can only have accountability from a position of knowledge.
You can only obtain that knowledge by scrutiny.
If there is no scrutiny, there can be no accountability.”*

Peter Herbert, Member of the MPA

The role of the Metropolitan Police Authority in people matters

6.1 Paragraph 5 of our terms of reference asks us: “To consider and make recommendations on the role of the Police Authority and its Members in relation to the consideration of high profile or sensitive cases, and the oversight of the performance of the MPS in relation to the matters covered by this Inquiry.”

6.2 We deal with professional standards cases later in this chapter. Here we deal briefly with the MPA’s role in relation to human resource issues, in particular grievances and Employment Tribunal cases.

6.3 Police authorities have a duty to secure ‘efficient and effective’ policing in their area.

“Ensuring that the force has in place an effective HR strategy, and that HR planning and management is fully integrated into the overall business process, is fundamental to this task. Each police authority must be able effectively to scrutinise its force’s activity across the HR function and assure itself that the force is maximising the potential of its most valuable assets – its police officers, support staff and members of the special constabulary – for the delivery of more effective policing.”

(PEOPLE MATTERS, A framework for police authority oversight of police human resource plans (APA).)

6.4 Police authorities are responsible for agreeing the annual costed HR plan prepared by the police service and for agreeing the annual priorities for investment in training with the Chief Constable (the Commissioner).

6.5 The APA publication, *PEOPLE MATTERS*, provides a framework for police authority oversight of HR planning, policies and practices. It is in the course of being updated but is an extremely valuable source of support and guidance to police authorities in discharging their responsibilities in relation to people management.

6.6 The MPA oversees human resource matters in the MPS through its Human Resources Committee. The Committee’s terms of reference give it the role of monitoring activity on all HR issues. This also includes grievances and Employment Tribunal cases.

6.7 The APA has also published guidance on effective oversight and scrutiny of grievances and Employment Tribunal cases, *PEOPLE MATTERS, Tackling discrimination:*

police authority oversight and scrutiny of grievance procedures and employment tribunals. This states: "Grievance and ET cases provide a significant insight into the health of any organisation. Police authorities need to clearly hold forces to account for how they deal with such cases through regular strategic analysis and scrutiny."

6.8 This scrutiny will involve regular consideration of numbers of cases and trends over time, across the organisation and in comparison with other organisations and services. It should also involve consideration of whether there is a need to review or change a relevant policy. Case files can also be dip-sampled. The APA considers that this work is best dealt with by a committee rather than the full authority.

6.9 The MPA has told us that it does not have comprehensive oversight systems in place in relation to Employment Tribunal cases and grievances. However, it proposes to introduce systems based on the APA guidance. We have received a draft protocol between the MPA and the MPS which would cover oversight of Employment Tribunal cases as well as other matters. We consider that this protocol, together with systems based on the APA guidance, should enable the MPA to hold the MPS to account in this important area.

We recommend that the Metropolitan Police Authority puts in place comprehensive oversight systems and processes to scrutinise grievances and Employment Tribunal cases as soon as possible, taking account of the Association of Police Authorities' guidance in this area.

The role of the Metropolitan Police Authority in complaints and discipline

6.10 Public confidence requires robust scrutiny of police complaints and conduct matters. This is a key part of the role of police authorities. They must ensure that they have systems and structures in place to apply the necessary rigour to oversee the way the police service handles cases.

6.11 As a starting point, it is helpful to examine the statutory framework governing police authority oversight of complaints. This is set out in the Police Act 1996 and the Police Reform Act 2002.

6.12 Section 6(1) of the 1996 Act places a duty on police authorities to secure the maintenance of an efficient and effective police service in its area. The service is under the direction and control of the Chief Constable (the Commissioner) by virtue of section 10(1).

6.13 Section 77 of the 1996 Act imposed a duty on every police authority, in maintaining an efficient and effective police service, to keep itself informed as to the workings of the procedures for handling complaints about the conduct of police officers. Section 15 of the 2002 Act maintains this duty and now widens it.

6.14 Section 22(3) of the 1996 Act requires the Chief Constable (the Commissioner) to submit a report to the police authority on such matters as the authority may determine relating to the efficiency and effectiveness of the police service. This is subject to an appeal to the Home Secretary on the grounds that the report would contain information which in the public interest ought not to be disclosed, or is not needed for the discharge of the functions of the police authority.

6.15 There is no express statutory provision which imposes a duty on the police authority to hold its Chief Constable (the Commissioner) to account, although “everybody understands that is the convention.” (Evidence of David Riddle, Deputy Clerk, MPA.)

6.16 The MPA has suggested that an express provision to this effect would be helpful. We have not received evidence from any other source which would justify disturbing the current relationship.

6.17 The Chief Constable (the Commissioner) is responsible for the recording, handling and investigating of complaints about the conduct of police officers of the rank up to and including Chief Superintendent.

6.18 The police authority is responsible for overseeing the procedures for handling complaints to ensure that they comply fully with the statutory provisions, and for considering issues raised by complaints as they impact on the efficiency and effectiveness of the service.

6.19 Police authorities also have responsibility for the recording, handling and investigating of complaints against ACPO officers, other than complaints relating to the direction and control of a service.

6.20 Police authorities are not responsible for investigating complaints concerning the conduct of officers below ACPO rank. The APA’s view is that, in carrying out their oversight role, police authorities should not involve themselves in the detail of individual cases, other than to look at process issues and any implications for wider policy.

6.21 In their publication, *Complaints against the Police – Monitoring and Oversight Arrangements, A Good Practice Guide for Police Authorities*, the APA recommends that police authorities should have in place “a structured process for ongoing scrutiny and oversight of complaints which contains all of the following elements:

- process and procedural audit against Home Office guidance;
- dip sampling of completed complaints files;
- analysis of statistics and trends;
- strategic analysis;
- discussion with stakeholders and partners.”

The Guide considers each of these elements in detail and offers guidance to assist police authorities.

6.22 The MPA discharges its responsibilities for complaints through its Professional Standards and Complaints Committee. This Committee:

- periodically reviews the policies and procedures adopted by the MPS for complaints handling;
- liaises with HMIC in order to obtain an independent assessment of service procedures and performance;
- maintains contact with the IPCC to obtain feedback and guidance;
- receives regular reports from the Commissioner containing complaints performance information;
- undertakes dip-sampling of complaint case files; and
- maintains oversight of the implementation of the MPS' Professional Standards Strategy.

6.23 We have received evidence from both Lord Harris, former Chair of the MPA, and Reshard Auladin, Chair of the MPA's Professional Standards and Complaints Committee, on how the MPA discharges its oversight role and what they perceive to be restrictions under the current statutory regime.

6.24 Mr Auladin informed us that the MPA had recently increased staffing support to Members on professional standards issues and that the new resource would be used to develop systems and processes for oversight and monitoring, particularly in relation to dip-sampling cases, OCU level analysis, analysis of data on categories of complaint, improving discussions with stakeholders and more detailed monitoring of timeliness of investigations and their outcomes.

6.25 The MPS Directorate of Professional Standards handles approximately 5,000 cases a year. The MPA told us that, given this figure and the resources at its disposal, the proportion of files the Authority is able to sample is small. Some police authorities are able to scrutinise every complaint file for their service; that level of scrutiny is beyond the resources of the MPA and scrutiny at Member level is in the region of 10 cases a month.

6.26 However, Mr Auladin went on to underline the Authority's view that the current monitoring regime was deficient in that the police authority is unable to influence the way matters are dealt with by the Service "in particular in terms of oversight of individual cases." The proposal in the Review of Operation Lancet that the Clerk to the Police Authority should be included in case conferences did not, in his view go far enough and he considered that "a more systematic and formal system for proper Member oversight is required ...

"The MPA considers that the current framework should be strengthened by, as a minimum, legislation or a Home Office Code of Practice to provide for a police authority

- To receive, as of right, regular reports on current 'sensitive cases' including complaints, discipline cases, civil actions against police, grievances and employment tribunals...

- To identify specific cases upon which it requires a full report from the Commissioner, and for these to include live as well as closed cases.
- To give advice or views on the conduct or progress of a specific case to which the Commissioner should be required to have regard; to nominate one or more Members to give such advice or views on a continuing basis throughout the course of an individual case.
- To set standards in respect of matters such as use of mediation, informal resolution of complaints, and restorative conferencing to which the Commissioner should be required to have regard."

(Submission from Reshard Auladin, Chair of the MPA's Professional Standards and Complaints Committee.)

6.27 Lord Harris proposed in his submission that the function of the investigation of complaints within a service should be at "arms length" from the service management and directly accountable to the police authority. "Redefining the relationship of the investigating unit to the Authority could boost community confidence in the complaints process, complementing the role of the MPA."

6.28 The MPA itself acknowledged that this proposal received little support from those giving evidence to the Inquiry. The Commissioner saw it as potentially being "political interference", although the MPA, like all police authorities, is not intended to be a political body. The MPA clarified that they were not proposing that police authorities should have any direct responsibility for discipline decisions or functions and saw the proposal as building on the "existing convention in police forces that the Deputy Chief Constable is the discipline authority and responsible for the operation of the complaints function."

6.29 Thus, in respect of the MPS, the MPA's proposal is that the Deputy Commissioner should have responsibility and accountability for the direction and control of the service relating to the investigation of complaints and conduct matters and should report to, and be accountable, to the Authority for the performance of those responsibilities.

6.30 This would leave the Commissioner free in the role of final adjudicator on individual cases without a conflict of responsibilities.

"The separation of functions, and the introduction of the authority as an independent player, would serve to increase public and internal confidence in the system."

(Submission from Reshard Auladin, Chair of the MPA's Professional Standards and Complaints Committee.)

6.31 We invited the Home Office to comment on the MPA's proposal. The department's view is that the current statutory framework enables police authorities to carry out their oversight responsibilities and that authorities play a valuable role in asking challenging questions of the service. In their submission to us, the Home Office noted the MPA's view that there was a case for "fundamental structural reform to put the investigation of

professional standards matters at arms length from the management of the force ... making it directly accountable to the MPA". They also noted that the MPA did not appear to be seeking day to day control or management but rather to act as a "critical friend".

6.32 The Home Office is "not yet convinced that there is a compelling case for a reform of the statutory duty of police authorities in relation to professional standards." It also considers that making such a change would risk "blurring the clear distinctions between [Chief Constables and Police Authorities] that were established in the Police Act 1996." On this last point they differ from the MPA. The Authority's view is that empowering police authorities will clarify responsibilities without compromising the Commissioner's responsibility for direction and control.

6.33 Peter Herbert, a Member (and former Deputy Chair) of the MPA, considered that the existing powers should be adequate: "... we should be able to get the level of co-operation from the MPS to make scrutiny and accountability work." Although he implied that the system had not always worked smoothly: "I am aware, certainly, that where the MPS is resistant to that level of intrusion and accountability, either selective information, as I said earlier, is given, or no information is given at all."

6.34 ACPO too were in favour of maintaining the status quo and disagreed with Lord Harris' suggestion of a new reporting line for professional standards:

"The present system of misconduct hearings relies on a review and an appeal process. A review by the chief constable and ultimate appeal to a third party panel convened by the authority. An independent appeal process would have to be re-engineered if the authority were to be involved in the direct management and handling of complaints investigations. It is submitted in short that the change would be an imbalance of the relationship between a force and an authority and cumbersome to boot."

(Submission from Christopher Fox, President of ACPO.)

6.35 Indeed, both ACPO and the Home Office believe that effective oversight is possible within the current statutory framework. This is also the view of the APA. The Association believes that, if a police authority is exercising its responsibilities robustly, it is capable of monitoring effectively.

6.36 However, the APA was "attracted to the MPA's proposal that the investigation of professional standards should be put at arms length from the force with direct reporting to the police authority." The Association considers that this would be consistent with the police authority's scrutiny and oversight role and would reinforce the role of the police authority as the link between the policing service provided and the local community. "It would certainly complement the thrust of the new complaints arrangements which were designed to increase public confidence by making the system more independent." However, the APA stressed that it had not consulted its members about the proposals and would need to do so before expressing a definitive view.

6.37 Having considered the evidence that we have received, we do not believe that there is a compelling case for recommending changes to the legislation governing the role of police authorities in relation to complaints. We are persuaded that the current statutory provisions provide a framework for effective scrutiny.

6.38 We are, of course, mindful of the fact that the MPA is a relatively new police authority charged with oversight of a police service that operated without a police authority for over 170 years. It is, therefore, likely that it might take some time to find the right level of equilibrium in the relationship and also for the MPS to appreciate the benefits of increased scrutiny.

6.39 This latter point is important, since effective oversight depends, to a certain extent, on a constructive attitude on the part of those whose work is overseen. It is possible that some of the MPA's frustration with the current system is a reflection of the attitude of the MPS to the Authority's interest in its work.

6.40 We have already commented on the need for a police authority to apply appropriate rigour to its oversight role. We consider that the MPA could be more assertive in exercising its powers. There are examples of police authorities who are much more robust in holding professional standards departments to account.

We recommend that the Metropolitan Police Authority enters into greater dialogue with other police authorities to establish best practice in discharging the oversight role.

This could also include visits and the exchange of information.

We also recommend that the Commissioner takes steps to ensure that the Directorate of Professional Standards appreciates the importance of scrutiny to public confidence.

6.41 In the next chapter we outline a model of case management which we believe will ensure greater scrutiny of complaints and discipline matters. If this is adopted, we are confident that it will assist the MPA in discharging its oversight role effectively.

6.42 Oversight is not political interference but part of proper accountability. This needs to be accepted by DPS, and the interest of MPA Members in the directorate's work welcomed and positively encouraged. We have received evidence of police services who have issued an open invitation to members of their police authority's professional standards committee to inspect any professional standards file.

6.43 We have seen a draft protocol which, when finalised, will apply to, inter alia, complaints, conduct cases and Employment Tribunal claims. This should assist in clarifying the arrangements for the provision of information on cases which are significant in terms of their financial or other consequences.

We recommend that the Metropolitan Police Authority keeps under review the protocol with the MPS on the provision of information to the Authority on complaints and conduct cases, in order to ensure that it meets its responsibility for scrutiny.

We also recommend that the Metropolitan Police Authority reviews the resources it is able to devote to supporting its role in overseeing complaints and conduct cases, with a view to increasing activity further, particularly in relation to dip-sampling of files.

6.44 However, we are firmly of the view that oversight needs to be a formal function conducted through formal structures, rather than through the involvement of individual Members of the Authority in specific cases, and we would encourage a partnership to that end.

The implementation of the recommendations of the Viridi Inquiry Report

6.45 Another matter that is relevant to paragraph 5 of our terms of reference, which deals with the oversight role of the MPA, is the implementation of the recommendations of the Viridi Inquiry Report.

6.46 Indeed, note 8 to our terms of reference asks us to consider: "What progress has been made by the MPS on the implementation of recommendations from the Gurpal Viridi Inquiry?"

6.47 The Viridi Inquiry, Chaired by David Muir, a Member of the MPA, was set up to look at the case involving Detective Sergeant Viridi (as he now is). The facts of that case are, we believe, well known and we deal with them later in this report since the case itself is one of the 'high profile' cases we were asked to consider.

6.48 The Viridi Inquiry published its report in January 2001. It contained 18 recommendations, of which 11 were directed at the MPS. We have been asked to comment on the progress in implementing those recommendations. We found this a very difficult task.

6.49 On the one hand, the Commissioner has periodically provided the MPA with reports setting out the progress made by the MPS in implementing the recommendations of the Viridi Inquiry and, in his written submission to us, the Deputy Commissioner told us that "The MPS has therefore complied with all the recommendations of the Gurpal Viridi report."

6.50 On the other hand, however, we have received evidence from organisations, such as the Discrimination Law Association, the MET-TUS and from individuals, including Mr Viridi himself, which suggests that this might not be the case.

6.51 In addition, in his oral evidence to us, the Deputy Commissioner conceded that "... while we have fulfilled in a bureaucratic way the findings of the Viridi Report, I have said already that I am not happy with the fact that the spirit of them has been fully understood and put in all the other contexts."

He went on to say: "... one of the difficulties with the Viridi report is where did it land in the organisation and what was done about it ... some things were done very specifically, the Fairness at Work piece, the stuff around the press, but in broad terms I think Viridi sank into that: well, we will tick the boxes, that is all done, and we are doing so much elsewhere, let us leave it at that."

6.52 Figure 7 outlines the evidence we received in relation to each of the relevant recommendations and the Inquiry's observations.

6.53 Given the confusion, even within the MPS, over exactly what progress has been made in implementing these recommendations, we find it impossible to do anything more than set out the evidence we have received.

6.54 The MPA has received regular reports from the Commissioner on implementation and we are somewhat surprised that assessing progress should have been part of the task we have been given.

We recommend that the Metropolitan Police Authority should convene and chair a case conference involving the Commissioner and all relevant stakeholders (including, in particular, those individuals and organisations who have given evidence to this Inquiry on this point) to establish what progress has been made in implementing the recommendations of the Viridi Inquiry Report and to determine what, if any, further action should be taken.

The Recommendations of the Viridi Inquiry Report

Figure 7

Recommendation	Evidence	Inquiry's Observations
<p>1. Regulations, particularly in regard to discipline, should be interpreted with common sense and reasonableness in an attempt to eliminate unnecessary bureaucracy and unjustified cost both financially and in personal terms.</p>	<p>The MPS While the Deputy Commissioner described this recommendation as "a bit of motherhood and pie," he conceded that "I do not think that it is possible to know [whether this recommendation is indeed being fulfilled]."</p>	<p>We find it difficult to establish how compliance with this recommendation could be measured.</p>
<p>2. The grievance machinery should be reviewed (as the MPS has already undertaken to do) to:</p> <ul style="list-style-type: none"> • ensure that the procedure includes the informal stage of normal managerial action; • provide training to managers and supervisors in the use of the process and their obligations to address issues at an early stage; • support the decisions of managers and supervisors where appropriate; • re-launch the process and give senior officer assurance that staff who use the procedure will not be punished or victimised. 	<p>The MPS The MPS introduced the new Fairness at Work procedure to replace the grievance procedure on 5 May 2003. Mr McAnuff's submission to the Inquiry explained that this was done in response to a staff survey in 2000, consultation with staff associations and as a result of the recommendations from the Viridi Inquiry Report, and that in fact the MPS used an external consultant who assisted the Viridi Inquiry. As the Deputy Commissioner stated in his oral evidence: "it was already in process, but it has been given a significant boost by the Viridi Inquiry."</p>	<p>We have received evidence on the Fairness at Work procedure and have already outlined our recommendations for its replacement.</p>
<p>3. That consideration be given to a review of administration of Employment Tribunals within the MPS to encourage:</p> <ul style="list-style-type: none"> • setting up a monitoring and good practice unit capable of early intervention and for alerting chief officers to highly sensitive cases; • removal of some of the responsibility for case management to suitably trained Personnel Managers who will work in close liaison with Borough Commanders; • direct contact between Borough Commanders, Personnel Managers and MPS solicitors to encourage local management responsibility and the possibility for earlier resolution of cases. 	<p>The MPS In his submission, the Deputy Commissioner explained that "a review of the administration of ETs within the MPS was completed on 19 October 2003." In oral evidence, the Deputy Commissioner explained that the MPS had not set up a dedicated unit as such, but has in place "a mechanism" whereby the Employment Tribunal Unit, the Diversity Directorate and Directorate of Legal Services meet on a regular basis to review significant Employment Tribunal cases. MET-TUS In their submission, the MET-TUS stated: "There has been no fundamental review of the way Employment Tribunals are conducted:"</p>	<p>We have recommended that the Employment Tribunal Unit should be moved to the HR directorate. We believe that more work needs to be done on contact with borough commanders.</p>

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Recommendation	Evidence	Inquiry's Observations
<p>4. Notwithstanding the constraints of the existing Regulations, the MPS should address the perceived blame culture, recognising that an early apology may be the only desired outcome and should support staff who admit to honest mistakes.</p>	<p>The MPS In his oral evidence, the Deputy Commissioner acknowledged the existence of a blame culture: "Well it is a serious dilemma here. I have to say. It is the absolute centrepiece of the Commissioner's leadership programme ... Any blame culture that exists runs through the organisation. "I have no doubt that there has been, in the last four to five years, such an emphasis on performance, such an emphasis on getting the Met's figures right, that there has been very little room – it is this bit about, where are the soft skills in all of this? ... And there is clearly a sense of a blame culture. That is what, I think, this inquiry will help, but it is my fourth pillar: you have actually got to make the organisation mature. "But I am positive we will move on, and I am quite clear that, as always, you are going to kind of drag behind the truth. "I am sure that when your survey is completed it can then be compared in some way with the staff survey that we did just before the Commissioner took up office and with the response to some of the other smaller staff surveys that we have done, and I think you will see an upward curve in a feeling that the people are supported and looked after. But there is a long way to go." MET-TUS In their submission, the MET-TUS stated that: "We have seen no change in the way managers behave when things go wrong."</p>	<p>We have received evidence that there is still an established blame culture within the MPS.</p>
<p>5. That appropriate actions arising from these recommendations should be included in the requisite action plan to comply with requirements of the Race Relations (Amendment) Act 2000 and that the MPS should produce a strategy to reassure the community of its commitment to comply with the legislation.</p>	<p>The MPS In his oral evidence, the Deputy Commissioner said that the MPS had implemented this recommendation in full: "... we issued our Race Equality Scheme in 2002 with the full backing of the CRE, and the CRE in fact use it as a template for other forces. So my hope is that this is one area where we have got this absolutely right. There is always the danger, in saying that, that we found something that is wrong, but in general, the penetration of the Race Relations Amendment Act, the Race Equality Scheme, the impact assessment is very strong, and this is one part of it ... I am quite comfortable that this is a major recommendation that we have complied with." MET-TUS In their submission, the MET-TUS stated that: "The Virdi Inquiry recommendations have not been incorporated into the RR&AA Action Plan."</p>	<p>The Inquiry was unable to assess this.</p>
<p>6. The MPS should seek to address the perceived difficulties associated with the Directorate of Legal Services, namely:</p> <ul style="list-style-type: none"> • the use of early intervention strategies to limit the number of cases going to employment tribunal; • to ensure that the structure of decision-making, where legal advice is a critical consideration but not the final arbiter, is transparent to the MPA. 	<p>The MPS In relation to the use of early intervention strategies, the Deputy Commissioner told us his view: "My very strong sense, talking to people, is that it is about first line supervisors listening and understanding the lesson that what this person is complaining about in this instance may not be the main issue; there may be something further back that they have got to deal with, and it is taking time." With regard to the transparency to the MPA of the MPS' decision-making, we are aware that a draft model protocol is being drawn up but we were informed by the Deputy Commissioner that other efforts have been made to include the MPA more: "The transparency to the MPA, there are some difficulties here, and I have got to be clear on this. There were one or two members of the MPA who have got a very specific viewpoint on this, and I am not sure it is as widely shared as it might be ... As I say, it is just a question of getting the MPA to be more involved in David Hamilton's department. We have made many offers; some have been taken up, some have not been taken up. This is a perception that is quite deep-rooted about a number of cases, but it seems to be only deep-rooted with two or three members of the MPA rather than the whole of the MPA, but it is something we have to deal with and we have got to get right." David Hamilton, the MPS Director of Legal Services, drew our attention to a document MPS Decision-making in Malfeasance Litigation submitted to the MPA in 2002, which deals with the role of his directorate in decision-making in malfeasance litigation. MET-TUS In their written submission, the MET-TUS stated that: "No action has been taken to implement this recommendation."</p>	<p>We have already commented on the use of mediation and the role of the Directorate of Legal Services.</p>

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Recommendation	Evidence	Inquiry's Observations
<p>7. The MPS should maintain the ongoing progress and good practice identified in the last HMIC Inspection of the Professional Standards Department, ensuring that all staff regardless of their background have confidence in the grievance procedures.</p>		<p>The grievance procedure dealt with in the HMIC report has now been replaced by Fairness at Work on which we have commented extensively.</p>
<p>8. A press strategy should be adopted that:</p> <ul style="list-style-type: none"> • explains how to deal effectively with race-specific and high-profile cases, using the learning from critical incident training; • includes the principles contained in the National Union of Journalists Guidelines on Race Reporting; • does not compromise the principles of natural justice. 	<p>The MPS In his submission to the Inquiry, Dick Fedoricio, the MPS Director of Public Affairs, explained that: "Following the recommendations made by the Viridi Inquiry Report in December 2001, the DPA amended the instructions issued to press officers concerning racial matters and the broader area of diversity including sexual orientation, religion, gender and transgender issues. "These instructions were drafted in consultation with the CRE and the MPS IAG and incorporate the same guidelines laid down by the National Union of Journalists for reporting on race. "As a result the MPS will only confirm an employee's race if we are asked by the media and if it is strictly relevant. Such an instance would be if an internal investigation had an obvious racial component, for example, having been triggered by allegations of racist language being used. In the context of professional standards and employment matters the DPA does not offer the race of an officer in news releases or statements. "Following recent publicised allegations that visible ethnic minority officers are being disproportionately targeted by internal investigations it has become commonplace for the DPA to be asked for the race of any officer subject to internal investigation or suspension. While such information would never be volunteered to the media it will be given as a response to a specific question. To do otherwise would be to frustrate legitimate scrutiny of the disproportionality issue, a matter clearly in the public interest." MBPA Their submission stated that: "The lessons of Viridi either have not been learned, or are simply ignored, when it comes to dealing with black and minority ethnic officers and staff in high profile cases."</p>	<p>This recommendation appears to have been implemented.</p>
<p>9. Senior officers should regularly monitor and review how effectively middle and junior managers implement the organisations policies and commitments to equality.</p>	<p>The MPS The Deputy Commissioner's submission states that the Commissioner reported to the MPA on 10 June 2003 that: "Recommendation 9 was fully adopted and ongoing." MET-TUS The MET-TUS told us that "We are not aware of this being done in any formal, structured way"</p>	<p>This is a sound recommendation but monitoring cannot occur without management information and we are not aware of a structure or system which would yield that information.</p>

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Recommendation	Evidence	Inquiry's Observations
<p>10. On conclusion of the re-investigation into PS Viridi's case, (to be supervised by the PCA) any officers deemed to have acted inappropriately should face disciplinary action.</p>	<p>The MPS The submission of the Deputy Commissioner states that: "a re-investigation of the PS Viridi case", has been completed, under the supervision of the Police Complaints Authority, by the South Wales police force and is now complete. Their investigation identifies no further action which can now be taken by the MPS."</p>	<p>Since no action was identified by the case review, none could be taken.</p>
<p>11. The MPS should monitor the composition of Representatives of the Police Federations Joint Branch Board, ensuring that concrete measures are taken to address under-representation, especially from ethnic minority groups.</p>	<p>The MPS The Deputy Commissioner informed us of his view of this recommendation: "I took the view at the time, with David Muir, that this recommendation was just wrong in principle. The MPS does not have that right. We do know that the federated branch boards have a considerable difficulty in this ... I do not think it was a proper recommendation, because it should have been that the Federation did it and did something about it, but the Federation would have said, 'Who are you to tell us this?' so I am not sure it helps. In an ideal world, we would all be able to sort this out, but I do not know how it is sorted out through a democratic process ... I am afraid it would be better for the Federation to answer ..."</p>	<p>The MPS can monitor representation on the branch board but is not able to take any action in relation to under-representation. This is a matter for the Police Federation and the Inquiry supports the Federation in any action it may take to address this issue.</p>

The role of the Independent Advisory Group

6.55 The Independent Advisory Group (IAG) also discharges a scrutiny role over the MPS. The IAG was originally set up to advise the MPS' Racial and Violent Crime Task Force on any aspect of policing that impacts on minority ethnic communities. Its area of influence has increased and it is now able to impact on the policing debate in all areas of the MPS.

6.56 This strategic IAG has been joined by a Lesbian Gay Bisexual and Transgender Advisory Group, a Youth Advisory Group and a Disability Issues Advisory Group. There are also separate Advisory Groups for Operation Trident (gun crime) and a sub-group of the strategic IAG advises the Child Protection OCU.

6.57 In addition, 27 of the 32 Boroughs Commands now have IAG structures and those without IAGs are being encouraged to develop them.

6.58 As Commander Allen of the Diversity directorate said in his submission to us:

"Independent advice has become a key mechanism by which we improve decision-making and operational outcomes. There has been direct IAG involvement in over 370 cases, including some of the most high profile, e.g. the siege at Hackney in 2003. In addition the groups provide a constant source of advice and challenge around policy and practice across the organisation."

6.59 Commander Allen provided us with a document, *Independent Advisory Group – Protocols May 2001*. This defines 'Advisors' as:

"Those people who are:

- Able to critically appraise police policies and practices
- Able to make dispassionate, measured, considered and ethical assessment of what they experience
- Able to bring relevant expertise, experience and integrity
- Able to reason and willing to articulate their views
- Able to represent the views and commanding the respect of the communities policed
- Committed to the improvement of community - police relations
- Able to exercise judgement/discretion re: conflict of interest."

6.60 Our terms of reference ask us to inquire into the policies, procedures and practices of the MPS in relation to complaints and allegations against individuals. Since members of the IAG have been used to give advice on investigations of visible ethnic minority officers, their work falls within our remit.

6.61 We were extremely impressed with the representatives of the IAG who gave evidence to us. We were also impressed with the evidence of the members of the Lay Advisors Group (LAG), which assisted the MPS in relation to Operation Helios, the investigation into Superintendent Ali Dizaei. We found members of both groups

to have great integrity, mental acuity and strength of character; in short, all the qualities we regard as essential in IAG and LAG members.

6.62 We must therefore make it clear that anything we say which is critical of the IAG system and how it operates must not be read as a criticism of the individuals involved, but of the system itself.

6.63 We have heard some criticism of the IAG and particularly of IAG involvement in investigations of black officers as a 'rubber stamp' or a mechanism to 'race-proof' an inquiry. These criticisms relate to individual IAG members being 'cherry-picked' and formed into small 'quasi-IAGs' for specific cases:

"... These 'appointments' were often shrouded behind a cloak of secrecy that we would argue seriously undermines their terms of reference and raises further questions over the allocation of resources and the use of cash incentives." (Submission from the MBPA.)

6.64 The MBPA has recommended that:

- "The IAG should come under the jurisdiction of the MPA, in order to maintain their independence and to prevent further suggestions of manipulation.
- That no member of the IAG should be in the paid employment of the MPS or the Home Office, or be a member of a company that receives remuneration from the provision of consultancy or other services to the MPS.
- New criteria should be developed in relation to the recruitment, tenure and structure of the IAG."

6.65 The MBPA also recommends that the MPS requests for IAG assistance should go through the MPA "to ensure objectivity, transparency and the maintenance of proper accountability."



6.66 This recommendation was also made by the NBPA in their written submission:

"The use of IAG should be strictly controlled and placed under the auspice of the MPA. We believe that the current strategy of the police service and in particular the MPS to use the IAG as a 'get out of jail card' for senior investigating officers in case things go wrong should cease. This is not in the spirit of the Lawrence Report recommendation."

6.67 The NBPA also considers that any payment to IAG members should be a matter of public record and that no person who directly, or indirectly, receives remuneration for services rendered to the police service or the Home Office should be a member of an IAG.

6.68 The concerns of the MBPA and the NBPA arise from the LAG involvement in Operation Helios. We have concerns about the LAG involvement in that case, although our concerns are not about the individuals involved, or their contributions, but about how they were used. We are unhappy about the fact that they were not given all the information they should have received at the relevant time and that they were not informed of either the decision to settle the Employment Tribunal claim or the terms of that settlement.

6.69 We are, however, concerned about the IAG's accountability. This was explained to us by Beverley Thompson, a member of the IAG (and the LAG), when she gave evidence to us:

"I think our understanding and the working definition that we have taken around independence is that we are not a statutory body, we have no decision-making function; nor are we elected by individuals within the community to represent them.

"So we are independent of the process, but have a view from that external process, having been informed about the workings of the organisation ...

"And for us, our independence and who we are accountable to, I guess is to us, as a group, and to the communities that we all come back from ... So in a sense, our independence is very much to our group membership."

John Azah, another IAG member, elaborated on this: "Part of the criteria for what we do is that we are not representatives of any communities. I as a black person, African, born in Ghana in West Africa, have a perspective into the black community, but I am not elected... I offer my opinion based on my own life experiences, and perhaps some of the experience that I have gained from doing work as a race equality officer."

Ms Thompson was confident that the IAG's independence had not been compromised at any point: "I think one of the things that we have always been very careful and anxious about is our ability to remain critical, because in order to develop the relationship with the organisation, there has been a process where we have needed to trust both the organisation to provide us with the information that we will need, in order to give

the advice upon, and for the organisation to feel comfortable to trust us to give us some very highly sensitive and confidential information.”

6.70 We are satisfied that, in the words of the IAG’s submission to us “The IAG has never shirked away from challenging the organisation or from temporarily suspending activities with the MPS when required. The role of the IAG is to challenge the thinking of the organisation and how it conducts its business.”

6.71 Nevertheless, given the importance of the role, we believe that it is time that the IAG were put on a more transparent footing. This would emphasise the vital public service which IAG members perform and ensure that the IAG has the confidence of all stakeholders.

6.72 We believe that the MPA should be responsible for the appointment of IAG members to emphasise the IAG’s independence from the MPS. This would be analogous to the appointment of independent members of discipline panels by police authorities. However, we do not consider that it is necessary for requests for IAG assistance to go through the MPA to ensure objectivity, transparency and proper accountability.

We therefore recommend that the ‘Nolan Principles’ for public appointments should apply to the appointment of members of the Independent Advisory Group and that:

- i. their appointment should be by the Metropolitan Police Authority;***
- ii. they should be appointed in a transparent way following open competition by public advertisement;***
- iii. the terms of their appointment, including tenure of office and any remuneration, should be made public; and***
- iv. candidates should be assessed for their suitability against a formal specification which should also be made public by the Metropolitan Police Authority.***

We also recommend that the Independent Advisory Group is properly resourced and that this should include a budget for expenditure on items such as independent professional advice (this includes legal advice), where the Independent Advisory Group believes this is necessary.

6.73 Finally, we would like to deal further with the LAG involvement in Operation Helios. We have already said that we are concerned that LAG members were not given full information and particularly that, having assisted the MPS in the Operation over some months, they were not consulted in relation either to the decision to settle Superintendent Dizaei’s Employment Tribunal claim or in relation to the terms of any settlement.

6.74 The evidence that we have received suggests that the trust and confidence which is essential between a police service and an IAG may have been severely damaged. Consideration needs to be given as to how it can best be repaired.

We recommend that the Independent Advisory Group and the MPS agree a protocol in relation to disclosure of documentation and the rationale for decisions to Independent Advisory Group members. This must be based on the presumption that Independent Advisory Group members see everything that is available to the investigating officers. Where possible, this should be before decisions are taken.

Chapter Summary

This chapter deals with:

- ▶ The structure and remit of the MPS' Directorate of Professional Standards
- ▶ A new role for the directorate?
- ▶ Perceptions of the directorate
- ▶ Appointments to the directorate
- ▶ The Review of Operation Lancelot
- ▶ A new model of case management
- ▶ The experiences of individuals:
 - Delay – “Lives on hold”
 - Supervision – “Nobody is actually held to account”
 - The investigation process – “Why do we treat our own people differently?”
 - Disclosure – “A smokescreen goes up in order to prevent you getting to the information”
 - Lack of sensitivity to victims and others – “You end up feeling you have to leave the organisation”
 - Treating all those involved the same way regardless of circumstances – “You are just a number”
 - Suspension – “Nobody wins out of suspension”
 - Welfare support – “Dignity and respect”
 - Media issues – “The MPS chose not to correct the press on any of the incorrect or unhelpful stories about me”
 - Lack of information – “Those concerned will just have to wait and see”
 - Disciplinary hearings
 - Guidelines on sanctions
 - Assistant Commissioner Reviews

“ Integrity is not negotiable.”

MPS Professional Standards Strategy

7.1 In this chapter we examine how the MPS handles professional standards matters, including the work of the Directorate of Professional Standards (DPS) and the experiences of individual officers. We will make a number of observations and recommendations, including proposing a new model of case management. If our earlier recommendations on the regulatory framework are accepted, much of what we have said in this chapter will be overtaken. However, given the fact that it will take some time to move to the new framework we are advocating, we consider that it is worthwhile making recommendations on steps the MPS can take to improve its handling of matters relating to conduct and discipline in the meantime.

The structure and remit of the MPS' Directorate of Professional Standards

7.2 The Commissioner set the context for the work of DPS in his written submission: “Integrity must be fundamental to delivering our service. Integrity must permeate our dealings with the public and each other.” The MPS puts integrity at the heart of its work.

7.3 DPS was established in October 2000. The new directorate brought the Central Discipline Office, the Complaints Investigations Bureau (CIB), the Anti-Corruption Command and the Area Complaints Units under a single command for the first time.

7.4 DPS is part of the command of the Deputy Commissioner, who is the ‘appropriate authority’ for discipline matters in the MPS as defined in the Police (Conduct) Regulations 2004. It comprises approximately 600 police officers and police staff, with a budget of £43 million and is led by a Deputy Assistant Commissioner.

“The Directorate of Professional Standards are in the front line of ensuring that corrupt officers and their abhorrent practices have no place in the organisation – their banner ‘Integrity is non-negotiable’ sets the touchstone for the rest of the organisation.”

(Submission from the Commissioner, Sir John Stevens.)

7.5 DPS operates under a Professional Standards Strategy, which “is our ‘route-map’ and embodies a change from the more conventional approach to professional standards work. In essence it is a move from the purely reactive model to one that includes preventative work as well.” (Submission from DAC Roberts.) The strategy defines professional standards as “behaviour which is consistent with the high ethical standards of policing and the MPS’ Mission, Values and Vision.”

7.6 We have been informed that DPS has fully implemented the National Intelligence Model, that operations are only initiated after careful analysis of intelligence by its Intelligence Development Group and that organisational risks are analysed using Strategic Intelligence Assessments.

7.7 We received evidence that there are 43 DPS policies which impact on conduct. These have been reduced over the last two years from 140. It cannot be appropriate to have such a large number of policies with which officers need to be fully familiar or risk the consequences.

We recommend that the MPS creates a policy database and reference source that is cogent and succinct, by reducing the number of policies which impact on the process of discipline and conduct.

7.8 DPS' remit is to investigate where the behaviour of officers potentially offends the Police Code of Conduct, is criminal or makes the MPS potentially liable in civil or employment law. It does not investigate the behaviour of ACPO officers, whose conduct is the responsibility of the MPA, or police staff, although its remit does extend to members of the public who are thought to be involved in corrupting officers in the MPS.

"... our staff routinely face both temptation and provocation ... DPS is an unavoidable 'overhead cost' of protecting our reputation and thus protecting policing by consent." (Submission of DAC Roberts.)

7.9 DPS believes it is making progress in the fight against corruption, and cites a fall in the number of complaints from the public as "a clear indication that the combination of preventative and educative efforts are bearing fruit." (Submission of DAC Roberts.)

7.10 DPS' Anti-Corruption Command has an international reputation and often lends its officers and expertise to assist similar departments in foreign police services. We have been told that the rest of the directorate is also seen as very effective.

7.11 DPS has an important role to play in maintaining public confidence in the MPS. The public has a right to expect the highest standards of professionalism from police officers and that swift and decisive action is taken to deal with officers whose conduct falls short of those standards. We recognise the importance of the work of professional standards officers in maintaining the integrity of the police service in this country.

A new role for the directorate?

7.12 If our recommendations concerning the abolition of the regulatory framework governing police conduct issues are accepted, there will be major implications for

the role of DPS. The process to be followed will depend on the nature and source of the allegation against the officer.

7.13 The IPCC will play a role in public complaints but responsibility for dealing with the vast majority of conduct issues will lie with local managers supported by HR professionals. The HR directorate will be responsible for issuing guidance to ensure consistency of approach and of sanctions.

7.14 There will still be a need for a *police* as opposed to a *management* investigation in cases where there is an allegation or suspicion of criminal conduct. Such an investigation might be undertaken by the MPS or it might be given to an outside force, where the IPCC considers that public confidence requires an external element.

7.15 If the MPS itself were to conduct the investigation, this could be the responsibility of a specialist department, such as DPS. The MPS would have a choice whether to retain DPS in some form.

7.16 However, we cannot presume that the changes we are recommending will necessarily be adopted nor that change will happen quickly. Our terms of reference require us to inquire into the MPS' conduct of 'policies, procedures and practices for and resolution of complaints and allegations against individuals'. Therefore we need to consider the work of DPS in the area of complaints and discipline under the present system.

7.17 First, we would like to comment on what we have heard about how the directorate is perceived within the MPS.

Perceptions of the directorate

7.18 DPS is an extremely important department. It is in the frontline of preserving the MPS' reputation for integrity. However, if it is to succeed in that role, not only must its own reputation be high but the way it handles investigations and deals with people must be beyond reproach. It cannot operate in isolation and needs to enjoy the trust and confidence of the rest of the organisation. We are concerned that some of the evidence we have received indicates that this is not the case.

7.19 It is clearly pleasing to enjoy a reputation as 'a world leader in dealing with issues of professional standards' (Foreword to the MPS Professional Standards Strategy) but if different perceptions are held by those who experience the process, then that is a message that the MPS and DPS itself need to hear.

7.20 We are sure that most DPS officers are conscientious and want to perform their duties to a very high standard. However, the totality of the evidence that we have received leaves an impression of a directorate operating outside the normal rules of investigations, apparently with little sense of urgency or sensitivity to others.

7.21 In our view, that is not an image about which the MPS should be complacent. One badly handled case is one too many. We have seen and heard examples of poor supervision and flawed decision-making.

7.22 As a general rule, officers in the MPS have the highest standards of integrity and are proud of the office they hold. It is only a very small minority whose conduct falls below the expected standards.

7.23 The majority of officers, therefore, accept unequivocally that action must be taken to deal with those whose integrity is in question. They are supportive of the need to investigate allegations thoroughly to maintain public confidence. They do not want to serve with officers whose conduct threatens the integrity of the Service.

7.24 Indeed, many of those who have themselves been subject to investigation are also supportive of the need to maintain public confidence by taking action to investigate allegations. We have been struck by the fact that a number of individuals have told us that they recognised the imperative of concerns about their conduct being investigated:

"It was absolutely right that I was investigated for this matter. I am not saying I should not have been investigated. If somebody makes a complaint it should be investigated, quite rightly."
(Evidence of Chief Inspector Julia Pendry.)

"I should have been investigated properly, all of us should have been investigated, ... the discipline procedure should have taken place immediately as it did, ... what they should have done was investigate what happened, how did it happen, and is there anybody to blame for it? Or, how are we going to deal with them, and how are we going to set matters right and make sure it does not happen again?" (Evidence of Ms JJ.)

7.25 However, there is less support for DPS itself. We have received a substantial amount of evidence about the culture of DPS and the way that it operates.

7.26 We appreciate that DPS carries out a vast number of investigations each year and that we have only heard from a relatively small number of individuals. However, we have also heard from a range of organisations that have dealt with DPS and we have a concern, based on what we have read and heard, that DPS is somewhat detached from the rest of the organisation. This image, real or perceived, cannot be good for the directorate itself and is unhealthy for the MPS as a whole.

7.27 DPS has variously been described to us as 'unaccountable', 'untouchable', 'out of control' and in effect operating outside the rest of the organisation.

"I believe they have a different agenda. I mean, charter standards are for everyone, are they not? Everyone has got charter standards, and they have got their own charter standards. That is my belief now." (Evidence of Mr DD.)

“My personal view is they do make it up as they go along, they are given greater scope, if you like, to do what they want to get the result that they need.” (Evidence of Mr CC.)

“The danger is that a ‘Frankenstein’ department has now been created which enjoys unprecedented support and ... ‘soft love’ resulting in a culture of self fulfilling prophecy amongst its staff who believe they are untouchable and unaccountable ... There is a false sense of self-belief that they are the last bastions in the over exaggerated and eminent cancer of serious corruption and poor standards which is about to engulf the organisation. The reality is that the majority of MPS employees are honest and decent individuals who do not want to be associated and frequently reminded by the highest ranks in the MPS that they work for an organisation which suffers from endemic corruption and is riddled with poor professional standards.” (Submission from the NBPA.)

“A number of senior officers, particularly those attached to the DPS operate in a bullying, partial, class system beyond the complaint of police officers they are delegated to investigate.” (Submission from IND 27.)

“... then who is accountable for those decisions? Because it seems that the impression it gives, that not only people who make the poor decisions which influence the lives of people, and I think the human side of this is often missed, because my family and I suffered as a result of this poor decision – not only are those people not questioned, but indeed they are promoted.” (Evidence of Superintendent Ali Dizaei.)

“I strongly believe that DPS is not properly regulated and that they think they can do as they please without fear of an investigation into their own activities. It would seem they have a mentality that does not allow them to look at cases objectively. I would liken it to tunnel vision. They seem unable to look at the big picture and seem to focus on obtaining a prosecution, whether it by means of a criminal trial or by means of an internal hearing. It appears they will also try and obtain this end result by any means, and if that involves foul means, then as long as they get the result they want, they will use them.” (Submission from IND 46.)

7.28 Investigations seem to be conducted without any regard for those involved.

“I think above all, that if I had to pick one thing to concentrate on, you know, that we should be presumed to be innocent, and be treated like human beings, with dignity and respect. I know how I felt and I know how my wife felt at what was happening to me, despite having done what I have done 100 per cent for the job, you know, and commitment.” (Evidence of Mr HH.)

7.29 We have received evidence which suggests that the directorate is not accountable to the rest of the organisation. We heard from one OCU Commander who had officers who were under investigation:

“I am very rarely kept up to date. I have to go out of my way to find out the progress of it. I am regularly asked by the Federation, by the staff, for updates I cannot give them. And it is just

one of a number of significant investigations that is allowed to rumble on ... We could never allow a criminal investigation to carry on like that; it would be thrown out of court."

(Evidence of Detective Chief Superintendent Peter Spindler.)

7.30 He also had concerns that the interests of the officers under investigation were not accorded any priority:

"I have officers on my command where this is hanging over them. It affects them psychologically; it increases their stress levels; it is a constant reminder that something is waiting to happen to them; some of them cannot be promoted, so they are affected careerwise and financially; it is treated by the organisation as just another investigation. So why do we treat individual officers like that, as an organisation? I find it unbelievable."

7.31 In addition, DPS does not appear to see the need to communicate effectively with the rest of the organisation on matters of policy.

7.32 In response to a question from us on how DPS communicates its policies, we were informed that: "Policies are issued to officers and staff through Notices and Special Notices. [They] are posted on the intranet. It is a breach of the discipline code not to comply with Notices and Special Notices." (Submission from DAC Roberts.)

7.33 We find this an unsatisfactory system for attempting to keep officers up to date in relation to matters which could lead to disciplinary proceedings. The system appears even less satisfactory in the light of the extensive evidence we have received that many officers and staff do not have the opportunity or facilities to consult the intranet regularly.

7.34 In response to this criticism, the MPS told us that DPS communicates in exactly the same way as the rest of the organisation. We comment elsewhere on communication within the MPS. Given the potential impact of DPS' policies on individuals, we do not consider the way they are communicated to be satisfactory.

7.35 We have heard from a number of officers who have had the impression that DPS is out to get them and that this is the aim of the investigatory process:

"Well, you are made to feel on the outside by the DPS – I mean, my impression of the DPS is they are out to get us. The Metropolitan Police is a different matter, the Chief Superintendent and everyone at our home division ... has been very good to us."

(Evidence of Mr DD.)

7.36 The Deputy Commissioner thought the attitude ascribed to DPS understandable and commendable:

"One has to see the circumstances under which the DPS or the anti-corruption command was founded, which was a significant, long-lasting and strategic threat to the integrity of the whole organisation and therefore of the British policing and criminal justice, coming out of a

networked group of corrupt officers, many of whom were sent to prison for long terms of imprisonment during the late 1990s. The answer, is yes, we are out to get them, and they were quite right to be out to get them.” (Evidence of the Deputy Commissioner, Sir Ian Blair.)

7.37 For his part, DAC Roberts thought this a natural extension of normal policing methods:

“Any investigating officer, if he (or she) is committed to the job that they are doing, can get too close to the case that they are dealing with. It is a process – it is a feature of police investigations, generally. There is nothing special about DPS; that is just what happened when you are committed to an investigation.” (Evidence of DAC Roberts.)

7.38 It is generally accepted that the work of the Anti-Corruption Command is internationally recognised. There is always a risk that those who investigate corruption might become entrenched and rigid. However, it is regrettable if this attitude permeates other investigations.

7.39 We are very concerned about the following comment:

“Discipline inquiries can be quite different. You can start off at one extreme – and I have christened it ‘the Al Capone model’ – where it is very clear that you have somebody who is definitely engaged in criminal corrupt behaviour; that might well be based on intelligence that you could never use in court, but you have a very clear view: here they are; they are guilty; now the problem is finding sufficient evidence to essentially get them out of the organisation and preferably into prison: the Al Capone model. It does not matter what you get him for, you can get him for tax evasion, as long as you get him for something. That has one set of dangers and all sorts of problems inherent in it.

At the other extreme, you have an allegation which you are deeply unsure about whether or not it is true. So you have to embark on a genuine search for truth: do we know whether or not this person is guilty of the sort of things that are being alleged?

And as you go on through the inquiry, you might find that there are suggestions that he or she has been guilty of other things as well. So it is very difficult to define what success looks like when you start on that search for truth, and it is very difficult to say, ‘Well, is the misconduct system the right way to end up and get to a successful outcome?’ Whereas with your Al Capone model, you know what the successful outcome looks like; the question is whether or not you are going to get there.” (Evidence of DAC Roberts.)

7.40 Although DAC Roberts clarified later in his evidence that he regarded neither model as a satisfactory way of conducting an investigation, we are concerned that it is accepted that this is how discipline inquiries can be conducted.

7.41 Indeed, our experience as an Inquiry gave us cause for concern about the work of DPS. Whilst recognising the legal constraints under which DPS operates, we perceived an over-anxiety about secrecy and confidentiality, a reluctance to

trust us with confidential information and an impression that the directorate's work is of such a high standard that it had nothing to learn from anywhere else.

7.42 We were particularly keen to look at best practice in all the areas we were considering. We asked at an early stage about how DPS ensures it is able to assimilate best practice from other sources. The answer revealed that it is clear that DPS considers itself to represent good practice with little to learn from elsewhere:

"I would say in matters of officer standards and integrity:

- a. there is a close dialogue between the MPS and organisations such as ACPO and HMIC;
- b. the MPS is seen as a leader in creating and developing best practice."

(Submission from DAC Roberts, MPS.)

7.43 We have seen much good practice during our visits to other police services, and also in our discussions with witnesses, but it is always the case that any organisation can learn from elsewhere.

7.44 Another example of this attitude is DPS' failure to take up the recommendations of the Review of Operation Lancet at an early stage, despite the fact that they were being adopted across the country and are cited as best practice by the IPCC.

7.45 We will reflect further on perceptions of DPS when we deal with the experiences of individuals and the criticisms of how particular investigations were handled.

We recommend that the Commissioner orders a fundamental review of the Directorate of Professional Standards, to be personally assured that the policies governing the practices and procedures of the directorate hold senior managers fully to account for the conduct and management of discipline investigations.

Appointments to the directorate

7.46 A dynamic professional standards department requires the right people. This is crucial to its effectiveness and to the confidence it inspires both internally and externally. There also needs to be a regular interchange of personnel with other parts of the service, always balancing the need to retain the correct level of experience and expertise. DPS agrees with this analysis.

7.47 The success of DPS depends upon having the strongest and best people leading the directorate to ensure that it uses best MPS practices and does not develop a culture of its own.

7.48 One of the ways of developing a vibrant organisational culture is to ensure regular injections of new individuals and ideas. There is always a danger that, if

people are too long assigned to a particular role, they become complacent and too readily accepting of the organisational norms. This could result in the organisation itself becoming insular and stagnant.

7.49 We have received evidence which is critical of the way DPS recruits officers:

“The DPS needs to be overhauled. Presently most officers serving on DPS are there because of ‘who they know’ rather than ‘what they know’.”
(Submission from Detective Sergeant Gurpal Viridi.)

“Since its inception the DPS and its forerunner CIB, has been used as a networking system driven by nepotism, self interest, promotion and increased earning capacity which have bypassed the normal promotion selection protocols designed to protect the individuals.”
(Submission of IND 27.)

7.50 The Deputy Commissioner outlined the recruitment process which has become more formal in recent years. Although DPS has reserved the right not to advertise posts, in practice posts below the rank of chief superintendent are advertised. The MPS does not run a competitive process for posts at chief superintendent level and above anywhere in the Service.

7.51 We were told that, when CIB was set up, the recruitment process was much less formal and the then Commissioner and Deputy Commissioner simply picked people they thought suitable for the job. The Deputy Commissioner told us that open competition has resulted in a significant increase in the number of staff from different backgrounds. This is clearly a welcome development but can only be seen as a first step on the road to a more representative DPS.

7.52 We are not, therefore, persuaded that recruitment into DPS is the result of favours or nepotism, but rather is run as a “broadly open competition” (evidence of the Deputy Commissioner, Sir Ian Blair). We do note in this area, however, that both HMIC and the MPS itself foresees changes in career progression for DPS officers and staff:

“There is a growing need for a more co-ordinated approach to training and career management across the DPS, if it is to recruit and maintain skilled staff. This is particularly so in terms of investigative skills. There is no longer an obvious pool of experienced detectives the directorate can dip into and it will need to maximise development opportunities internally and ensure appropriate exit and career planning strategies are in place if it is to continue to attract and retain such staff.” (HMIC Inspection Report, 2002/2003.)

7.53 It is clear that, to some extent, the Deputy Commissioner shares our concerns about the need for ‘new blood’:

“... that inevitably means that that world view colours the view of DPS. If they stay too long. And one of the issues with which I charged Steve Roberts when he took over was:

have a look at all this. Have some people been here too long? Are we fighting the last war? because that is what we may be.”

(Evidence of the Deputy Commissioner, Sir Ian Blair.)

7.54 We appreciate the problems that can arise when it is difficult to recruit suitable staff. It is important that DPS is able to attract new staff to avoid a culture where the ‘last war’ is being fought. We therefore welcome HMIC’s suggestion of revamping recruitment and training initiatives. Ideally officers should move on after a set period to keep the culture refreshed.

7.55 However, it is also important that the profile of officers and staff within DPS reflects the make-up of the organisation as a whole. This is likely to increase trust and confidence in the directorate.

7.56 It is generally accepted that a system of open competition represents best practice in recruitment. This entails posts being advertised widely, with the requirements of the post fully specified so that all candidates with the relevant experience and skills can apply. We see no reason why posts within the MPS should be filled any differently.

We recommend that the MPS puts in place recruitment processes which are transparent and provide for equality of opportunity. These processes must ensure that people of the right calibre are recruited to posts within the Directorate of Professional Standards and must be extended to all ranks including the most senior positions.

We recommend that the MPS puts in place processes to ensure that those recruited receive the appropriate training to undertake the roles to which they are assigned.

We recommend that the MPS takes steps to ensure that the future profile of the Directorate of Professional Standards reflects the diversity of the MPS as a whole.

We also recommend that a system of time-limited tenure of posts is considered.

The Review of Operation Lancet

7.57 The recommendations of *Operation Lancet: A Case Study Review Report* have been commended to us by a number of witnesses, including the MPA, the IPCC and the PSAEW. The Inquiry endorses the report’s emphasis on proportionate and timely investigations into the conduct of officers.

7.58 The report was published in July 2002. It makes recommendations for future investigations of police complaints. The recommendations are as follows:

1. that early attention be given to the issue of sharing data;
2. that a model be delivered to guide the scope and scale of a complaints investigation – similar to the framework applied in murder investigations;
3. that there should be a template to guide and record the decision whether or not to lead an investigation internally or externally;
4. that, to assist in meeting the vital requirement of clear terms of reference, a model template should be developed and issued as guidance;
5. that key stakeholders consider whether, and if yes how, a dedicated level of resilience can be introduced;
6. that, in the present regime, a formal process is established to deliver joint training and a performance monitoring mechanism between the Police Service, Crown Prosecution Service and Police Complaints Authority (now IPCC);
7. that HMIC, in conjunction with other stakeholders, should devise a mechanism for assisting with the identification of senior investigators;
8. that the mechanism of a ‘case conference’ should be established and the criteria for its use determined by the key stakeholders; and
9. that a review procedure be established for complaint investigation cases, which in appropriate cases is linked to the role of the ‘case conference’.

7.59 We support these recommendations although some doubts have been expressed to us about the propriety of the police authority being involved in case conferences. The argument is that this creates the potential for conflicts of interest were the authority later to be called upon to discipline an ACPO officer.

7.60 We are, however, concerned that the recommendations of the Lancet Review do not appear to have been adopted as quickly in the MPS as in other police services. We have been told by the MPS that “despite extensive research we have been unable to discover a model which copes with the complexity of the issues and have had to develop our own.” We are surprised that the MPS felt it necessary to conduct such “extensive research” since the Lancet recommendations are generally regarded as best practice.

We recommend that the MPS works with appropriate stakeholders to implement the recommendations of the Review of Operation Lancet.

A new model of case management

7.61 If our earlier recommendations are accepted, the current disciplinary regime will no longer exist. However, implementing this change is likely to take some time and therefore the MPS, and other police services, will have to operate under the current system in the interim. We consider that there is room for greater rigour in the operation of the process and that this would flow from greater oversight.

7.62 We have devised a model of case management which we are recommending to the MPS and which we believe will provide a more effective framework for handling complaints and discipline matters. This builds on the recommendations of the Lancet Review, which we have outlined above, and is designed to ensure more rigorous internal oversight of case management.

7.63 Whilst we accept that there have been improvements in terms of delay and the use of suspension, we believe that the way DPS operates the current system has led to a loss of confidence both internally and externally. In our view, it still takes too long to resolve a case and there are delays both in the investigation and in the time it takes to convene a disciplinary hearing.

7.64 We are optimistic that, properly applied, the model will meet some of the criticisms we have heard, from individuals and others, of the way the system is currently operated in the MPS. In particular, we believe that it will address issues of delay, the use of suspension, delay in arranging discipline panels and the lack of welfare support given to officers involved in the disciplinary process.

7.65 We accept that DPS' caseload is very high when compared to other police services. We have been told that DPS handles approximately 5,000 cases a year. We accept that DPS should retain a case management function in respect of the majority of those cases.

7.66 However, we are persuaded that there should be a target for the completion of investigations within 90 days. We believe that many investigations could be completed well within this timescale.

7.67 Where an investigation exceeds that target period, the MPA should have a monitoring role. The Commissioner should report to the MPA's Professional Standards and Complaints Committee and the Committee should hold DPS to account for the progress of the investigation and scrutinise the reasons why it has exceeded the target time. DPS will be required to justify the time taken and also the need for a continued investigation.

7.68 We appreciate that this will involve details of individual cases being provided to the MPA's Committee. This has not been the practice to date. However, if there is to be a return of confidence in the complaints investigation process in the MPS, we strongly believe that independent oversight is essential.

7.69 We consider that Magistrate Members of the Authority, as well as other Members with experience of the legal system, would be particularly adept at scrutinising these cases as they will have experience of case management in the courts.

7.70 Scrutiny by the MPA should continue on a monthly basis until the matter is concluded.

7.71 We consider that it would be appropriate for the IPCC to examine evidence and investigative procedures in those cases at six-monthly intervals. We are uncertain as to whether the IPCC's existing powers can be construed as including a power to monitor in this way. If they cannot, we consider that an express power should be conferred by regulations.

7.72 Where the officer is suspended, that case should be deemed to be an Accelerated Procedure Case from the time of suspension. This would mean that resources (including officer time) will automatically be allocated to the case to ensure rapid progress in the investigation and to minimise the duration of the officer's suspension.

7.73 In cases involving suspension, the internal case management function should be undertaken outside DPS at Assistant Commissioner level on a monthly basis. The Assistant Commissioner will adopt a case conference approach, give guidance on the management of the case and agree the continuation of the officer's suspension or alternatively restore him or her to duty.



7.74 The HR directorate will be involved in the case conference as it will have responsibility for welfare issues as well as assisting the officer's re-entry into the workplace if that is the outcome once the matter is concluded. The Assistant Commissioner will have to justify his or her decision in writing and the decision, and the reasons for it, will also appear in the policy file.

7.75 The clock will start when the investigation actually commences, even if it begins covertly. The MPA's consideration of the case will begin after 90 days unless the investigation is still covert.

7.76 In covert investigations, there is already provision for review of surveillance authorities. This will obviously continue but the officer conducting that review will also be responsible for considering progress and whether the investigation should continue. His or her decisions should be recorded in the decision log.

7.77 After a covert investigation has run for three months, a chief officer from another force should review the case and he or she will have the delegated authority to stop the investigation if deemed appropriate. Such reviews should continue as and when necessary.

7.78 Once a decision has been taken to prefer disciplinary charges, a disciplinary panel should be convened within 30 days. Once appointed, the chair of the panel should convene a meeting with all parties, along the lines of a pre-trial review, to ensure issues which might delay matters are identified and addressed. Cases which have not been disposed of within 90 days of the decision to prefer charges should again be subject to monitoring by the MPA.

7.79 We consider that this model, properly applied, should assist the MPS in its management of cases and address many of the problems we have been made aware of.

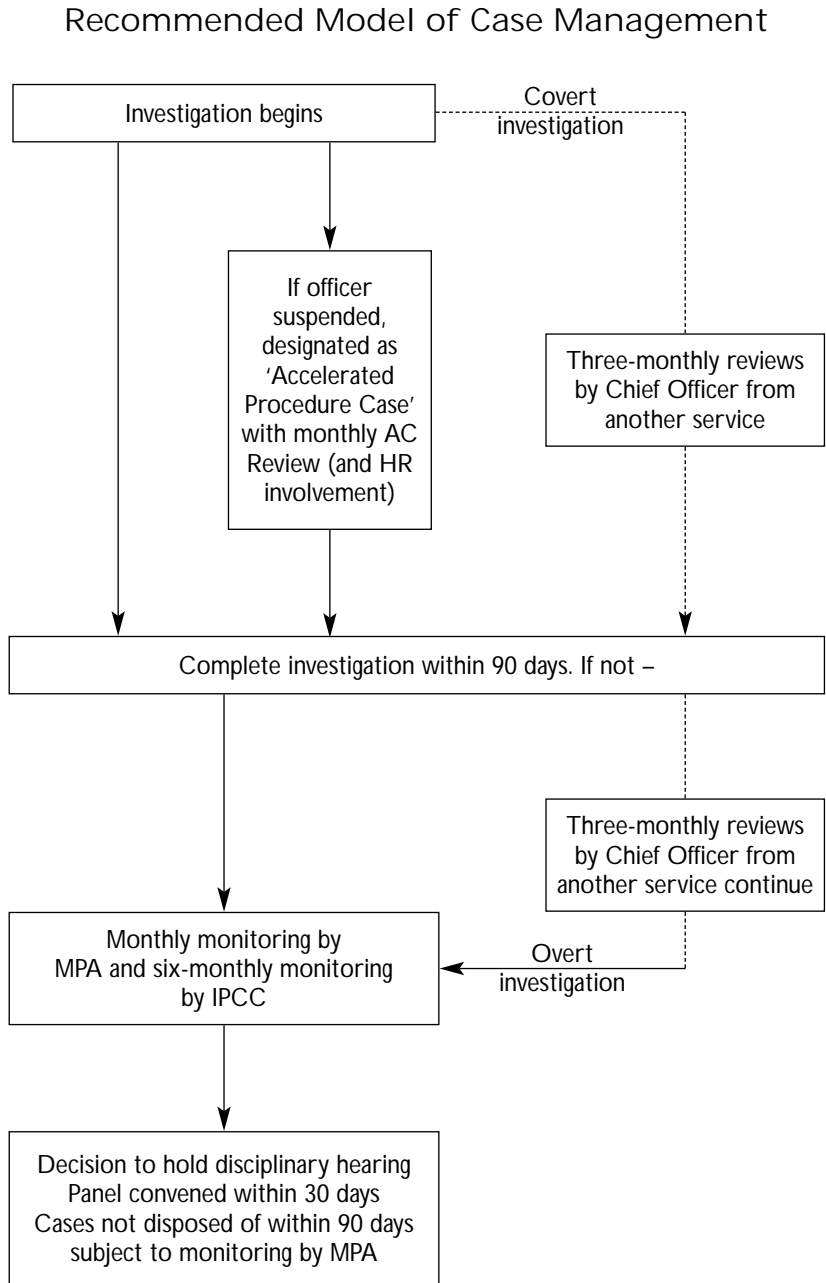
7.80 We also believe that it might be of assistance to other police services and would therefore commend it to the Home Office, the IPCC, the APA and the ACPO Professional Standards Committee for national guidance.

7.81 Critics may say that the MPS' complaints caseload would make this approach too unwieldy to administer. However, if cases which are suitable for early resolution are identified at an early stage (as they should be and as is done in other police services, such as Merseyside Police Service) we consider that there is no reason why the model we are recommending should not succeed.

We recommend that the MPS and the Metropolitan Police Authority adopt our recommended model of case management.

We also recommend that the Home Office, the Independent Police Complaints Commission, the Association of Police Authorities and the Association of Chief Police Officers' Professional Standards Committee consider the introduction of a national model.

Figure 8



Source: The Morris Inquiry

The experiences of individuals

7.82 Police officers enjoy significant powers and public confidence requires that, if there is a suggestion that an officer's conduct falls below the expected standard, the matter will be investigated.

7.83 Even if the reforms we are proposing to the conduct and discipline framework are accepted, the MPS will be operating under the current regime for a while yet. We have already alluded to the mass of evidence that we have received which is critical of how DPS operates. We believe that there are changes DPS can make to its working practices which will enable the directorate to work more effectively under the current regulatory regime.

7.84 The evidence we have received from individuals and staff support associations focuses on the way DPS conducts its investigations into individuals. We have, as an Inquiry, been concerned by some of the evidence we have heard and the lack of sensitivity to the feelings and concerns of those involved. It is no exaggeration to say that we have heard from individuals whose lives have been destroyed by their involvement in the disciplinary process.

7.85 It is not surprising that some officers are unhappy about the fact of having their conduct questioned by a professional standards directorate. Nevertheless, we have found the evidence of many witnesses who have criticised the ways in which the investigation into their conduct has been carried out, and the way that they have been treated by DPS, consistent and compelling.



7.86 Whilst we have received evidence praising the way in which DPS dealt with a case, this was very much the exception rather than the rule.

7.87 We would like again to put on record our thanks to all these individuals who took time to tell us about their experiences. We know that for many of them the process of coming before the Inquiry and reliving their experiences was somewhat distressing. Without exception, all the individuals we heard from were motivated by a desire to prevent another person going through what they had experienced.

7.88 We hope that the MPS listens to what they have told us and finds the determination to learn from their experiences.

7.89 We have attempted to group our concerns under convenient headings but, as will be clear from the evidence, some cases are illustrative of more than one issue.

Delay – “Lives on hold”

7.90 We have already referred to the issue of delay as being one of the criticisms we have received in relation to the Regulations themselves. It is one of the reasons we are recommending wholesale reform.

7.91 However, we have received evidence which would indicate that the delays that occur in professional standards matters in the MPS are not solely a result of the system.

Case of Ms JJ

Ms JJ was one of a number of officers subject to a disciplinary investigation arising out of an incident in February 1999. The incident resulted in criminal proceedings against two members of the public and also a public inquiry. The public inquiry reported in January 2003.

Despite the investigation having started in 1999, it took a further 18 months after the report of the public inquiry (i.e. until July 2004) for decisions to be taken about whether any officers should face disciplinary charges.

Even when a decision was made that they should face charges, those involved were not told what these charges would be. They were told that the discipline team had not yet had time to decide, notwithstanding the fact that the investigation had started over 5 years earlier.

7.92 Other examples include:

Ms BB was disciplined and eventually cleared after an appeal to the Home Secretary. This took over six years. "I think it is okay having a statutory time limit, as long as, if it is not adhered to, there is some sort of redress, because what I have found throughout this whole thing is things are laid down and then when they are not adhered to, you have got no recourse to anyone, and it is almost like, 'Well, that is the way it is, sorry, you will have to accept it.'" (Evidence of Ms BB.)

"Delay was a significant factor. There was a four and a quarter year period from the time of the incident until its resolution. It would be difficult in any arena to justify the same." (Submission from the individual involved in High Profile Case (HPC) 1.)

7.93 This not only impacts on the officer under investigation but also others who are caught up in the process. This is well illustrated by the case of Ms OO, who made an allegation against an officer which took two years to investigate. This is not an isolated incident.

"... you have got that just hanging over your head the whole time. Well, if it was that it took that length of time because [redacted] was sick, and they could not interview him, then I would have to sort of say, "Can something be done in relation to that?" Because there must be other cases whereby they have taken a length of time because the person has gone sick, can he not still be interviewed, even though the person is sick? In criminal law, that would be the case, would it not?" (Evidence of Ms AA, who made an allegation against an officer.)



7.94 One of the OCU commanders who gave evidence to us was ‘appalled’ by the length of time it had taken to investigate his officers following the death of Victoria Climbié compared with what had happened in the other agencies involved.

“Certainly if you compare us to the other agencies, local authorities, for instance, have already disciplined and sacked members of staff where we have still yet to publish any results.”
(Detective Chief Superintendent Peter Spindler).

He saw the problem as a national one, rather than MPS specific, but we have had evidence to suggest that delays in the MPS are worse than elsewhere.

Figure 9

Timeliness of Investigations and Misconduct Decisions 2002/3

	2002	2003										
	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov

Public complaints

No. of live public complaint cases under investigation	624	465	572	521	572	626	607	627	592	522	501	476
No. of live public complaint cases under investigation currently over 120 days	246	162	182	152	171	189	190	178	176	173	158	117
% of live public complaints cases under investigation currently over 120 days	39%	35%	32%	29%	30%	30%	31%	28%	30%	33%	32%	25%
Average days taken to complete investigations of public complaints	313	267	213	228	246	187	263	225	247	213	285	219

Internal investigations

No. of live internal complaint cases under investigation	151	150	144	108	123	123	134	147	149	134	120	120
No. of live internal complaint cases under investigation currently over 120 days	96	101	96	72	86	75	81	84	89	90	80	74
% of live internal complaint cases under investigation currently over 120 days	64%	67%	67%	67%	70%	61%	60%	57%	60%	67%	67%	62%
Average days taken to complete investigations of internal investigations	185	205	343	287	137	151	188	359	241	171	197	191

Misconduct decisions/hearings

Misconduct decisions – % of misconduct decisions made within 20 working days (target >=85%) (12 month rolling average)	95%	95%	95%	93%	93%	92%	91%	90%	90%	88%	86%	–
Misconduct decisions – % of misconduct papers served within 25 working days (target >=85%) (12 month rolling average)	78%	78%	77%	81%	79%	79%	77%	81%	82%	86%	86%	–
Misconduct hearings – Average days from decision to misconduct hearing (12 month rolling average)	228	227	233	214	214	222	213	207	213	212	214	–

Source: MPS

7.95 It is clear that DPS has made progress in reducing the time taken to investigate complaints but we consider more can and should be done. We accept that DPS carries out regular reviews of cases but this does not appear to be adequate in reducing the significant delays that still occur. To quote Chief Superintendent Alex Fish: "What our DPS would tell us is that [independent review] exists already, but we would say it is not working".

7.96 This is bad for an officer caught up in the process whose life is 'on hold', bad for the organisation and bad for Londoners.

7.97 We have also received some evidence on delays in convening Discipline Panels. One reason for delay seems to be a difficulty on getting people to sit on a Panel. This was a factor in Ms BB's case.

7.98 We therefore believe that some form of independent review needs to be imported into the process. We consider that the model of case management we are proposing with its emphasis on increased accountability and scrutiny should help to deal with delays which are due to the actions of the MPS.

Supervision – "Nobody is actually held to account"

7.99 There was a real concern that no one appeared to be supervising disciplinary processes, challenging delays and lengthy suspensions and taking action to move things on.

"I have experienced the discipline process from an inside view, from a police officer's point of view, and it was frustrating enough for me, knowing how it works, but I just imagine that members of the public who make complaints about police officers or whatever, the system, how more frustrating it must be for them if they are constantly fobbed off with, "Well, that is just the way – that is how long it takes". I do think that if there was somebody actually monitoring this, and somebody who, you know, is looking at it from an objective point of view, they have not got any axe to grind, they have not got any – you know, they are totally independent, and can see it from the point of view of, "Look, this is not acceptable. These people are being made to wait, whether they are police officers, whether they are members of the public", and evidence, people's memories, things like that, the longer these things get left, then the less likely justice really is going to be done, I think."

(Evidence of Ms BB.)

7.100 We have received evidence from the MPS about a number of supervision and review systems including the Investigating Officer Workload Analysis, the Investigating Officer Throughput Analysis, the Internal Investigations Command Performance Bulletin and the DPS Monthly Management Report.

7.101 In addition, DAC Roberts told us about a new model he had evolved for reviewing cases:

"It is really looking at how a review should be done on two dimensions. The vertical axis is what you might call the traditional murder review style: where are we on the route, between 'allegation' and 'conviction', whether that be in a court or on misconduct board; or an informal finding, words of advice, something short of going to a misconduct board. The second dimension that is actually new is ... where are we positioned along that spectrum of a pure search for truth or a decision that he is already guilty, and all we have got to do is find the evidence ...

"That might well indicate that what it is we are trying to achieve out of this ... has changed over the course of the investigation. Is our definition of success now ... that, actually, sending this to a misconduct board would be completely absurd and what we really need here is management intervention and a mediation process that gets us away from the formality of quasi criminal proceedings? And are we sure, if that is the right course, that only we as the investigators think that that is the right outcome, but that the victim or victims do, that the stakeholder or stakeholders do as well, because unless all those parties to it are happy, or at least acquiescent, then you are going to end up with a process that has not satisfied everybody. And that is actually what we are trying to achieve."

7.102 His view was that additional skills would be needed "... to those that you would require for murder review: around diversity, around mediation, around restorative justice ... and legal qualifications as well. I think that would provide us with a much more rounded process which could stop the steam roller in appropriate cases, but equally could divert it into something that would be a lot more productive as an outcome than either a successful or, indeed, a failed misconduct board or criminal proceedings."

7.103 We are not persuaded that either the current systems or DAC Roberts' new model will involve the rigorous scrutiny that we consider essential to increase confidence in the system. Nor will it provide the accountability that is urgently needed. We return to our earlier conclusion that there needs to be an independent monitoring and review function outside DPS.

7.104 We discussed the issue of independent review with many witnesses and the suggestion found great support. Initially we considered that an external resource might be needed, but we have concluded that it could be carried out internally provided the review function was independent from DPS.

"I think it needs to sit outside the DPS. It can be internal but it is almost like a listing office, it has the functions of a listing office, and it is that independent rigour that will push issues forward. I think that if that responsibility is taken away from the officers directly involved then that will speed things up." (Evidence of Detective Chief Superintendent Sharon Kerr.)

7.105 The model we have proposed involves more than simply monitoring progress. It also involves monitoring the decisions taken in investigations and

injecting an element of independent challenge into the process. This should go some way towards dealing with the criticisms that are made about DPS' accountability.

7.106 In addition, it should provide a formal opportunity for informal resolution or mediation to be considered. As the MBPA told us: "It is our experience that the longer a case progresses, then so much greater is the danger of positions becoming so entrenched that informal resolution becomes an impossibility."

The investigation process – "Why do we treat our own people differently?"

7.107 We have received consistent criticisms about the investigation processes used by DPS. These relate to a failure to progress an investigation, failure to adhere to the level of professionalism that would apply to criminal investigations involving members of the public, disproportionality of resources and failure to use policy files effectively.

7.108 The case of Mr CC is illustrative of many of the issues:

"Part of the problem I have found is the officers investigating complaints do not follow the same guidelines that everybody else in the Metropolitan Police follows, in terms of criminal investigations. As a detective myself, I am involved in criminal investigations now, and all of the inquiries that we do we have to put on to a computer-based system, detailing every contact we have with the witness, what we do during that contact with the witness, and making sure that everything is there, disclosable and retrievable.

"Complaints branch officers do not investigate in this way, they make written records, and there is no test to ensure that what they are writing is correct as to what they are actually doing on a day-to-day basis, which is a problem that I encountered, insofar as some of the witnesses were interviewed and there was not any note at all made that the officers had even spoken to them.

"In my particular case, the main witness was spoken to two days after the original complaint; no record was made anywhere, the first note being made some two months later, which compromised my position, and would not be acceptable in any other criminal inquiry.

"With a complaints investigation, they do not disclose what they do, they withhold lots of information, they actually – in my case, they withheld information that was very important to my defence." (Evidence of Mr CC.)

7.109 Mr CC is not alone in his criticism of the investigatory process. Other criticisms include:

i. Poor investigatory practice:

"The threshold for proving complaints seems too high at the investigation stage and this is compounded by the lack of proper investigation of sex/race discrimination complaints

by DPS investigating officers whether locally, or centrally. They choose to ignore available evidence or avoid speaking to relevant witnesses. It seems to the Federation that at times there is no real method of investigation and reporting. Reports from members indicate that where an employment tribunal claim has been presented, the management line appears not really to investigate the claim at all."

(Submission from the MPS Federation.)

ii. Not focusing on the more serious offences:

"Whilst there is a need to ensure the evidence exists DPS enquiries historically have attempted to address each and every offence, regardless of the seriousness. The blanket response has resulted in some of the key issues being missed in the smog of the investigation." **(Submission from Detective Chief Superintendent Sharon Kerr.)**

iii. Not focusing on the real issues:

"Everything was done as if it was a murder inquiry, you know, statements were put in plastic bags, exhibits were made, you had to sign labels and computer analysis called in, and all sorts of things like that, when the nub of it was really that all this copying had been done, yes or no; and the gun was in the safe, yes or no... It was something relatively trivial... it just seemed to be nothing happening. I mean, I spoke to department of professional standards, I spoke to my own personnel manager, I spoke to various other people, they said, 'Oh yeah, it is all being done, it is all in hand, we are going to make a statement next week,' and then that week would come, you would make your statement, it would go on the file, another six weeks later something else comes back, and so it goes on and on, and lasts, you know, this whole length of time."

(Mr EE, member of police staff who was involved in a disciplinary investigation in respect of an officer in his section.)

iv. Not letting officers who are under investigation know of the nature of the allegations against them:

"I did not get anything on paper until a long, long time after the investigation started, and when I saw how the alleged evidence was presented to them, I could see why the job had reacted as it did, but, you know, having said that, I thought once they had looked into it – if they had asked me for my involvement, they would have seen at a very early stage that suspension was not justified." **(Evidence of Mr HH.)**

v. Not pursuing obvious lines of inquiry which would have resolved the case quickly:

"It could have been done within a matter of days, all they needed to do was to review my duty sheets for the previous four months to see where I was, and to know that I had had nothing at all to do with it, no input at all whatsoever. Other people were involved in monitoring that particular job, and it could quite easily have been resolved at that stage." **(Evidence of Mr KK.)**

vi. Failing to interview officers and witnesses:

“During this period, they had ample opportunity to interview me, and, in actual fact – I was suspended in [redacted]; almost 14 months later, [redacted], I was told to report to a police station for interview. That was the first indication I have got as to what was happening to the inquiry.” (Evidence of Mr KK.)

“I was suspended from duty ... on the word of a self confessed criminal, who at the time of committing crimes was a serving Police Officer. His allegations against me were not corroborated in any way. His so called confession where I was incriminated by him was not recorded by contemporaneous notes, tapes or video. I was left in limbo without any help or support for over a year before I was arrested by appointment, interviewed and released on bail to be told that no further action would be taken.”
(Evidence of IND 42.)

7.110 We have also received much evidence about a lack of proportionality in some investigations which are allowed to run on because the investigating officer is certain that something will be revealed. This is in contrast to an approach, which insists on concrete evidence or considers suspending the investigation. Such ‘fishing expeditions’ give rise to the perception which we heard of DPS being ‘out to get’ certain officers.

7.111 DAC Roberts denied that the DPS approach was anything other than totally evidence based: “Evidence-based allocation of resources is not just a matter of ethics, as far as I am concerned; it is also a matter of good resource management. I could not afford to spend a lot of resources, or hardly anything, on an allegation of the sort of thing that you have just been talking about.”

7.112 As part of our consideration of high profile cases, we commissioned reviews from two experienced former detectives into a number of the cases. They commented on poor practice in relation to policy files. The files they saw did not record all the important decisions on the cases.

7.113 Not only does this leave investigating officers exposed but it also means that there can be no confidence that the necessary rigour has been brought to bear on the investigation. It also makes it difficult to track the thought processes and reasons for decisions made, which is vital.

7.114 This is all part of a picture of DPS officers operating outside of the constraints imposed on ordinary investigations. We see no compelling reason for this to be tolerated and, once again, this indicates a need for proper supervision and oversight.

7.115 All of these concerns about the way DPS carries out investigations point, in our view, to a root and branch review of investigatory practices within DPS.

We recommend that investigations by the Directorate of Professional Standards should be run along the lines of the normal investigative process for criminal cases and arrangements should be made to put the necessary systems in place as a matter of urgency.

Disclosure – “A smokescreen goes up in order to prevent you getting to the information”

7.116 A number of witnesses have criticised the way in which DPS handles requests for disclosure of material. These criticisms largely revolve around the denial of material requested and what is seen as a very slow response to requests.

“On the 17th June [redacted], a pre-hearing conference was held with DPS at Tintagel House. At this hearing, my police federation representative handed over a disclosure request for a number of documents that had been prepared by my barrister. On the 25th June, my solicitor wrote to DPS to confirm the disclosure request. On the 29th September, my solicitor had received no response from DPS. He wrote to them again asking that they provide the documents we had requested. DPS eventually replied to him on the 20th October, just 3 weeks prior to the hearing. They were refusing to disclose much of what we had requested, citing that some of the documentation was subject to a Public Immunity Interest [sic] and could not be disclosed. Why did it take DPS 4 months to respond to the original disclosure request?” (Submission from IND 46.)

“Throughout my case I was repeatedly denied access to documents and information potentially important to my defence. While some of the documents could conceivably be subject to Public Interest Immunity issues, the police simply ignored the requests.” (Submission from Mr CC.)

“He started off saying . . . the CPS had finally succumbed to the formal requests for full disclosure and one part had stated, which had been signed, ‘all undisclosed material does not undermine the Prosecution’s case.’ However, as soon as one starts to go through this material, it soon becomes apparent that all undisclosed material completely undermines the Prosecution’s case.” (Submission from IND 22.)

7.117 Regulation 12 of the Police (Complaints and Misconduct) Regulations 2004 provides that disclosure may be withheld to prevent the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings. Non-disclosure is also authorised if it is necessary for the purposes of national security, the prevention or detection of crime, on proportionality grounds, or in the public interest.

7.118 The MPS is, therefore, clearly entitled to refuse to provide disclosure, if the relevant tests are met. Further, the story in relation to disclosure is not all one way, and David Hamilton, the MPS’ Director of Legal Services, has told us that:

“... there is an increasing tendency on the part of lawyers representing officers to advance preliminary arguments on behalf of their clients that presentationally and in substance mirror

defence submissions in criminal proceedings. I would make the same observation in relation to the very wide-ranging approach to disclosure which is now frequently adopted. These practices result in huge delay and considerable expense is incurred by police forces both in instructing lawyers to respond to disproportionate requests for disclosure and preliminary legal arguments. Also the time spent by senior officers in listening to and determining lengthy and complex legal arguments is unacceptable. Whilst accused officers must be permitted to raise legitimate arguments, there is a line to be drawn between the appropriate and proportionate defence of an officer and the use of tactics which can have the appearance of being designed to frustrate or defeat the misconduct process.”

7.119 As a result of his concerns, Mr Hamilton made the following suggestion:

“I would suggest that these matters should be addressed by detailed IPCC guidance as to the proper parameters for disclosure in misconduct proceedings and specific guidance to panel members to ensure that the misconduct process is operated in a speedy, effective and straightforward manner.”

7.120 We agree that such guidance would usefully clarify the rules as to disclosure for all concerned, which should address the concerns of the individuals from whom we have heard, as well as the MPS. As a matter of best practice we consider any guidance should apply more widely. In addition, we think it important that any such guidance should include reference to standard timescales for responding to disclosure requests so that all concerned know what framework they need to work to.

We recommend that the Independent Police Complaints Commission should consider issuing detailed guidance as to the proper parameters for disclosure in disciplinary proceedings, including an appropriate timescale for responses to disclosure requests.

Lack of sensitivity to victims and others – “You end up feeling you have to leave the organisation”

7.121 We have received much evidence of a general nature to indicate that some DPS officers have been less than sensitive to the feelings of the officers being investigated, as well as those of witnesses who may be other officers or police staff and left to work in very difficult circumstances. This is borne out by a number of the cases we have cited in this chapter.

7.122 We have already recommended that DPS investigations should be conducted along the same lines as other criminal investigations. This should include some sensitivity to those involved and their circumstances. Work with victims has developed tremendously over the past few years. This good practice should extend to ‘internal victims’ as well as those who are simply caught up in the process.

Treating all those involved the same way regardless of circumstances –
 “You are just a number”

7.123 Another criticism we have heard is that, if more than one officer is involved in an incident which gives rise to an investigation, all the officers are treated in the same way, rather than an initial assessment being carried out as to likely culpability. We have heard these described as regulation 9 confetti drops and have evidence of a number of cases where this has occurred:

“An example of this would be an allegation of an abuse of power by a person subject of a search warrant. The normal allegation would be that an officer had obtained the warrant by giving false or misleading information to a magistrate. It would be clear from the papers who the officer laying the information to the court was and therefore who should be the subject of the complaint. The practice of DPS would be to give all the officers involved in the search a 163 (regulation 9 notice) and interview them under caution. This has the effect of treating all the officers as accused persons and none of them as witnesses. This denies the investigating officer the chance to get a clear picture as to what happened and prolongs the whole matter. This also causes stress to officers who have not done anything and had an adverse effect on their careers.” (Submission from IND 36.)

“ ... as soon as a complaint like this is made, yes, it has got to be investigated, and it has got to be investigated properly, but, you know, to treat us all the same and tar us all with the same brush when they were out – the people that were investigating it were out to get one person. ... that is what they were out to do, but they took five of us with them, because at the time, one of the officers was facing charge of assault, we were all facing charges of neglect of duty.” (Evidence of Ms BB.)

7.124 We can see no reason to treat all the officers involved in an incident the same regardless of circumstances. We have been told that this practice no longer occurs and to a certain extent practices of this kind should be dealt with by our earlier recommendations about investigatory procedures. However, for the avoidance of doubt:

We recommend that, when more than one officer is involved in a case, regular and frequent assessments are made of the facts with a view to determining who, if anyone, is actually culpable and which officers are peripheral to the central facts.

Suspension – “Nobody wins out of suspension”

7.125 We have heard a number of disturbing accounts from individuals about the effect on them of being suspended from duty. These accounts relate particularly to the length of time that some have been suspended.

“I think they are too quick to jump and automatically suspend ... Three and a half years ... because as I have explained, it was something that could have been resolved within a matter of days. Why it took three and a half years.” (Evidence of Mr KK.)

7.126 The evidence we have seen and heard suggests that suspensions lasting well over a year are not uncommon. Indeed, we have heard of a number of officers who have been suspended from duty for over three years, and two cases where the period of suspension exceeded seven years.

7.127 Even though when officers are suspended, they are suspended on full pay, suspension by the MPS has been described to us as ‘shameful’, ‘barbaric’ and ‘absolutely disgraceful’, because of the length of time which has elapsed. Whatever the reasons for the periods involved for each individual case (and we recognise that the fault does not always lie solely with the MPS), we agree with DAC Roberts’ oral evidence that “if we have somebody suspended on full pay, Londoners get no benefit” and “nobody wins out of suspension”.

Figure 10

Officers Suspended, on Restricted Duties or Subject to the Service Confidence Procedure 2002/3

Suspensions	2002	2003									
	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Total no. of officers currently suspended	39	47	47	41	43	45	47	45	48	50	54
Total no. of officers currently on restricted duties as a result of an investigation	69	69	75	79	77	72	64	64	63	70	75
Officers and civil staff currently subject to Service Confidence Procedure	12	11	11	12	13	12	15	19	20	22	22
Total	120	127	133	132	133	129	126	128	131	142	151

Source: MPS

7.128 As a matter of best practice, greater use of alternatives to suspension should be considered and implemented because this is better both for the officer concerned and the taxpayer.

“If they want to suspend us, suspend us, but every month – I am only speaking for myself here, but there are four of us. Bar one, three of us are ten year plus officers. There is a lack of experienced officers on the streets. The other officer, during the suspension, has done his promotion and will be a sergeant if we go back to work, upon his return. Oh, neighbours, friends, family, other officers, nobody can understand, but then, it is taxpayers’ money. The Metropolitan Police is not spending its own money, is it? ...

Oh, there are alternatives. I could be shuffling paper in a desk, could I not? I could wash cars if they wanted. But it is not my – you very quickly realise that you are a number. I am PC [redacted], I have no influence over what is going on. I cannot make things happen any quicker.” (Evidence of Mr DD.)

7.129 The legislative framework for suspending police officers is now set out in regulation 4(2)(b) of the Police (Conduct) Regulations 2004, which provides as follows:

- “(2) The appropriate authority shall not so suspend a police officer unless it appears to it that either of the following conditions (‘the suspension conditions’) is satisfied –
 - (a) that the effective investigation of the matter may be prejudiced unless the officer concerned is so suspended;
 - (b) that the public interest, having regard to the nature of the report, complaint or allegation, and any other relevant considerations, requires that he should be so suspended.”

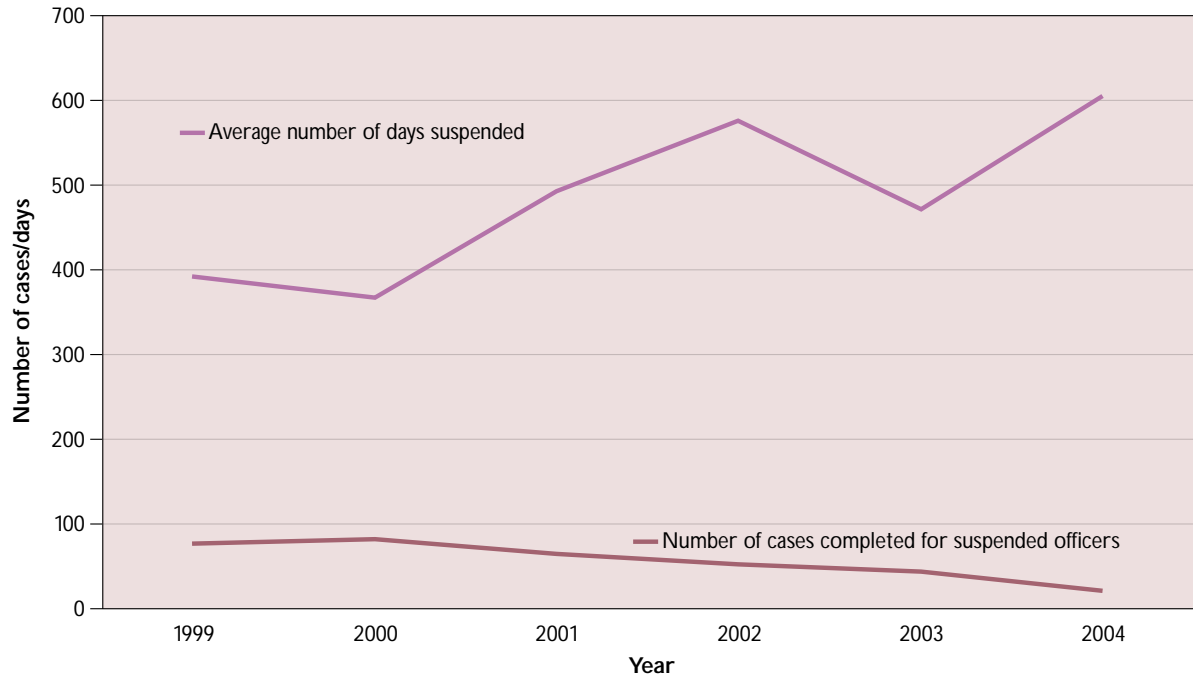
7.130 The way in which the MPS approaches suspensions is set out in a Special Notice, *Suspension / Removal from Normal Duty Policy – Constables to Chief Superintendents* which provides:

“The decision to suspend an officer will only be made after all the other options have been considered ... In all cases, unless it is impossible or positively undesirable to do so, consideration should first be given to other options rather than suspension ... Suspension can occur:

in any case where, the ACPO officer considers the matter, on the information available, to be capable of leading to a major penalty either in criminal or disciplinary proceedings; and it is necessary and in the public interest to do so.”

Figure 11

Suspended Officers for the Period 1999–2004:
Cases Completed and Average Time Suspended



Source: Data supplied by the MPS

7.131 Commander Carter told us that suspension remains the option of last resort. In addition, Commander Hagon told us that in the last four years suspensions have reduced by 60%. This is a very welcome trend. For, while we understand that suspension of officers in some cases is vital, we agree with the submission we received from the Metropolitan Federation that:

“The suspension of an officer from duty is a power that should be used sparingly and it is often far better to place an officer in a non-operational role, which allows both the individual and the MPS to maintain some dignity as well as allowing the officer a meaningful role within the organisation.”

7.132 DAC Roberts told us that he reviews each outstanding suspension every month, and this is a practice which we have found consistent with other police services which we visited.

7.133 We can see scope for a natural tendency, if this review takes place just in DPS, for a departmental mindset to develop in relation to each case that always justifies previous decision-making despite the good intentions of those involved.

7.134 Regular reviews of this nature are clearly important and that is why the model of case management which we have proposed gives the role to an Assistant Commissioner, independent of DPS. This should assist by ensuring that there is a fresh look at the evidence and state of play in each case on a regular basis.

7.135 We understand the need for a significant degree of discretion for senior officers in relation to the use of suspension, given the varying circumstances they have to consider. However, we think it would assist DPS' decision-making, and the individuals involved, if the organisation published clearer guidelines setting out the framework in which this discretion will be exercised.

"I personally think that there should be guidelines ... when to suspend and when not to suspend. I do not know if there are or not. It seems some people get suspended and some people do not, and it seems to be on different reasons ... I would think that if there was a policy – if there is not one – if there was a policy made in relation to work colleagues, and somebody has made an allegation against their colleague, that it is laid out as to what should be done to the person who has been – you know, the allegation has been made against, and also the victim, so there is no grey area." (Evidence of Ms AA.)

We recommend that the MPS reviews the existing criteria for suspension to provide greater clarity on when suspension should be used.

7.136 We have had a number of submissions from individuals who say they were on the periphery of an incident which led to an investigation, and yet suspension was applied in an all-encompassing way to the minor, as well as the major, players.

"I had always assumed that to be suspended, it had to involve something serious, you know, and I never ever visualised that I would ever be in that position, and my impression was it was, as you say, 'We have suspended this one, he is involved with him, so he will get suspended as well'. It did not seem to be a consideration, that I might just be on the periphery and dragged into it by circumstance, not having done anything criminal or dishonest. It just seemed as if, 'Well, we will do that because it is a good idea', that is how it appeared to me." (Evidence of Mr HH.)

We recommend that the MPS takes steps to ensure that, in each case when suspension is considered, it accords with the recommendation of the Review of Operation Lancet that the use of suspension always needs to be proportionate to both the allegation and the risk.

7.137 We have received evidence suggesting that some officers have been suspended without knowing why:

"I could understand why they had suspended me in the first place, but I thought maybe having done so, I should have been reinstated within two or three weeks or something like that. As I say, I thought — because I eventually saw what was being alleged. I did not get anything on paper until a long, long time after the investigation started ... " (Evidence of Mr HH.)

7.138 We suspect that such cases are historic and could not happen again because written reasons for suspension must now be given to each officer but, out of fairness to the individuals concerned, the MPS needs to make sure that no officer is left in doubt about the reasons for his or her suspension from duty.

Welfare support – “Dignity and respect”

7.139 We referred to welfare support earlier when we dealt with the role of the HR directorate and we recommended an increased role for HR in this area. We have heard a number of witnesses who have told us about a lack of welfare support to officers under investigation:

“So no, no senior officer – my own inspector from the [redacted] came out initially two or three times, something like that, but gradually, there was no contact at all, and definitely not from a senior officer.” (Evidence of Mr HH.)

This extended to support to officers on return to work: “I think the Metropolitan Police, anyway, seem to still have this attitude, ‘You are a man, you are in a man’s job, you do not need looking after, you are whatever age you are, you are adult enough to get on with things’, and that is clearly wrong, in my opinion.” (Evidence of Mr HH.)

We recommend that the MPS gives the Human Resources directorate responsibility for maintaining contact with officers under investigation and overseeing welfare support and re-entry into the workplace for suspended officers.

Media issues – “The MPS chose not to correct the press on any of the incorrect or unhelpful stories about me”

7.140 Another contentious issue is the MPS’ contact with the media in disciplinary cases. A number of concerns have been raised with us.

7.141 We recognise and support the critical role that the press and broadcast media play in policing. Not only do they provide invaluable assistance in the prevention and detection of crime but they also have a part to play in holding the police service to account and providing citizens with information.

“Communication has a direct impact on the effectiveness and credibility of London policing which cannot succeed without the consent and support of the community it serves.” (Submission from Dick Fedorcio, Director of Public Affairs, MPS.)

7.142 We recognise that there is a difficult balance to be struck between the public’s right to know and the impact which releasing information may have on an individual who may then be subject to (sometimes intrusive) media interest and comment and may well be innocent of any charges.

7.143 When investigating its own officers and staff, the MPS has a difficult line to tread between openness and its duty to act fairly in respect of its workforce.

7.144 We are concerned that a number of individuals who have given evidence to the Inquiry have told us that they have felt the MPS has not done its best to support them when their cases have received media attention.

7.145 Firstly, we have been told by a number of witnesses that they believed that, unknown to them, the organisation released official press releases about their cases to the media:

“There was too much information there for it to have been leaks.” (Evidence of Ms BB.)

“One of the most disturbing aspects of the media ‘frenzy’ that occurred following the abandonment of the criminal proceedings against Superintendent Dizaei, was the regular appearance of detailed information in specific parts of the media that could only have come from a source within the MPS who possessed a very detailed knowledge of the investigation.” (Submission from the MBPA.)

7.146 Secondly, officers have told us that although the organisation seemed ready to communicate the ‘bad news’ about their case when they were under investigation, but they were reluctant to do so when there was ‘good news’ in the sense of charges against an officer not being proved and when inaccurate stories were run in the press:

“... myself and one of the others that was exonerated had to phone the people that published notices, which is the internal sort of publication, and badger them to put in there that we had been exonerated, and they were like, ‘Oh yes, we will do it, we will do it’, and they did not, and eventually, they did, through persistence, they published, but it was just like a one line thing, hidden in a document.” (Evidence of Ms BB.)

“I was ordered by my senior officers not to talk to the media in my own defence and neither the Metropolitan Police Service nor the Metropolitan Police Authority did anything to counter the stream of largely false and damaging articles.” (Submission from DAC Brian Paddick, HPC.)

7.147 Thirdly, and perhaps most importantly, officers have told us that they felt abandoned by the MPS and alone when dealing with press enquiries and intrusion into their lives.

“I doubt that any officer in the MPS, apart from perhaps Commissioners, have had such intrusive press coverage. I had absolutely no idea how to deal with this. The MPS did not support me around this issue except to give me two emergency telephone numbers to ring if the press were at my door or I felt I needed help. I did need help. I rang those numbers and left messages. To date no one has responded.” (Submission from Ms JJ.)

“Following on from that I had to cope with the media who decided to follow me, do their own investigations, write untrue articles about me ... I am in no position to say to every Daily Mail reader, look this is what really happened to me, people do not want to know or hear the truth only what suits them. So I am left with having to justify everything I do.” (Submission from IND 30.)

7.148 We asked the MPS to comment on some of the issues arising out of the evidence, in particular the question of information which some officers felt had been leaked to the press. Mr Fedorcio outlined the MPS' procedures as follows:

"In each instance the press officer dealing with the case will clear statements or lines to take in response to media enquiries with the relevant investigating officer or case worker. Each high profile internal investigation or resulting court case has a bespoke media strategy drafted by the press officer and presented for the approval of the decision makers involved in the handling of such matters ...

"We do not offer to the media the name or identity of any individuals subject to internal investigation at the point of arrest or at anytime prior to charge. We treat police officers or staff who are the subject of a potentially criminal investigation in the same way as we would a member of the public in the same position.

"The public have a legitimate right to be informed of police activity, and especially incidents involving police officers who the public have placed in particular positions of trust and authority. We will always confirm, if asked, by the media that arrests have taken place, and if any officers have been suspended. The officer would be referred to by their age, place of work, rank and gender ...

"Where we believe unauthorised information has been given to the media the press officer will bring this to the attention of the investigating officer dealing with a case who will decide whether the matter should be referred to DPS for further scrutiny or investigation."

7.149 We have received evidence that suggests that unofficial press releases or comment is made about individuals. The MPS denies this.

"I think there were unofficial press releases about me; I cannot prove it, but I do feel there were some about me, and that is what caused the media frenzy. That is why everybody focused on me, because really, what the media reported was what the Met – was what I felt the Met had been saying." (Evidence of MS JJ.)

7.150 Commander Hagon of DPS responded to us on the issue of unauthorised press comment:

"Unauthorised public comment, that is to say, unauthorised disclosure of confidential information by a police officer, may amount to a breach of the Police Conduct Regulations. Similarly, such action by a member of police *staff* may amount to a breach of Civil Staff Misconduct and Discipline procedures. Any such action may also constitute a criminal offence under various statutes, including the Official Secrets Act and the Regulation of Investigatory Powers Act 2000.

"All 'leak' allegations received at the DPS are treated seriously but, like any other allegation, they are assessed and judged on a case by case basis. Where it is apparent that a disciplinary offence may have taken place an Investigating Officer will be appointed. It would then be the

task of the Investigating Officer to identify the source and to take whatever action is deemed necessary ...

“Press strategy is ultimately the responsibility of the Senior Investigating Officer and as such there is an element of subjectivity in the decision-making process. It is often very difficult to make the differential between what information the public has a right to know and what constitutes an unauthorised disclosure.”

7.151 We fully appreciate the sensitivities of press handling by the MPS and the difficult position in which media interest in any investigation can put the individuals concerned, as well as the organisation. It is not surprising that some officers feel that the MPS has made errors in its press strategy, even when the strategy may have been fully justifiable and appropriate.

7.152 We are concerned, though, that evidence we have seen suggests that officers, who may have no experience of dealing with the media, feel abandoned by the organisation and that they are not offered any real support in dealing with the situation. We feel that the MPS should offer support to those who are subject to disciplinary processes which have not come to a conclusion.

7.153 In particular, we think a background cause to the comments we have heard is that the MPS does not appear to share its media releases with the officer concerned. It is notable that neither the comments of Mr Fedorcio nor those of Commander Hagon refer to the involvement of the officer under investigation at any stage of the process.



Therefore, we recommend that, when an officer is under investigation, the MPS should:

- i. give the officer a copy of any media release before it is issued;***
- ii. tell the officer when information is likely to be released to the media; and***
- iii. provide the officer with advice for dealing with media intrusion, doorstepping, etc.***

7.154 We can appreciate that it might be difficult for staff in DPA to provide such support to officers under investigation as they will be dealing with the matter on behalf of the MPS. However, we consider that appropriate support could be provided by a press officer within the HR directorate.

Lack of information – “Those concerned will just have to wait and see”

7.155 Another common complaint is that officers who are the subject of investigations are not kept informed of progress. Mr HH was not, apparently, even told what the allegation against him was until he had been suspended for some time.

7.156 Similarly, the officer in one of the high profile cases we considered commented: “I was not kept fully informed about the progress of the investigation.” (Submission from individual in HPC 1.)

7.157 Another individual told us that he had been made subject to the Service Confidence Procedure but that: “I was never told why or what I had allegedly done wrong, I was never told what I could do to make amends or change. I was not allowed any representation at any hearing for appeal. I was never shown or served anything that [alluded] to any wrongdoing. I was told that I could only appeal every 12 months when it clearly states in the policy that it is every 6 months.” (Submission from IND 42.)

7.158 Again, this is poor practice. It is very important that officers who are the subject of investigations are kept fully informed of developments.

7.159 We have also had evidence that officers who have been told, after many years of being investigated, that they will face a disciplinary board were not at the same time told what offences they would be disciplined for. This was apparently because the discipline team said that it “had not yet had time to decide” and that those concerned “would just have to wait and see”. (Submission from Ms JJ.)

7.160 In their response to this criticism, the MPS told us that the evidence we had received on this point was “historic in nature” and that new practices had been introduced when the IPCC took office in April 2004. However, the incident in the case of Ms JJ, referred to above, occurred in July 2004.

7.161 This implies a callous disregard for the individuals involved. Officers are entitled to be told the detail of any charges they face particularly after so long a period of being ‘in limbo’.

We recommend that measures are put in place to ensure that officers under investigation (other than covert investigations) are kept informed of developments and that officers are told of the detail of any charges at the time they are told of a decision to discipline them.

Disciplinary hearings

7.162 We are also concerned about some of the evidence we have heard about disciplinary hearings. Ms AA, who was a victim of sexual harassment told us about the layout of the room: “The one thing that was not particularly good was the actual layout of the board, because literally, I would be sitting here and [redacted – the accused officer] would be there, so that was far, far too close for me to really feel comfortable to be talking about everything that had happened.”

7.163 The layout and atmosphere appear to be akin to a criminal court and we consider this to be inappropriate.

7.164 We have heard evidence that officers attending a disciplinary hearing are not, it appears, allowed to be accompanied by a friend or partner. We were reassured by the Deputy Commissioner’s statement that he thought people who were connected to the hearing should be allowed in.

We recommend that the conduct of disciplinary hearings should be reviewed to make them less akin to a criminal court.

We also recommend that, in sensitive cases, or where there are vulnerable witnesses, thought should be given to the layout of the room and other practical considerations, such as allowing those involved to be accompanied by a friend or partner, so that the process is less daunting for all those involved.

Guidelines on sanctions

7.165 We have been concerned at some of the evidence we have received about inconsistency in the sanctions meted out to officers and also that sanctions have been imposed which we regard as inadequate given the offence.

7.166 For example, Ms AA and another female colleague were sexually harassed by an officer. He was found guilty of five counts of sexual harassment and dismissed from the service on two. On appeal, the officer was reinstated and was given a reprimand and a fine. In another case, Ms OO was indecently assaulted by her line manager. He was found guilty of two counts of indecent assault and fined 13 days' pay.

7.167 We, therefore, welcome the fact that, since we began our work, the MPS has issued guidelines on sanctions.

7.168 We believe that these will be very useful and become even more valuable if our recommendations on the disciplinary framework are accepted since it is likely that more disciplinary issues will then be devolved to OCU level.

Assistant Commissioner Reviews

7.169 The Police (Conduct) Regulations 2004 (which replaced the Police (Conduct) Regulations 1999) provide for a review of the decision of a Disciplinary Panel by an Assistant Commissioner (Chief Constable outside London). We have received evidence which gives rise to a concern that the 'reviewing officer' may not always have as much information as is needed to make a proper decision.

7.170 We have been informed that the MPS has issued a guide on these reviews and we believe that the guide is a good first step in clarifying the process for all concerned. However, we believe that it does not go far enough in emphasising the need for the reviewing officer to be satisfied that he or she has all the information required to make a proper decision.

We recommend that the MPS strengthens its guidance on Assistant Commissioner Reviews by including provisions:

- i. making it clear that the reviewing officer should have access to all available documentation as of right; and***
- ii. for the reviewing officer to be satisfied that he or she has all the necessary information required to make a proper decision.***

We consider that this may be a national issue.

We recommend that the relevant Committee of the Association of Chief Police Officers should consider issuing guidance on Chief Constable (Assistant Commissioner) Reviews.

Chapter Summary

This chapter deals with:

- ▶ The characteristics of a modernised police service
- ▶ The right structure
- ▶ The right systems
 - *Devolution*
 - *Accountability*
 - *Communication*
- ▶ The right culture
 - *The blame culture*
 - *An open culture*
 - *Managers*
 - *Consultation and involvement*

“ *People who never make mistakes never make anything.*”

IPCC

8.1 We return in this chapter to employment matters in the MPS and focus on leadership and management. Both are vital to operational success but they are as crucial to the issues that specifically concern us: policies, procedures and practices; how officers and staff are treated; how they perceive the organisation they work for; the relevant organisational structures; and workforce development.

The characteristics of a modernised police service

8.2 Before we consider these issues in detail, it is instructive to examine two versions of what it takes to make a successful organisation.

8.3 We were referred to the Department of Trade and Industry publication, *Accounting for People: Report of the Task Force on Human Capital Management 2003*. This cites ACAS' view of the key characteristics associated with effective organisations. These are:

- “A vision, mission and strategy that are known and understood;
- An open, communicative management style with arrangements that allow employees a ‘meaningful/genuine voice’ through which their views are sought and considered;
- A culture that encourages learning and continuous improvement and promotes the updating/acquisition of skills and knowledge at every level;
- A work organisation that promotes initiative and encourages team working;
- Policies/practices/procedures that promote equal opportunities regardless of age, gender, race or religion along with a working environment free of discrimination, bullying, harassment;
- A transparent pay and reward system that recognises employees' contributions, treats employees fairly and is non-discriminatory;
- The opportunity for all employees to work as flexibly as possible within the organisation's operational constraints so as to enable a better work-life balance;
- A commitment to as much employment security as possible;
- Constructive relationships with trade unions where recognised (a ‘partnership’ approach), which helps to promote trust between the managers and the workforce;
- Formal procedures covering the handling of discipline, grievances, and disputes.”

8.4 Additionally, in the HMIC publication, *Modernising the Police Service: A Thematic Inspection of Workforce Modernisation – The Role, Management and Deployment of Police Staff in the Police Service of England and Wales*, the Inspectorate has indicated that it would see a modernised police organisation as having the following characteristics:

- “Is an integrated service with a clear vision regarding its future direction and the people and skills required to deliver this.
- Has a clear focus on improving operational performance.
- Engages effectively with local communities.
- Recognises and rewards the skills and professionalism of the entire workforce.
- Is representative of staff from diverse backgrounds with diverse skills.
- Has flexible entry and exit points.
- Operates flexible and integrated reward structures and terms and conditions.
- Is locally managed but within enabling national frameworks and standards.
- Has an inclusive culture.
- Benefits from effective leaders at all levels with the vision, time and resources to drive modernisation activity, both within the service and across organisational and professional boundaries.
- Works effectively in partnership with other organisations.
- Is not fixated with internal boundaries and functional silos.”

8.5 There is considerable overlap between these two sets of attributes. Drawing on the views of both ACAS and HMIC, we see an effective organisation as one with the right structure, the right culture, the right systems, the right people with the right skills and, above all, the right leadership.

8.6 This is the yardstick against which we will examine the MPS and make recommendations to assist in developing the capacity we believe it needs to become a modernised police service.

8.7 We were greatly assisted in our consideration of the matters in this and the following chapter by the evidence of Sir Michael Lyons and Nigel Whittaker.

8.8 Sir Michael was Chief Executive of Birmingham City Council, the largest local authority in the country, for many years and now has a portfolio career. He holds a number of non-executive positions and is deputy chairman of the Audit Commission. He was a member of the Independent Fire Service Review (the Bain Review) and led the review of public sector relocation for the Chancellor of the Exchequer and the Deputy Prime Minister.

8.9 Nigel Whittaker’s background is in the private sector. He has spent many years working on corporate reputation management with large companies. For over 12 years he was a main board director of European retailer Kingfisher plc, including roles as Chairman of B&Q and Group Corporate Affairs Director. He served as Chairman of the Government’s Deregulation Taskforce for Retail, Tourism and Small Business.

8.10 We consider ourselves fortunate to have been able to secure the assistance of such eminent individuals and would like to record our thanks for their contribution to our work.

The right structure

8.11 The right structure is one which facilitates operational success, allows leaders to lead and drive the organisation forward and makes the most of the talents available to it.

8.12 Operational policing is not part of our remit and we, therefore, do not intend making any comment on the structure the MPS considers appropriate to deliver policing to the people of London. However, our terms of reference ask us to consider employment matters in the MPS and whether the structures of the MPS represent good effective practice.

8.13 We have already commented on the structure the MPS has adopted to deal with diversity and also the handling of Employment Tribunal claims.

8.14 There is, however, a wider issue which concerns the top structure of the MPS and whether it is such that the 'business' aspects of the Service (finance, property, information technology, etc.) can be run effectively and facilitate additional operational success.

8.15 Figure 12 sets out the current structure of the MPS. It shows that responsibility for support functions is spread across the top tier of management. For example, the Information directorate comes under the Deputy Commissioner, whilst HR is the responsibility of an Assistant Commissioner. The Public Affairs directorate reports to the Commissioner himself and there is a Director of Resources who is responsible for finance and property. Thus, the only individual with overall responsibility for these support functions is the Commissioner himself.

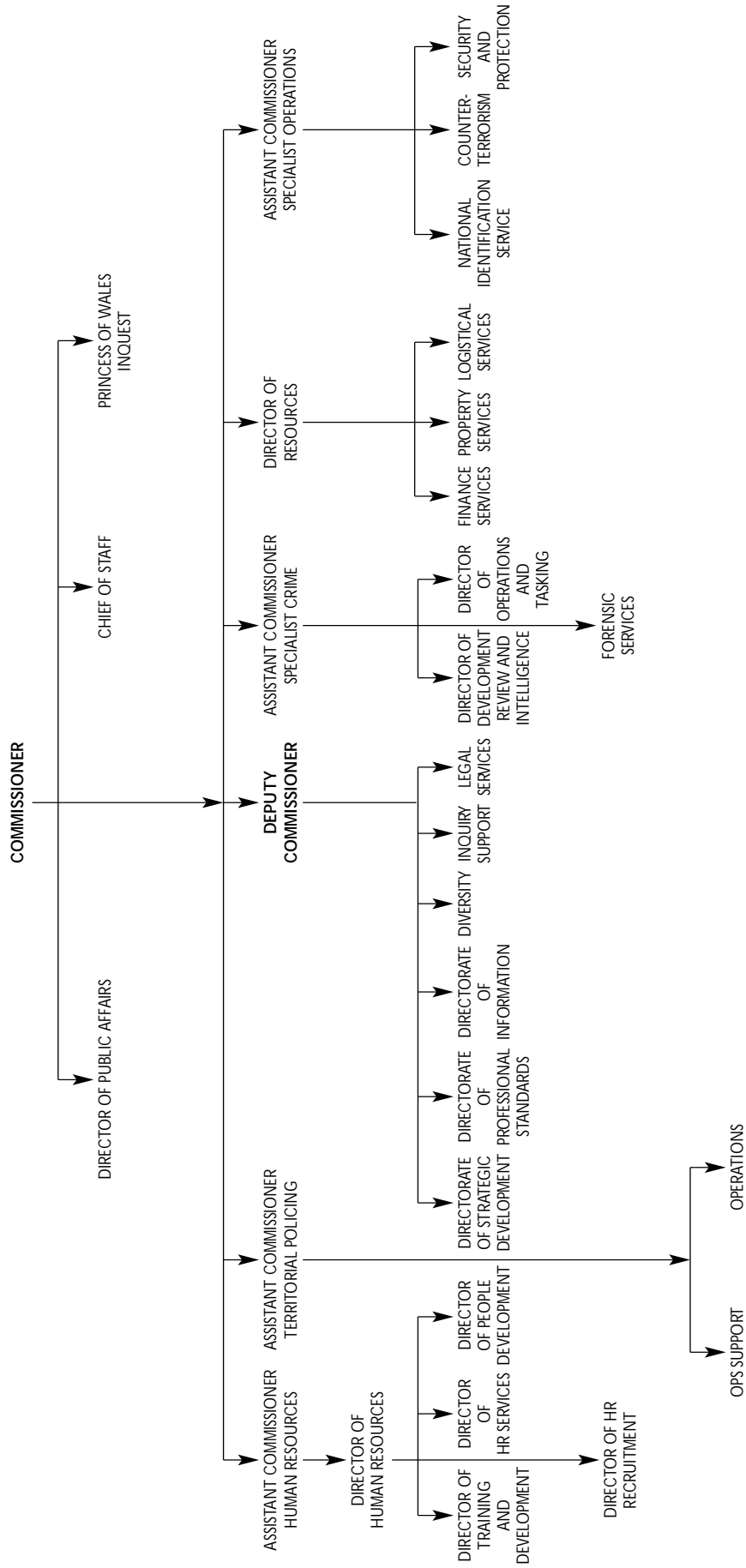
8.16 The Commissioner's role is one of extraordinary breadth. He is responsible for operational policing in the capital and also for running a business with a budget of over £2.5 billion and over 43,000 officers and staff. He has to provide strategic executive management on the one hand and must deliver strategic operational leadership on the other. We have already commented on the various individuals and bodies to which he is accountable. He also has a significant international role.

8.17 All the component parts of his role are crucial for the effective running of the organisation but we have received evidence of some managerial weaknesses within the MPS. In particular, we have heard that some support functions are not being effectively managed and co-ordinated to facilitate proper people management.

8.18 We have in mind, in particular, the criticisms of financial planning and basic finance and asset management contained in the most recent inspection report of the MPS from HMIC (2002 / 2003).

Figure 12

MPS Senior Police and Police Staff Structure



Source: MPS

8.19 HMIC was particularly concerned that the MPS does not yet have a medium term corporate strategy and was “struck by the sheer abundance of data produced by the MPS combined with the relative lack of incisive analytical products and a distinct lack of costing information.” HMIC commented that the MPA’s Internal Audit team was only able to offer a 50 per cent reassurance on the adequacy of financial control and the effectiveness of the systems within the MPS.

8.20 In addition, HMIC was concerned that a number of information systems and technology budgets had been devolved and that a catalogue of available hardware and software applications had been produced, but that the relevant directorate does not hold records of the equipment which has been purchased and is therefore unable to check compliance with both the corporate policy and the legal requirements surrounding the use and licensing of computer software.

8.21 Whereas other parts of the public sector, including other police services, have made great progress in finance and asset management in recent years, the MPS appears to have lagged behind. No doubt one reason for this was, to quote the MPS’ Director of Finance Services, Sharon Burd, in an interview with the *Local Government Chronicle Finance Supplement* (6th April 2004), the MPS had not had “the need to manage budgets in the same way as every other local authority and police force does. The Home Office was sitting right behind us and would always bail out any overspending we had; it was a bit like having a rich mummy or daddy as a teenager.”

Whatever the reason, the discipline of effective business management does not appear to be an organisational strength.

8.22 Whilst we are told by the MPS’ Director of Resources, Keith Luck, that the “Resources Directorate has achieved significant improvements in the MPS budget-setting control processes” including in the areas of financial planning, information and controls. This progress was strongly emphasised in the MPS’ response to this criticism in draft form. However, we remain concerned that the business aspects of the organisation have not made as much progress in recent years as they should have done to maximise operational effectiveness.

8.23 The competing demands on the role of the Commissioner led us to consider whether an alternative model might be more effective. We considered splitting the various aspects of the role but received no evidence in favour of this proposition.

8.24 However, the two experts we heard from, Sir Michael Lyons and Nigel Whittaker, could see a virtue in looking at the structure beneath the Commissioner:

“... having established that the Commissioner is the leader of the Police Service, you then need to get the structure right beneath that to look after both operational and business matters, and the two are not always the same thing.” (Evidence of Sir Michael Lyons.)

"... so the ability to have quality people who can identify what the issues are, to help the Commissioner think them through and to liaise with all of these people I think is the only way that the Commissioner could possibly hope to carry out his responsibilities properly."
(Evidence of Nigel Whittaker.)

8.25 In looking at the structure below the Commissioner, Sir Michael could see a case for grouping all the support functions under one person. He cited the various strategic director models that operate within local authorities, although he had one caveat that there should still be a functional expert below the strategic director so that all senior managers had access to expert advice in the various fields.

8.26 Sir Michael also raised the issue of whether the Commissioner had to be a police officer:

"I do not want to be too revolutionary and suggest that that second one is an easy question to answer. I think it is much easier to answer, and we come across this in the Bain Review on the fire service, where much less has been done in the fire service to develop managerial and leadership skills, and therefore I think there is a rather weaker pool to choose from than there is in the Police Service, where there has been some investment over a number of years in developing the skills and experiences of potential members of high command ...

"But still, I think there is a question there, and if you are going to get the best out of our public services, then I think you need excellent leadership and managerial skills, and you do run a risk, if you limit yourself, to saying, 'And you have also got to have done this, and this and this', because in the end you have actually got a rather narrow field to choose from."

8.27 We think that careful consideration needs to be given as to whether the MPS' current top structure is the best model that can be devised to maximise operational effectiveness.

We therefore recommend that the MPS and the Metropolitan Police Authority create a police staff post, which would undertake the functions of a Chief Operating Officer, to bring all the support services in the MPS (Finance, Human Resources, Communications, Legal Services, Property, Information Systems and Technology, Procurement, Logistical Services, etc.) together under one individual who would be equal in status to the Deputy Commissioner with a remit which spans the whole of the organisation.

8.28 This post would not be a return to the previous post of Receiver. We agree with the Commissioner that the MPS has moved on. We envisage a suitably qualified strategic manager who would have the authority to influence all areas of the MPS' operation.

The right systems

8.29 The right structure must be supported by the right systems. The framework in which officers and staff have to operate must be clear and easy to understand. It will include transparent accountability arrangements with decisions taken at the appropriate level. Our focus is people management and devolution has a vital part to play in providing a structure for local managers to manage the officers and staff for whom they are responsible.

8.30 Devolution, if implemented properly, encourages initiative and innovation. Effective communication systems, both vertical and horizontal, formal and informal, are also essential. So too are formal procedures for disciplinary, grievance and disputes, promoting equality and ensuring a work environment free of discrimination and harassment. We have already dealt with the MPS' policies and procedures on diversity and discipline and other employment matters and do not intend saying more here.

This section will therefore concentrate on devolution and communication.

Devolution

8.31 Our recommendations for enhancing the office of constable are aimed at streamlining and modernising the discipline process and allowing managers to manage. We think that enabling managers to deal with the majority of discipline matters on a local level will provide greater flexibility and resolve issues more quickly.

8.32 To make this process work, however, managers need to have greater experience and confidence in dealing with strategic managerial issues.

8.33 There are various ways in which managers can be supported. One important aspect of that support, however, is devolution of power and functions from the centre of the MPS to the OCUs.

8.34 This is a process which is already under way, having started with devolution of personnel functions:

"In 1995, the recommendations of the Personnel Theme paper devolved responsibility and decision making from Personnel Department to local managers, in a range of personnel management activities. This devolution was supported by the introduction of professionally qualified Personnel Managers at Operational Command Unit (OCU) level and by a structure led by Business Managers on each of the five MPS Areas."

(Submission from Assistant Commissioner Bernard Hogan-Howe.)

8.35 Devolution is now being applied to more and more functions. The MPS acknowledges that the process is incomplete, although it contends that the organisation is making advances:

“We are now devolving 80 per cent of the budget to boroughs and to OCUs: that is including police pay, which is obviously the main component.”

(Evidence of the Deputy Commissioner, Sir Ian Blair.)

8.36 We support the move to empowering local managers, in the many functions where it is appropriate to do so.

“But let us be clear, they do not happen just by giving people the job; you have to develop their skills and support them. I think there are some key components of good devolution, and these are all responsibilities that I attach to a leader of a service. One is, are you clear about what your objectives are and are they clearly communicated across the organisation? ...

“Secondly, have you got in place good control and monitoring systems so the people to which you give responsibility know for themselves how they are performing, have reliable information coming available to them?

“Thirdly, do you have a good central function that is capable of good strategic planning and special intervention – and I guess this is particularly important for the Metropolitan service – for all those range of issues that cannot be dealt with at local delivery level.”

(Evidence of Sir Michael Lyons.)

8.37 It appears to us that some aspects of devolution do not operate effectively. We acknowledge that our impression may be due to the fact that the process of devolution is incomplete, but nevertheless we thought we should highlight two particular areas of concern.

8.38 One of our witnesses felt that: “There is devolution of things that really do not matter that much, but things that do matter are still controlled from the centre, particularly around human resources.” (Evidence of Detective Chief Superintendent Coles.) **It is obviously a concern for the future, and for the proper implementation of our recommendations, if such a view is more widely held.**

8.39 Control and use of budgets is a key component to making a devolved structure work and to encourage innovation. Therefore, we were surprised to hear from two OCU Commanders that that was not the way the current system works:

“Mr Spindler: I am not aware of any great devolution. I do not feel I have particular control of my £25 million budget, and indeed it can be taken away from me. It is one of the differences between the boroughs and TP (Territorial Policing) and SCD (Specialist Crime Directorate) is that we have a large and quite powerful ACPO team that need to balance across the directorate the spends and we can be penalised for managing our budgets. We are not consulted – and this is a big frustration for me this year – in the setting of our budget in

particular; police overtime, there was no discussion with me, no acknowledgment that we were taking on new business ...

Sir William Morris: Do you prepare a budget and send it out for consultation?

Mr Spindler: No.

Sir William Morris: So it is just an allocation of money?

Mr Coles: It is effectively an allocation of last year's plus or minus a tiny bit. It is as simple as that. There was no consideration of the change in business"

(Evidence of Detective Chief Superintendent Peter Spindler and Detective Chief Superintendent John Coles.)

8.40 The MPS has commented that the issues highlighted by Mr Coles relate more to how Specialist Operations disaggregated its budget rather than to any shortcomings in the corporate process. However, the fact remains that if there were real devolution, managers, such as Mr Coles and Mr Spindler, would have real control over their budgets.

8.41 Another key component of real devolution is to allow managers to recruit the best team to support them in their work:

"The process is unbelievable. The police officers would not get away with the recruitment and selection processes that HR has in and around its own managers, and it will just shuffle them. And it will tell me who my next HR manager is. I will not have the opportunity to select that person. They will be appointed to me. And that is unique, and I do not call that devolution. I will not get any say in that." **(Evidence of Detective Chief Superintendent Peter Spindler.)**

"We are in this unusual arrangement where if there is a vacancy within your senior management team, then you have to negotiate through either central HR or through the workforce planning unit to get replacement staff. But you are not, in my view, given the opportunity to assess the total picture. For example, a vacancy within my team for a Chief Inspector, a Chief Inspector is offered to me, I have to interview or speak to that candidate, decide whether or not I wish to accept them. If I am not going to accept them, produce an evidenced business case as to why not. Then you go back and try and start again. There may well be five or six other suitable candidates out there that could be put forward and you could consider the pool as a whole and make a more rational decision. I am not able to do so." **(Evidence of Chief Superintendent Alex Fish.)**

8.42 In response to these comments, the MPS has told us that it runs selection campaigns for roles with a professional specialism such as HR managers centrally to "ensure consistency of standards, fairness and economies of scale." It questions whether it would be right for OCU Commanders to put candidates through another selection process.

8.43 We do not see why a second recruitment process should be necessary. It seems to us only sensible, and in accordance with practice in many other police

services, for operational managers to have responsibility for recruiting their own professional advisers. This should, of course, be in accordance with corporate policies and guidelines to ensure consistency across the organisation. Local managers will therefore be able to manage but within corporate parameters

8.44 Much of what we have said in this report emphasises the need for managers to manage. If they are to manage effectively, the structure needs to facilitate this.

We recommend that the MPS reviews, with relevant stakeholders, the extent to which existing central processes inhibit devolution of real authority to managers in the Operational Command Units, with a view to streamlining the process to give local managers real responsibility for their budgets and people.

Accountability

8.45 Real devolution involves accountability. If managers genuinely have the authority to make important decisions about their part of the organisation, they must also expect to be held accountable for those decisions. This should be through a formal performance management system which should cover the performance of the organisation as a whole, as well as all officers and staff.

8.46 We note the efforts the MPS has made in relation to performance management and will deal with the management of the performance of individuals in the chapter which follows.

8.47 A sound performance management system needs to be open and transparent and individuals need to be clear about what is expected of them.

8.48 This is particularly true where managers are given the authority, under devolved systems, to take important decisions on behalf of the organisation. They, and the rest of the organisation, need to be clear about what decisions they are able to take and for which they are held accountable.

8.49 We are concerned that there does not seem to be one document which sets out the levels of authority for different decisions and issues within the organisation. In his submission, Mr Luck told us that he and his team had developed an “effective and internal financial control framework” and that the work had resulted in Financial Instructions and a Scheme of Devolved Financial Management, both of which are available to staff who have access to the MPS intranet. This is clearly an important and useful piece of work but one which, given the size of the MPS’ budget, might have been needed some time ago and should have been more easily accessible.

8.50 In addition, as part of our work, we requested a similar Scheme of Delegation dealing with professional standards and employment matters. We expected the

MPS to have a simple document available to everyone which set out which officers and staff were responsible for which decisions. We were ultimately provided with a document which had been compiled especially for this Inquiry. We are surprised that such a document should not have existed already and been available to all officers and staff.

8.51 The MPS has told us that it would not be practical to have a Scheme of Delegation for all HR issues: "Because of the different working methods and configuration of roles across the MPS, this would not be feasible."

8.52 We do not agree, and would question, how managers can be expected to take and be accountable for decisions when the extent of their authority has to be discovered by leafing through a sheaf of documents rather than simply by referring to a Management Scheme or a Scheme of Delegation.

We recommend that the MPS takes urgent steps to compile a comprehensive Scheme of Delegation setting out the levels of authority for different decisions throughout the organisation. This should be available to all officers and staff.

Communication

8.53 All organisations need effective internal communication systems, both vertical and horizontal, formal and informal. It is vital to be able to deliver messages throughout the organisation. Staff at all levels need to understand the organisation's objectives, and messages from the frontline need to be heard at senior management level.

8.54 There are many methods of communication – by letter, email, intranet, Notices, noticeboards, newsletters, newspapers, face to face or in team briefings. Organisations with good internal communication recognise that they need to use all the means at their disposal to ensure that messages permeate throughout.

8.55 It is important to stress that communication is a two-way process: "Half of communication is listening as well as speaking, and one does need leadership who think very hard before they communicate, and then find ways of engaging in effective communication in the field." (Evidence of Nigel Whittaker.)

8.56 Getting communication right within any large organisation is difficult.

"Whenever the organisation is too large for you to go and meet everybody or to draw them all together in one room then you start, I think, to have difficulties in communication." (Evidence of Sir Michael Lyons.)

8.57 It comes as no surprise, therefore, that we have received a number of criticisms of the way communication works in the MPS during the course of the Inquiry. Evidence from our London Police Station visits provides examples of the kind of difficulties with communication experienced by officers and staff in the MPS.

"Communication is seen as a bolt-on. It's not seen as part of the process of putting things out."

"There's so much noise from all areas that it's difficult to pick up the information that's important."

"We get deluged with communication by email."

"Human rights etc. is not getting down to the grass roots. The assumption is it has been sent out, that's it."

"We get notices on the computer every week. 90% are irrelevant to you but you have to read the lot."

"Nobody above you will speak to you. If it wasn't for the boards downstairs which tell you who's who, you wouldn't know who the senior managers are."

"We don't all have computers. There are 4 computers for a team of 14. You have to wait 30-40 minutes to get on the computer and there's a huge assumption we know how to use them. Lots of people struggle to use computers."

"The channels for communication could be much better. Misunderstanding arises when people are not aware of things that have changed. The OCU is the best way of passing information down."

8.58 Concerns about communication within the MPS were also highlighted in our survey of all officers and staff. This indicated that there are difficulties with all forms of communication (lateral, downward and upward). Of particular concern to us, in light of our terms of reference, is that only two in ten (20%) respondents agreed that information was shared effectively across the MPS. Even fewer (18%) agreed that ways of doing things and good practice were effectively communicated. However, our survey acknowledged that lateral communication is difficult in any organisation and the mean score of -0.35 was only slightly more negative than the Work Foundation's benchmark figure of -0.30.

8.59 More startling for an organisation whose responsibility it is to enforce the law, is the finding that only 44% of the survey respondents agreed that they were kept up to date with legislation (30% disagreed) and / or changes to working practice that affected their work (29% disagreed). This result accorded with some of the other comments that were made during our visits to some London Police Stations:

"In relation to the new Sex Offences Act we only got one half day training on it last week. There are lots of new procedures and the forms for that aren't ready yet. We always seem to get training at the last minute, but it should be planned in advance."

8.60 Our own experience of internal communication in the MPS is derived from conducting our survey. It indicated that all was not well.

8.61 In percentage terms, the response rate of 36% was reasonable for an externally driven survey. However, we have clear evidence that participation would have been higher if the internal mail system had functioned as it should and everyone who wanted to contribute had been able to do so.

8.62 Indeed, some eight weeks after the closing date for responses, the Work Foundation was still receiving calls from officers and staff who wanted to participate but had only received their questionnaires very recently.

8.63 Efficient and effective internal communications systems are one of the basics of an effective organisation, yet we would question whether the MPS has such systems. If we are right, this will have a detrimental effect on internal communication. It is also likely to impact upon operational effectiveness.

8.64 There appears to be much work for the MPS to do in improving internal communication. This will benefit officers and staff in their operational duties, as well as enhancing their commitment to the organisation.

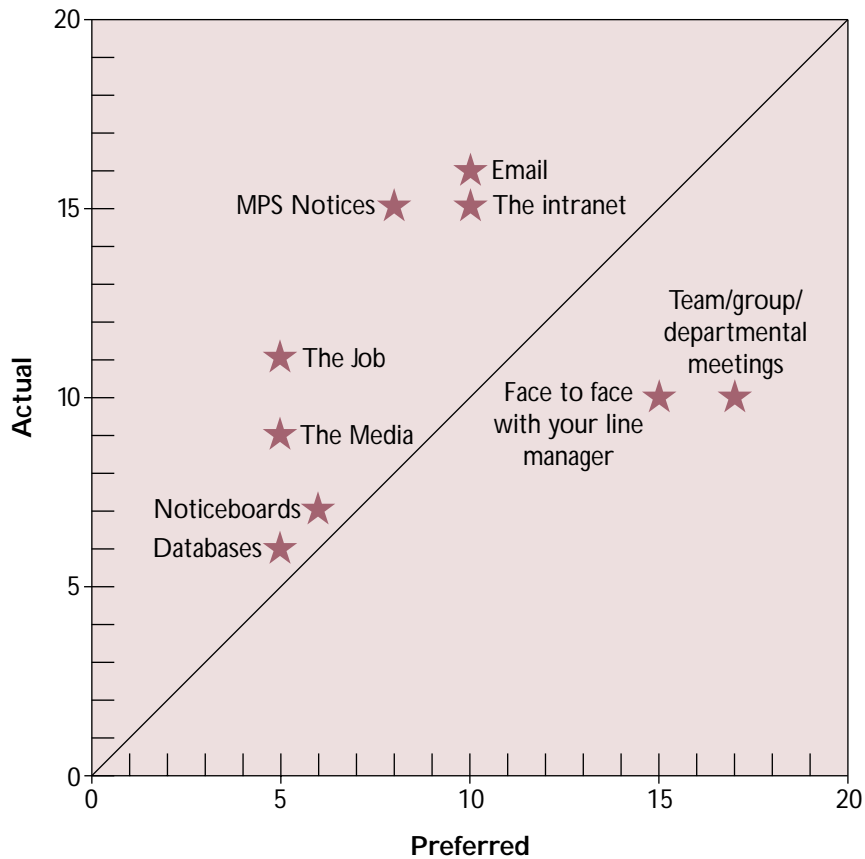
8.65 Managers must give some thought to the messages their staff need to hear and how they are best delivered. Email may be very effective but it does not allow any proper dialogue and is of no practical use when members of staff are not office-based.

8.66 Where messages are important and affect people personally, however, they are "best still done face to face, with listening built in."
(Evidence of Stephen Banyard, Director of Human Resources, Inland Revenue.)

8.67 It is clear from our survey that at present there is a marked divergence between the ways in which people *prefer* messages to be communicated and the way in which they are *actually* communicated within the MPS.



Figure 13 Actual and Preferred Sources of Information



Source: Morris Inquiry Survey

8.68 There is a clear message here for managers on how to communicate with their people in a way that will get the best from them. We agree with the evidence of Stephen Banyard, Director of Human Resources at the Inland Revenue, that “you cannot tell people too much, and you cannot listen to them too much.”

We recommend that the MPS reviews its internal communication in the light of best practice in other large public and private sector organisations.

The right culture

8.69 Structure and systems alone will only go so far in moving an organisation forward. The prevailing culture must be one which is outward-looking and inclusive. An organisation has to develop a culture which is consistent with its own ethos, mission and values. We do not think that a culture needs to be specified for the MPS but a healthy culture has various elements. We deal with these below.

8.70 The organisation needs to listen and learn from what it hears. Encouraging learning is vital and this includes learning from mistakes. If, when something goes

wrong, the organisational response is to indulge in the blame culture, then innovation and initiative are discouraged and the organisation will stagnate.

The blame culture

8.71 We fully endorse this statement from the IPCC: "People who never make mistakes never make anything. We discourage a blame culture amongst the police where even appropriate and carefully managed risks are avoided. 'What can we learn?' is often a more useful question than 'who is to blame?'"

8.72 The Deputy Commissioner told us that getting rid of the blame culture was "the absolute centrepiece of the Commissioner's Leadership Programme." We have been told that 600 of the MPS' senior staff have been through this programme.

8.73 We are concerned, however, that, according to several witnesses, there continues to be "a blame culture within the Metropolitan Police Service (MPS) affecting all officers ... As we have said there is a blame culture that pervades the service particularly around the area of internal investigations."

(Submission from the Metropolitan Police Federation.)

8.74 The changes we have recommended to the discipline and grievance systems should give greater scope to managers to manage officers and staff effectively. We are confident that line managers throughout the MPS have the ability to do this, if they are provided with the right leadership, back-up and support.

8.75 In the words of one officer during our visit to one of the MPS' central London buildings, the MPS needs "to engender a learning culture in the organisation as opposed to a blame culture. We need to empower first line supervisors to deal with situations and challenge risk aversion."

An open culture

8.76 We have already dealt with the systems that are needed for effective communication but communication is also a cultural issue. If the culture in the workplace is an open one, with staff encouraged to give their views in the knowledge that they will be listened to, disputes are far less likely to arise.

8.77 In the absence of effective communication, disputes can so often spiral out of control because the parties are unable to talk to each other.

"If management took the opportunity to explain the rationale for the decisions they have taken in selection or how this appraisal was arrived at, where was their evidence; if they had

that early discussion, then I think there is a real opportunity for a lot of these to be avoided, because it is a theme that comes up time and time again, ... it is about our failure to explain our decisions to people, so they form a view that they have been disadvantaged.”
(Evidence of Esme Crowther, Head of the Employment Tribunals Unit, MPS.)

8.78 There is even the chance that some of the costly and distracting Employment Tribunal cases that are brought against the organisation might be avoided.

8.79 Such a culture requires all managers to be convinced of the importance of communication in all that they do.

“The only way to make it work is not simply use of words but it is behaviour as well. But it is behaviour over a period of time. The number of clients and other organisations I have seen that have paid huge amounts of money for extremely beautiful communications videos and the like and have completely failed in effectively communicating and deriving change from that communication is enough to make one weep; and yet sometimes it is much simpler than that. As long as the messages are clear and relevant and communicated by behaviour and by a two-way process.” (Evidence of Nigel Whittaker.)

“... if you are seeking to give some sense of direction to a large organisation, then you have to deal with symbols. People watch your behaviour, they watch the things that you see as important, they watch the people that you spend your time, with they watch the way you deal with doormen, tea ladies, and out of this they draw some conclusions about what you really believe and what is really important to you. And I think that is a very important lesson that I learned, that if you want an organisation that is caring, that has integrity, that is open, you have to live that and you have to constantly reflect on the signals that you are sending out by your day-to-day activities.” (Evidence of Sir Michael Lyons.)

Managers

8.80 Managers have a key role to play and are pivotal in creating or changing the prevailing culture in the MPS. How they behave will define the organisation and the way officers and staff feel about it.

8.81 Our survey found that line managers were rated highly throughout the organisation. The majority of responses to our questions about line management produced results which were significantly better than the Work Foundation’s benchmark scores derived from similar surveys with other public and private organisations. 63% of respondents stated that they had confidence in their line manager’s ability to manage them effectively.

8.82 Line managers were thought to be better at the ‘interpersonal’ skills of management such as trusting staff (88%), treating them fairly (73%) and showing that they value the contribution of their staff (70%). They fared less well when it

came to dealing with performance issues, with only 59% agreeing that they do this effectively. The mean score of 0.61 returned for this question was, however, significantly above the Work Foundation's benchmark of 0.29.

8.83 In any organisation there are bad managers as well as good managers and we heard evidence on our visits to London police stations that this is also the case in the MPS:

"We don't have brilliant people managers."

"Some managers are always rowing for shore."

"What happens to bad managers? They get promoted."

8.84 There is clearly scope for some managers to improve. In particular, we suspect, from the other evidence we have received and which we have dealt with in previous chapters of this report, that managers' ability to make difficult people management decisions needs to be fostered and further developed.

Consultation and involvement

8.85 It goes without saying that consultation is a two-way process. It involves communicating with those who are being consulted and then listening to the views they express on what is proposed.

8.86 Given the difficulties in communication in the MPS that we have identified, it is hardly surprising that a number of our witnesses have criticised the way in which the organisation involves and consults its officers and staff.

8.87 Our survey found that respondents were generally critical of consultation within the organisation. Only three in ten agreed that they were generally consulted before a decision affecting them was taken, whilst 46% disagreed. This produced a negative overall score of -0.32, significantly lower than the benchmark of -0.11, which is itself low.

8.88 HMIC commented on problems with consultation in its report on the 2002 / 2003 inspection of the MPS. "There is regular access for the various associations to senior management ... Whilst in general the associations reported good relations and adequate consultation arrangements, there were concerns that sometimes this is not meaningful, with insufficient time to enable them to consult members."

8.89 The normal way in which the MPS consults its officers and staff is via the representative bodies. Police officers are represented by the Metropolitan Police Federation, the Metropolitan Branch of the Police Superintendents' Association of

England and Wales and the Chief Police Officers' Staff Association. The British Association of Women in Policing and the Association of Senior Women Officers are also active in the MPS.

8.90 Police staff are represented by four trades unions – Amicus, the Public and Commercial Services Union, the First Division Association and Prospect. They work together as the Trade Unions in the Metropolitan Police (MET-TUS).

8.91 In addition, there are a number of staff support associations operating in the MPS. We have heard from the following:

- Association of Muslim Police;
- Christian Police Association – Metropolitan branch;
- Gay Police Association;
- Jewish Police Association;
- Metropolitan Black Police Association;
- Metropolitan Police Chinese and South East Asian Association;
- Metropolitan Police Hindu Association;
- Metropolitan Police Service Disabled Staff Association;
- Metropolitan Police Service Turkish and Turkish Cypriot Association;
- Metropolitan Police Sikh Association; and
- Police Anglo-Italian Staff Association.

We are aware that there are other staff support associations we did not hear from.

8.92 The MPS clearly finds the number of representative groups a challenge. Even though the staff support associations have formed the SAMURAI (Support Associations Meeting Up Regularly And Interacting) group to facilitate better channels of communication, it still seems to be the case that the number of representative organisations creates a “tension” where “every time you press the consult button, there are so many people to talk to.” (Evidence of Assistant Commissioner Bernard Hogan-Howe.)

8.93 The staff support associations do an excellent job in supporting and representing their members and each has been established to meet an obvious need. However, it is regrettable, although understandable, that staff support associations have been set up to fill a gap which has not been adequately catered for by the wider organisation. This could imply a dissatisfaction with the more established representative organisations, perhaps because they have not been quick enough to cater to all the diverse needs of the people within the MPS.

8.94 We consider that it is essential that the staff support associations, the Metropolitan Police Federation and the MET-TUS all work together.

8.95 As representative groups, the Police Federation, the MET-TUS and the staff support associations all need to be properly supported by the MPS so that consultation can, in the Commissioner’s words, be “meaningful”.

8.96 One way of supporting these organisations is by providing duty time for their representatives. We have received evidence suggesting that the amount of duty time which staff support association representatives are permitted to devote to their functions may not be adequate for the demands placed on them by the organisation:

"We are inundated with e-mails usually, and then hard copies, of consultation documents, and we are only given so many hours of duty time with which to deal with staff association matters, which is a cause of some concern and distress to us all.

"... The end result is that the document gets either the most cursory of glances or not even, and I know that there are some people, for example, in DPS who have given up on me replying to them now, because they send us considerable wads of documents on the sort of sanctions, volumes, conduct and so forth, and the revised system of what our views are, and then it is just finding the time to sit down with other people who are able to give some serious input to this, within your own association or collectively as a group... So we have a high level of frustration when it comes to consultation."

(Evidence of Kevin Boyle, Chair of the GPA.)

Other resources too are at a premium: "One of the most frustrating aspects for the C.P.A. is our inability to be able to help more people because we are resourced inappropriately and unfairly. This disadvantages minority groups within our association and the service as a whole. We have submitted two business cases since May 2001 and have yet to receive appropriate administrative support." (Submission from the CPA.)

"With regard to being involved in developing policy, procedure and practices we are regularly sent draft documents and asked to read and comment on them. The problem with this is, we all have full time jobs within the MPS, and as is often the case, we are given a few days to read, digest and formulate comment on documents. These documents often consist of hundreds of pages. We as an association feel this is just a management tactic of getting policies 'rubber stamped', as in most cases the draft versions would have taken months to create and we get a few days to study them. This tends to give the illusion of consultation but in reality excludes real involvement in the process."

(Submission from the Disabled Staff Association.)

8.97 If the MPS is serious about seeking the views of the various representative organisations, it clearly has an interest in ensuring that they are able to respond. It is unrealistic to expect people to give up large swathes of their own time for the benefit of the MPS, although it is clear from the evidence that we have received that, in practice, this happens extensively.

8.98 In order to enable staff support associations as well as the Metropolitan Police Federation and the Trades Unions to make a constructive contribution, they should be afforded appropriate duty time and other support. We note that there are now two full-time office managers supporting all the associations collectively but administrative support is not a substitute for workplace representation.

We recommend that the issue of duty time and other resources for all representative groups, including staff support associations, is reviewed.

8.99 Whilst it is clear that the senior management of the MPS recognises the need to consult its people regularly and meaningfully, and the MPS told us that the overall level of consultation has increased significantly over the past few years, the evidence we received contained several criticisms about the way the organisation consults its representative bodies. We have heard that there is often insufficient consultation and that where consultation does occur, it is sometimes half-hearted and / or late in the day, after a proposal has become concrete. In addition, consultees are often given little time to respond.

"Repeatedly the MPS apologises for failing to consult us and then repeats its omission with unflinching regularity. An example would be the move announced this week to close down and sell off a number of older police stations and replace them with shared premises at supermarkets and the like. We have received no details of these proposals."

(Submission from the Metropolitan Police Federation.)

"... some middle and senior managers will only consult when they believe the issue is non-contentious ... The commitment to consult with a view to reaching agreement is interpreted by too many MPS managers as a one-way process requiring the Trades Unions to make significant concessions but not the MPS." **(Submission from the MET-TUS.)**

"Effective consultation is of benefit to both the service and members of the Federation. This is demonstrated by the manner in which the anti-corruption stand was first adopted by the previous Commissioner and Sir John Stevens after he became Commissioner in February 2000. From the start, the Metropolitan Police Federation were given confidential briefings about the development of the policy and the reasons as to why it was necessary. This in turn led to a degree of trust and understanding that allowed us publicly to support the policy."

(Submission from the Metropolitan Police Federation.)

"Membership of a strategic committee is one thing; ensuring that agenda papers are provided in good time prior to those meetings another. Too often papers are provided late (and even at the meeting). This does not allow the Federation to take proper soundings before responding." **(Submission of the Metropolitan Police Federation.)**

"... it perhaps is not surprising in a organisation of this scale and size of the Metropolitan Police Service, that sometimes consultation arises almost as, if not an after thought, something that has just occurred at the last moment." **(Evidence of Sir Ronnie Flanagan, HMIC.)**

We agree with Sir Ronnie Flanagan's evidence that "great care needs to be taken that an organisation does not use its representatives of staff associations just to consult them in inverted commas or in a token way. I think it has to be a question of real consultation, with due time to give those representatives the opportunity to go back to the body corporate, obtain views and then report those views meaningfully."

(Evidence of Sir Ronnie Flanagan, HMIC.)

8.100 The MPS has told us that, although it accepts that its extensive policy review programme might have compromised good consultation practice on occasion, late consultation or too little time for responses is not the norm.

8.101 Whether or not this is the case, there is clearly room for improvement. The MPS needs to recognise that consultation with appropriate representative bodies, done well, can bring significant business and operational benefits, as it provides the best route for achieving workable decisions and securing the ownership of officers and staff to actions that are taken.

8.102 The MPS also needs to recognise that consultation undertaken in a half-hearted way is likely to be counter-productive and send a negative message about the way in which the views and input of officers, staff and their representatives are valued by the organisation.

8.103 Seeking to consult late in the process inevitably means that those consulted will have less chance of influencing the final decision. It also presents difficulties for officers and staff who already have a busy schedule and are asked to respond to lengthy policy documentation, effectively in their own time, within a matter of hours. This is not only an additional pressure on the individuals concerned but seems to send a message to the representative about the way in which their views are valued by the organisation. It also means that it is unlikely that representatives will be able to consult the people they represent about what is proposed.

8.104 These criticisms of consultation are perhaps another feature of the lack of employment rights for police officers. Employers have had to create effective consultation structures and mechanisms to meet their legal obligations to consult their workforces. The police service has not had this pressure to the same extent as other employers since only its police staff have such rights.

However, we have received evidence of best practice elsewhere:

“Generally consultation arrangements are good at both Force and Local Levels. All of the Chief Officers and Area Command Teams operate a genuine “open door” policy and encourage formal and informal discussions to resolve Force and Local Problems with Federation Representatives. We take part in most Management Meetings and are routinely consulted on Force Policy.”

(Paper from Merseyside Police Federation, submitted during Inquiry visit.)

The MPS should develop a similar relationship with its representative groups.

We recommend that the MPS commits itself to a Code of Practice setting out the basis on which it will consult its workforce. This should be based on the following principles:

- i. consulting with an open mind whilst proposals are at a formative stage;***
- ii. giving consultees full information about proposals;***
- iii. ensuring that consultation information reaches those who are being consulted;***
- iv. giving consultees sufficient time to respond;***
- v. considering carefully the results of consultation exercises; and***
- vi. providing consultees with full information about decisions taken at the end of the consultation period and, if relevant, the reasons for taking a different view from those who were consulted.***

We also recommend that, in addition to consulting through representative bodies, the MPS takes steps to involve its workforce in decisions on issues that concern them.

8.105 We consider that these recommendations must be implemented if the MPS is to have the 'inclusive culture' which HMIC considers one of the characteristics of a modernised police service. It needs to forge a partnership with its workforce to deliver effective policing to Londoners.

As a first step on this road, we recommend that the MPS considers the views expressed in our survey and how the issues revealed can be addressed. We would recommend a follow-up survey in one to two years' time.

Chapter Summary

This chapter deals with:

- ▶ Recruitment and progression
- ▶ The gateway – the training of recruits
- ▶ Enhancing the skills available to the organisation
- ▶ Retention and development
 - *Induction*
 - *Appraisal*
 - *Training opportunities*
 - *Training for management*
 - *Developing police staff*
 - *Promotion and specialist posts*
- ▶ Managing individuals
- ▶ Cross-fertilisation between the MPS, the private sector and other public bodies

“ Training for training’s sake is a huge waste of money.”

Nigel Whittaker, Reputations Inc.

9.1 As the ACAS and HMIC definitions we cited at the beginning of our previous chapter make clear, an effective organisation makes efforts to attract the right people, promotes the updating or acquisition of skills at all levels, provides opportunities for work / life balance and rewards achievement.

9.2 “How the Service treats, uses and plans for its most important resource – its people – will be the determining factor in the future success of the MPS and thus its continuing ability to meet key policing objectives and the targets of local policing plans.”
(MPS Dignity at Work Guidance and Best Practice.)

Recruitment and progression

9.3 Getting the right people starts with the recruitment process. There are established procedures for recruiting constables and we do not intend commenting on those here. We note that the MPS is moving to a unified recruitment process which would apply to police officers and staff and which could include a suite of tests which could be used for selecting candidates for both types of post. We view this as a positive step and in line with other modernisation initiatives.

9.4 However, there is an overriding issue which is of concern to us and, we know, of concern to the MPS itself; that is, the make-up of the MPS does not reflect the communities of London, a fact which is self-evident at the top of the organisation.



Figure 14

Police Officer Progression at February 2004

	Rank	ACPO	Chief Superintendent	Superintendent	Chief Inspector	Inspector	Sergeant	Constable	All ranks
Total Strength	Number	40	111	153	524	1,502	4,321	23,626	30,276
	% of all officers	0.1%	0.4%	0.5%	1.7%	5.0%	14.3%	78.0%	100.0%
Male	Number	35	105	136	495	1,368	3,834	18,824	24,797
	% of rank	87.5%	94.6%	88.9%	94.5%	91.0%	88.7%	79.7%	81.9%
	% of male officers	0.1%	0.4%	0.5%	2.0%	5.5%	15.5%	75.9%	100.0%
Female	Number	5	6	17	29	134	486	4,802	5,480
	% of rank	12.5%	5.4%	11.1%	5.5%	9.0%	11.3%	20.3%	18.1%
	% of female officers	0.1%	0.1%	0.3%	0.5%	2.5%	8.9%	87.6%	100.0%
Non-Visible Ethnic Minority	Number	38	109	149	509	1,453	4,194	21,883	28,335
	% of rank	95.0%	98.2%	97.7%	97.1%	96.7%	97.1%	92.6%	93.6%
	% of non-VEM officers	0.1%	0.4%	0.5%	1.8%	5.1%	14.8%	77.2%	100.0%
Visible Ethnic Minority	Number	2	2	4	15	49	127	1,743	1,941
	% of rank	5.0%	1.8%	2.3%	2.9%	3.3%	2.9%	7.4%	6.4%
	% of VEM officers	0.1%	0.1%	0.2%	0.8%	2.5%	6.5%	89.8%	100.0%

Source: MPS

9.5 As AC Ghaffur states in his report to the Commissioner, *A Thematic Review of Race & Diversity*: "A key aim for the MPS is to make its workforce representative of the population of London. To achieve this, there is a need to attract a greater number of female and ethnic minority officers and staff into the organisation. ... the organisation is still grossly under-represented at middle and senior management positions."

9.6 The MPS' target for minority ethnic officers is 25% by 2009. This will be impossible to achieve. "To achieve the target of 25 per cent over half of all recruitment from 2004-09 would have to be of BME officers."

(Submission from the Greater London Authority (GLA).)

Figure 15

Police Staff Progression at February 2004

	Band	A and above	B	C	D	E	F	G	Other	All bands
Total Strength	Number	133	310	579	1,591	5,614	1,212	340	2,187	11,966
	% of all officers	1.1%	2.6%	4.8%	13.3%	46.9%	10.1%	2.8%	18.3%	100.0%
Male	Number	104	215	254	659	1,829	356	189	1,285	4,891
	% of rank	77.7%	69.6%	43.9%	41.4%	32.6%	29.4%	55.5%	58.8%	40.9%
	% of male staff	2.1%	4.4%	5.2%	13.5%	37.4%	7.3%	3.9%	26.3%	100.0%
Female	Number	30	94	325	932	3,785	856	152	902	7,075
	% of rank	22.3%	30.4%	56.1%	58.6%	67.4%	70.6%	44.5%	41.2%	59.1%
	% of female staff	0.4%	1.3%	4.6%	13.2%	53.5%	12.1%	2.1%	12.8%	100.0%
Non-Visible Ethnic Minority	Number	128	299	522	1,383	4,462	933	255	1,628	9,610
	% of rank	96.3%	96.6%	90.2%	87.0%	79.5%	77.0%	75.0%	74.4%	80.3%
	% of non-VEM staff	1.3%	3.1%	5.4%	14.4%	46.4%	9.7%	2.7%	16.9%	100.0%
Visible Ethnic Minority	Number	5	11	57	208	1,152	279	85	559	2,355
	% of rank	3.7%	3.4%	9.8%	13.0%	20.5%	23.0%	25.0%	25.6%	19.7%
	% of VEM staff	0.2%	0.5%	2.4%	8.8%	48.9%	11.8%	3.6%	23.8%	100.0%

Source: MPS

9.7 The GLA believes that the only way in which the MPS will make progress towards its targets is to explore the possibility of adopting a recruitment strategy based on positive discrimination for a fixed period. Given the legislative framework, this would be unlawful.

9.8 AC Ghaffur comments that "the argument for fast-tracking successful minority candidates into the organisation post-selection is a persuasive one. However, this is illegal as it constitutes positive discrimination. In turn, this puts the MPS at risk of litigation."

9.9 He is alive to the possible backlash if positive discrimination were available:

“The MPS must avoid a situation whereby ethnic minority recruits at Hendon feel de-valued and that their success is due to positive discrimination rather than ability. This would also cause resentment amongst white officers.”

9.10 Instead, AC Ghaffur advocates a system of positive action. The MPS’ initiatives on positive action are led and co-ordinated by the Positive Action Central Team. AC Ghaffur recommends that the following positive action initiatives should be considered:

- job shadowing and job rotations, which would provide an opportunity for officers to become more familiar with specialist posts;
- short-term secondments;
- development centres, providing attendees with action plans for development aligned to competency areas;
- formalised succession planning in the shape of career pathways; and
- reduced competency periods.

9.11 Whatever efforts have been made in recent years to attract more women and minority ethnic officers to the MPS and to achieve better representation at senior level, the fact remains that the MPS is still far from representative of Londoners.

The gateway – the training of recruits

9.12 The MPS has trained recruits at the Hendon Training Centre since 1934. The overwhelming majority of recruits are still trained there today, although the MPS is currently experimenting with non-residential courses at Sunbury.

9.13 Wherever and however recruits are trained, we believe that it is vital that the gateway to the Service is used to set the tone for the duration of an officer’s service in the MPS. Getting this right means securing the future of the MPS for another generation.

9.14 We welcome the MPS’ current attempt to move away from an outdated militaristic form of training “to create an adult learning college environment and also to encourage self discipline.”

(Commander Hussain, during the Inquiry’s visit to the Hendon Training Centre.)

9.15 We suspect that more needs to be done to achieve this adult learning college environment. We understand that recruits still perform drill and that there is no civilian graduation ceremony.

“We spend as long on drill and marching as we do on officer safety. What’s more important?”
(Speaker during the Inquiry’s visit to the Hendon Training Centre.)

9.16 It is important to recognise that recruits may come from different backgrounds, and will respond to the pressures of their initial training in different ways. We are concerned, therefore, at the comments that have been made about a perceived lack of support for probationers before and during this stage of their training:

“There are 37 lessons in the first two weeks. People haven’t studied for a long time. ‘White notes’ could be sent to people at home before they arrive. They know our start dates months in advance so they could do something.”

“The intensity of the course should be explained beforehand in clearer terms to avoid the shock when we get here.”

“There is no mentoring scheme.”

(Speakers during the Inquiry’s visit to the Hendon Training Centre.)

9.17 We understand that the MPS has introduced a welfare unit, and that the Metropolitan Police Federation and staff support associations work to support probationers at Hendon. We also understand that a mentoring scheme is now available. However, we think there is more that the MPS itself could be doing to provide more formal support structures. We are also concerned about the length of time that some recruits have to wait before starting at Hendon. It is important that any support mechanisms extend to this period, as well as the time spent in training.

9.18 During our visit to Hendon, we were told about a new scheme involving an open day for recruits before they start at the training centre. We welcome initiatives of this type and hope that they continue.

We recommend that the MPS ensures that there are effective, formal support mechanisms in place for all recruits. These should cover the period after acceptance and before they arrive at Hendon, as well as their time spent there.

9.19 We are concerned at the wastage rates for all recruits at Hendon, which seem high and, in particular, the disparity between the figures for wastage of white and minority ethnic recruits highlighted in the latest HMIC inspection report of the MPS.

“Wastage rates at Hendon are currently 11.79% overall and 13.17% for visible ethnic minority recruits and remain significantly above the provincial average. Active efforts are being made to improve support networks for students through the establishment of an advice and development unit, regular tutorials with staff and workshops with the Black Police Association (BPA) and other support groups.” (HMIC Inspection Report 2002/2003.)

9.20 While this may be due to specific features of the recruitment process in the past, we have also received some evidence during the Inquiry that there are elements of the culture at Hendon that support bullying and racism.

“One issue is that up until fairly recently I do not think that as an organisation we have recognised the degree of significant pressure that members of some communities come under from their family and friends when they take a decision to join the Police Service. We take them into the residential environment at Hendon, or any other training school, and – all the pressure about initial training is about conforming, is it not? It is about bringing people to a common point, if you like. And we have not recognised the particular pressures that some of our officers have been under, and we have not therefore supported them; we have not been sensitive to those particular issues. And it is no wonder that they find – you know, if they are under pressure from outside for joining the police and then they join the service and they feel under pressure from a predominant culture which does not appear to welcome their presence inside the service, then it is no wonder that they walk away.”

(Evidence of Commander Stephen Allen.)

9.21 When pressed further on the problem, Commander Allen went on to say

“I will try and be careful, sir, that I think of specific examples before I answer your question. Certainly racism and certainly bullying.”

9.22 When the MPS’ Director of Training and Development, Commander Shabir Hussain, gave evidence to us he did not recognise this description of behaviour at Hendon and said “give me the evidence, give me any information, it doesn’t have to be the evidential standard, and we will deal with it.”

9.23 In his recent Thematic Review, AC Ghaffur found under-representation and aspects of disproportionality at Hendon, but he found no evidence of the kind of culture portrayed in the BBC documentary, *The Secret Policeman*.

9.24 Whilst we received evidence of racist or racially insensitive behaviour at Hendon, the incidents occurred some years ago. However, as we were finalising this report, we became aware of two pieces of information.

9.25 Firstly, a probationer was recently required to resign following a disciplinary hearing into an allegation that he had used racist language to a fellow recruit at Hendon. Secondly, two male recruits from Hendon are currently on suspension as a result of allegations of inappropriate sexual behaviour against three female recruits. These officers have been suspended since October 2003. The Inquiry began gathering evidence in January 2004.

9.26 Whilst, therefore, the evidence we received during the Inquiry was insufficient to suggest an inappropriate culture at Hendon,

we recommend that the MPS takes active steps to remain vigilant and to monitor the culture at Hendon, and to ensure that all staff and recruits are aware of what constitutes inappropriate behaviour (such as that which is bullying and / or discriminatory) and that any incidents which do occur are treated with the seriousness they deserve.

9.27 Given what we have said about the importance of recruits' first experiences of the Service and the recognition that the long term future of the MPS depends on the quality of recruits which emerge, it follows that the Director of Training and Development is one of the most important positions in the MPS and will have significant influence on the MPS for years to come.

9.28 It is, therefore, vital that careful attention is given to appointing the right person. Since the post of Director was created, it has been held by a serving police officer. While serving officers should not be debarred from the post, we do not see the necessity for the post-holder to be a serving officer. Indeed, there may be compelling reasons for this not to be the case. If the Training Centre is to be run more on the lines of an adult education establishment there is every reason for appointing a member of police staff with the requisite skills and experience.

9.29 We make no recommendation on this. It is the leadership qualities of the Director which are important rather than the background of the post-holder. We would, however, prefer to see the post filled by open competition.

Enhancing the skills available to the organisation

9.30 One way of enhancing the skills available to the MPS is by multi-point entry. This has been put to us as a way of increasing the representation of women and minority ethnic officers at senior level. However, we prefer to see it as method by which the organisation can draw on the skills and experience of all types of people who might otherwise not consider a career in the police service. It would apply to everyone not just women and ethnic minorities.

9.31 Currently, there is one single point of entry into the police service – at constable level for a fully omni-competent officer. Therefore, all police officers start their service serving as constables and all senior officers have experienced life 'on the street' and have worked their way up through the service.

9.32 Not all police officers start their service in their late teens or early twenties. Many come from other walks of life and bring experience and skills from elsewhere to the benefit of the service. However, they all start as constables. In addition, police officers essentially make a commitment of 30 years to the service on joining.

9.33 In contrast, direct recruitment into police staff roles at all levels is the norm. Recruitment is tailored to the particular post to be filled. This has the advantage of facilitating the entry into the service of people with appropriate and up-to-date skills and experience.

9.34 In addition, police staff do not take on a 30 year commitment on joining and may well expect to move in and out of the service using their skills in other parts of the public sector and even the private sector.

9.35 It is therefore legitimate to ask whether, particularly in the light of the modernisation of the service, the best method for securing the right people with the right skills for managerial and others senior posts is to maintain the system whereby officers work their way up the ladder starting as probationers.

9.36 We are aware that some form of multi-point entry is being considered nationally for the service. In his written submission to us, AC Hogan-Howe saw this as a way of addressing under-representation of women and officers from ethnic minorities in higher ranks:

“A method of streaming and multi-point entry would assist in increasing the proportion of female officers at higher ranks more quickly. I would like to see direct entry for police officers at all levels.”

He expanded on this in his oral evidence to us: “The general point I would make is if we were to carry on recruiting at the rate we do, and if we were to carry on allowing normal progress, in terms of the way our officers progress, we are in the danger of never getting the right representation for another generation, and that does not seem to be good enough.”

9.37 DAC Carole Howlett of the Association of Senior Women Officers (ASWO) agreed that multi-point entry could bring significant benefits: “It is not just about bringing perhaps the traditional type of sort of female attitudes within the organisation, but it is about bringing the richness of the broad experiences of all groups of all communities within London within the police service, and that is what we have been struggling to do for so long, with very limited success, and this seems to me something that we should now be trying.”

9.38 However, we also heard some dissenting voices particularly from women officers who were concerned that officers recruited under such a scheme might be resented.

“A lot of people are going to feel that those individuals have got special treatment.”
(Meryem Cast, Metropolitan Police Service Turkish and Turkish Cypriot Association.)

“I think you have got to be careful, if you do do that, and you are trying to be positive in your recruitment of female officers, ethnic minorities, etcetera, that you do not step on toes of other people, because other officers in that environment were saying, “Well, why can I not do it? I can do her job. I can do exactly what she has done. We are short of senior officers, let me stay in”, and people are saying, “No, because she is female, we need her.”
(Speaker at the Inquiry’s Women’s Forum.)

“It is a good idea in essence, but there is no way it can be hidden, you could not just go through that without people knowing that you have had a special route because you have been female; the same with being black.” (Speaker at the Inquiry’s Women’s Forum.)

“Whereas I think the idea behind it is a good one ... I myself would not want to go through there, something that was different, I think because you are always going to have that culture of people saying, “Well, you have gone through a special procedure because of ... ” I think a

lot of people would prefer to go through the similar process, the same as everybody else, because anything that is different, you sort of stand out a lot more, basically.”

(Speaker at the Inquiry’s Women’s Forum.)

9.39 There was also concern that officers recruited to more senior roles might not be ‘up to the job’ nor command the respect of the officers they had to manage.

“And no matter what anybody says, it is not like managing an office in an office block, a 9-5 job behind a computer; you are dealing with people, but it is not the same, and to me, ... you are trying to ask somebody to respect you when you physically do not know how to do the job yourself.” (Speaker at the Inquiry’s Women’s Forum.)

“If that were introduced, and it was for – say it was introduced only for women, I think that would just make the whole matter a lot lot worse, personally. Yes, it should be considered and examined maybe, but my feelings are that if I, for example, joined straight in as an inspector, I would have absolutely no credibility whatsoever.” (Evidence of Ms LL.)

9.40 Many of the concerns we heard were from women. We have received evidence that these concerns are shared by people from ethnic minority communities.

“There was a strong view that it was more important for the police to recruit people with the right personalities and attitudes, regardless of their ethnic background. Respondents were also keen that people like themselves should be seen to be recruited on merit rather than reasons of positive discrimination.”

(Extract from Attitudes of People from Minority Ethnic Communities towards a Career in the Police Service: Home Office Report by Stone & Tuffin.)

9.41 A multi-point entry scheme would not, of course, apply exclusively to women and ethnic minority applicants. The principal reason for such a scheme would be to attract individuals with particular skills and mature experience, developed in other fields.

9.42 This injection of new ideas and ways of working from people with a track record of success in a different field would clearly impact on the culture of the service. If it were also to assist in addressing issues of representation at senior level, that would be welcome added value.

9.43 HMIC has raised the question of whether the single entry route to the service is still appropriate: “As concepts such as ‘streaming’ and specialisation take root, there should be significantly greater opportunity to identify individuals with the requisite combinations of skills elsewhere than solely from within the service.” (Modernising the Police Service, HMIC.)

9.44 HMIC considers that “the future will demand that direct recruitment is considered beyond the police staff roles to encompass many of the operational specialisms and managerial roles, including BCU commander and chief constable.”

9.45 The HMIC report does not make a recommendation on multi-point entry but simply acknowledges the strong views expressed both for and against the proposition. However, it goes on to say:

“What is unchallenged is that unless someone takes a leap of faith, the service will not be able to tap into the wealth of experience and talent currently lodged outside policing. A 40-year old expert in drugs is unlikely to apply to be a probationary constable but could be invaluable in shaping the police response to such issues. The time is right either to embark on controlled pilots of such deployments or move on from the debate.”

9.46 We welcome the recent Government announcement to support the principle of multi-point entry. The MPS is a large organisation with the need for particular skills.

We recommend that the MPS gives consideration to early implementation of any proposed scheme of multi-point entry for officers.

Retention and development

9.47 Recruiting the right people is only part of the challenge, the other is retaining them and ensuring that they acquire the right skills and experience to discharge their given roles.

9.48 Becoming an employer of choice involves more than being attractive to potential employees but also providing incentives to officers and staff to remain in post rather than move elsewhere.

“I think recruiting of female officers is quite high, it is maintaining them, looking at maternity issues, promotion issues, retention issues. That is where I feel we need to concentrate our efforts, and using senior women and experienced women, senior PCs who have been around a while, to mentor and be available to newer serving female officers.” (Evidence of Ms LL.)

Induction

9.49 Work on retention should start immediately after an individual is accepted into the service. Induction provides an early opportunity for the organisation to communicate its vision and values, set out what it expects of its workforce and demonstrate the value it places on the contribution of its officers and staff. Their experience of that process will be one of the first tests for the organisation.

9.50 As with recruitment and retention, effective organisations will have developed policies on induction.

9.51 Our survey of all officers and staff indicates that 33% of respondents said that their induction gave them a good understanding of the MPS and 31% said it gave them a good understanding of their job. This figure rises slightly (to 36% and 34% respectively) when the 'don't know' responses are discounted, but they are nonetheless disappointing.

9.52 Induction is not just a process which happens when someone joins an organisation. Effective induction processes are needed whenever someone takes on a new role, particularly on promotion. If there is no effective induction on promotion, the organisation is not exploiting the full potential of a person which it has identified as worthy of a more senior role.

"At my level [Superintendent transferring to the MPS] you need to do a lot of homework. I had a day at Hendon which was very basic – warrant card and uniform. There had been no thought processes about other documents. I already had a shopping list and got documents like the Policing Plan from my borough commander."

(Speaker during a London Police Station visit.)

"[On induction as a Sergeant] I had a week's course on how to manage. It was an overload of information, filling forms etc. There were only two days on how to manage the custody office which is half the sergeant's role. Then I was posted and straight into the custody office. There is not enough training. You need more preparation to take on the role."

(Speaker during a London Police Station visit.)

We recommend that the MPS evolves effective induction processes to cover entry into the organisation, and all changes of role within it, and that the Human Resources directorate institutes formal mechanisms for monitoring compliance.

Appraisal

9.53 In a changing world, it is critical that skills and performance continue to be measured and developed. To avoid ad hoc and subjective judgements, it is essential to set required objectives through a formal appraisal policy.

9.54 One way of keeping employees motivated is to ensure that they develop and realise their potential. This requires good managers and an effective appraisal system, as well as training opportunities. We have already commented on management competency and will deal with training opportunities in more detail shortly but first we will consider appraisal.

"It is widely recognised that demand for police services is increasing faster than the available resources. If the goals of policing are to be achieved, the MPS needs to develop a performance culture which will maximise the potential of all members of staff – police and civil staff alike;

there is a direct and vital link between performance and the way an organisation obtains the best people and develops the knowledge, skills and attitudes of those new recruits and of existing staff." (MPS Dignity at Work Guidance and Best Practice.)

"Everyone has learning and development needs of some kind, regardless of their role or rank – although development needs differ in different situations."
(MPS Performance Development Review.)

9.55 An effective appraisal system for all officers and staff is key to identifying these development needs:

"The performance of our workforce is critical in achieving the business objectives of the OCU. An opinion is formed and our performance is measured at every interaction and transaction. It is essential to respond positively and with confidence to the needs of an organisation and an OCU going through perpetual change, and the skills, knowledge and development of the workforce is mission critical in keeping pace and meeting these demands."
(Submission from the Child Protection Command.)

9.56 The HMIC inspection of the MPS for 2000/2001 found that "too many HR processes are bureaucratic; for example, it requires enormous time and effort to apply for promotion or selection for specialist posts, to complete appraisals and to apply to join the MPS."

9.57 Since this inspection, the HR Directorate has formulated its People Strategy, which includes the use of Performance Development Reviews (PDRs) to assess and build upon the strengths of individual officers and staff, and the Career and Retention Unit as part of the Directorate of People Development.

9.58 However, AC Hogan-Howe told us that "the 'People Strategy' does not appear to have met the expectations that were evident at its launch. The six main strands remain relevant, but they appear not to have been embraced by the organisation and implementation is perceived to be slow and patchy", **and that processes for appraisals, career development, and promotion systems are regarded in the organisation as relatively ineffective.**

9.59 Concern was expressed by the HMIC in its latest inspection report (2002/2003): "The credibility of appraisal processes in the MPS is poor and effective implementation of the new performance development review (PDR) process will be crucial. Local training was being delivered on some of the BOCUs visited during the Inspection. Unfortunately, because of competing training priorities and the limited availability of staff, trainers and classrooms with the necessary IT, there was already a backlog of PDRs waiting to be actioned because supervisory staff had not been trained. In addition, some local trainers were not complimentary regarding their training and the corporate package which they were expected to deliver. Her Majesty's Inspector is concerned that there appears to be limited central monitoring of the quality of local delivery, or evaluation of the impact of the training programme. Both these issues should be addressed before the roll-out of the civil staff version in order that important lessons can be learnt."

9.60 HMIC pointed to a cultural issue in the MPS: "A major difficulty is the lack of credibility appraisal has in the organisation. Audits were conducted of the old system and levels of completion, particularly for detective officers and civil staff, were found to be poor. Some units in the CID had 88% of their appraisals outstanding; over a quarter of these were over 12 months late. For civil staff, non-completion was as high as 46% in certain sections. Of those completed, many were poorly evidenced and while some examples were found of individual objectives being set in support of corporate aims, this was very patchy, particularly amongst detective officers. Her Majesty's Inspector is concerned that there is a long-standing cultural issue which is not being adequately addressed. Quite simply, staff and many supervisors and managers across the MPS do not see any value in appraisal. Unless action is taken to change this view, the new system is unlikely to succeed."

9.61 HMIC did, however, welcome the improved arrangements for monitoring the timely completion and quality of appraisal practice. These will involve giving borough personnel managers the responsibility for ensuring that PDRs are completed and central monitoring from the HR directorate to ensure compliance and a consistent approach across the boroughs.

9.62 It is clearly a concern if the organisation is not managing and developing its own people effectively. PDRs should be an effective tool for developing all officers and staff, to enhance their skills for the Service. This is likely to impact on the individual member of staff's commitment to the MPS, if the individual concerned perceives a lack of interest in his or her performance and career development.



9.63 Having said that, we have been told of significantly improved rates of appraisal since the 2002/2003 inspection and we are also aware of proper focus being placed on these issues in some OCUs. For example, we regard the approach taken by the Child Protection Command as commendable.

9.64 We also see effective use of PDRs as a good way for the MPS to focus staff development on management issues, to enable it to develop its officers and staff so that they become more confident in dealing with people management issues. We are concerned at the perception that people management issues are not valued as much as operational competence when officers' performance is reviewed. Valuing all skills, whether operational or managerial, will be part of the new culture that we believe the MPS needs to embrace.

We recommend that the Human Resources directorate takes steps to ensure that the Performance Development Review process is fully implemented across the MPS as a meaningful management tool. This should be centrally monitored and the Human Resources directorate should carry out periodic reviews across the organisation to monitor quality and consistency.

Training opportunities

9.65 Effective appraisal should identify how an employee needs to develop to fulfil his or her potential and the organisation's expectations and ambitions. Meeting the training needs of individuals is a way of ensuring that staff acquire the right skills and experience, and that the organisation gets the best out of its officers and staff.

9.66 The MPS devotes considerable resources to training. We understand that its Training Plan for 2003/2004 was costed at over £86 million, with over £2 million of that figure budgeted for central management and leadership training. According to the Deputy Commissioner, with regard to training days provided to police officers, "Our current level is about 14 days per officer, which is quite a lot of training, and a lot of it is driven by health and safety legislation, around officer safety and so on."

9.67 We explored training in our survey of all officers and staff. Again, we were assisted by the fact that the Work Foundation had benchmark scores for some of our questions, based on the responses to surveys of other public and private organisations.

9.68 Our survey indicated that 47% of respondents agree that the MPS is committed to developing its staff. This gives a mean score of 0.15 which falls short of the benchmark (0.43) by a significant margin. Only 46% agree that they receive the training they need to do their jobs and again the mean score of 0.07 falls well short of the benchmark of 0.65.

9.69 Even lower scores were recorded in relation to training opportunities with 38% of respondents saying that they were clear about the development opportunities available to them (-0.03 compared to a benchmark of 0.55). Only 28% agree that there is a fair and equal access to training opportunities (a mean score of -0.24 compared to a benchmark of 0.29).

9.70 These results paint a worrying picture and are borne out by comments we heard on our visits to London police stations:

"I can't remember when any officer has gone on a training bus on a down day. On spare days you get put on high visibility patrols because, say, of the state of motor crime. You have no time therefore to look at the intranet or get your case papers done."

"Officers get emails about e-training. It's a 2-3 hour package. It's that length of time for someone who's computer literate, so it's going to take me 4-5 hours. But I don't have 4-5 hours to do a training course."

"We used to have a dedicated training day. That doesn't happen any more."

"99 out of 100 officers want to learn, but don't get the chance."

"I have been asking for training but am always told it is a week long course and that I can't be spared."

"I deal with Health and Safety but have never been on a Health and Safety course."

"Training is sporadic, especially in CID. It's not like uniformed officers who get training every x number of weeks."

"There's new legislation coming in today, it's in force and we don't know about it."

"There's a bit of an imbalance between staff and officers (with staff getting less training). People don't want to feel like a weak link. But if training is fitted in, it's too late."

9.71 Clearly, there is a gap between the MPS' commitment to developing its officers and staff and experience on the ground. Implementing our earlier recommendation on the PDR process should ensure that training needs are identified and addressed. However, we think that more can be done at both the strategic level and also within OCUs where decisions on the training individuals actually receive will be made.

We recommend that the Human Resources directorate should keep data on the training undertaken by officers and staff both in terms of the time spent on training and the training undertaken.

We also recommend that Operational Command Unit commanders and departmental managers should use this data to ensure that the officers and staff for whom they are responsible receive the training they need to do their jobs and that there is fair and equal access to appropriate training opportunities. A pre-requisite of this is full devolution of training budgets.

Training for management

9.72 Progression, as either an officer or a member of police staff, will normally involve taking on a managerial role or increasing the managerial component of an existing role.

9.73 If the MPS is to move forward in the way we envisage, it needs to equip its managers with the skills and confidence to manage people, as well as operational matters. Everyone in the organisation needs to understand that it is only by managing the Service's officers and staff effectively that the best operational results will be achieved.

9.74 We have received a substantial body of evidence suggesting that officers in the MPS are frequently given managerial responsibilities without being given the training and support they need to discharge those responsibilities effectively. The following comment, made during one of our visits to police stations in London, says much about how first line managers are prepared for a managerial role:

"You get taught how to deal with the custody computer, but not how to deal with people."

9.75 The MPS disagrees that its managers have not been given the tools to discharge managerial responsibilities. Management skills are tested in promotion examinations and promotion assessments are also designed to test management skills. It does acknowledge, however, that not all individuals in the MPS with managerial responsibility choose to use these skills on a daily basis.

9.76 In addition, the Deputy Commissioner acknowledged that the MPS could do more in equipping its personnel to take on managerial roles:

"This is my example: the majority of the management training through which I passed which was in service was delivered at the police staff college at Bramshill. There was a special course, junior command course, intermediate command course, senior command course, and some people, for some very good reasons, effectively abolished most of those courses leaving effectively two book ends. I am not sure what other forces did, but I do not think this Service picked up the fact that it was about to lose a kind of process through which at least managers were exposed to the basic tenets of line management. We just did not do it. So we have those in the sergeants' course, we have those in the inspectors' course, and then it just ceases. There is no coherent Met management piece."

9.77 The problem was recognised in the Viridi Inquiry Report:

"Police officers, it was agreed, are not appropriately skilled or trained in personnel matters. Their training simply does not provide them with the professional 'capital' and competence to adequately deal with many of the critical internal human resources problems they face."

9.78 It seems likely that the same issue applies to police staff and the problem is not unique to the MPS. To quote Sir Michael Lyons:

"... you find it in any area of public service, and probably we look to lots of areas of the private sector as well, where people come out of a professional area where they are prized for their individual contribution in this work and then you say, 'you have done so well there, we now want you to manage other people to do that job', as if somehow those skills have been developed and there is absolutely no reason to believe they would have been."

9.79 We have been told by a number of witnesses that the solution is more management training for officers and staff. By way of example, the Metropolitan Police Federation's submission called for "the situation where all members of staff regardless of rank or grade receive proper and adequate training before they are required, or allowed to undertake any personnel role."

9.80 AC Hogan-Howe told us that the MPS attaches considerable importance to management training, and was proposing to dedicate 4% of all proposed training days in 2004/2005 to management training, as compared with 1% in 2003/2004. He also told us that a "diverse range of management training is provided locally, covering specific topics such as attendance management, PDR training and supervisors training."

9.81 We see formal training as part of the solution and recognise that it can be useful for some individuals and in relation to some issues such as the detail of personnel procedures and how to implement them. However, we endorse Sir Michael Lyons' preference for "development rather than training" and, like him, we are "sceptical about the extent to which off-the-job training can play more than a small part in this process."

9.82 If the MPS is to enhance the skills of its managers, people issues need to be at the top of the agenda of every manager in the MPS and "People have to understand that development actually affects what they are doing." (Evidence of Sir Michael Lyons.)

9.83 In short, we agree with Nigel Whittaker's comment that "training for training's sake is a huge waste of money; people go to the training and then they forget it afterwards. It has to be reflected and embedded in what the organisation is about."

9.84 The best way to achieve this, we think, is for the MPS to develop a culture where development and training is not seen as something that is 'done to' the individual but rather something for which each officer and member of staff, whether manager or managed, has a responsibility. To quote Sir Michael Lyons again "this essentially is about commitment to make the journey. Partly you have to identify that this is a person capable of doing it, but also that they want to make the journey of self development."

9.85 This is recognised by the MPS: “The responsibility for motivating and developing people is shared by all managers and by individuals themselves.” (MPS Dignity at Work Guidance and Best Practice.)

9.86 Managers develop by learning ‘on the job’ from their own peers and managers; by discussing problems when they arise and being coached through the journey. This requires a cultural shift rather than new formal procedures. However, all managers need to take their responsibilities for playing their part in the process. Coaching, mentoring, developing, managing – whatever it is called – needs to be part of every working day.

We recommend, therefore, that the MPS implements a more effective management development programme.

Developing police staff

9.87 If the focus is to be on development as opposed to training, it is important to ensure that it is not only police officers whose development needs are catered for. HMIC has pointed out that, although it is possible for police staff to attend the Strategic Command Course, the Senior Leadership Development Programme and the Core Leadership Development Programme, very few police staff actually take advantage of this opportunity.

9.88 In addition, there is no scheme for police staff equivalent to the High Potential Development Scheme (HPDS) for police officers and there is no mechanism for identifying exceptional talent amongst police staff.

9.89 HMIC has therefore recommended that the Home Office develops a HPDS for police staff and that each police service should have systems in place to identify police staff with high potential and actively develop their careers. We would endorse this.

We recommend that the MPS takes immediate action to implement the HMIC recommendation on a High Potential Development Scheme for police staff.

We also recommend that the MPS’ management development programme should be available to police staff as well as police officers.

Finally, we recommend that the MPS ensures that it has systems in place to develop all its officers and staff.

Promotion and specialist posts

9.90 Getting the right people into the right jobs at the right level of responsibility involves more than simply identifying and developing potential. It also requires a promotion system which is fair and transparent and is perceived to be so by those to whom it applies.

9.91 We have received evidence of a number of perceived deficiencies in the way that the MPS deals with the promotion of police officers and that the rigid policies mean that the best candidates do not necessarily get promoted. If this were a correct reflection of the outcomes of promotion processes in the MPS, it would mean that not only are good candidates losing their career opportunities but that the MPS is losing the benefit of the skills of talented officers at a time when its need for managerial expertise is increasing.

“But the key issue as far as I am concerned is that we have centralised policies again that mitigate against promoting the best at very senior levels, and I have an example only this week of a very capable, exceptional female DCI who attended the promotion process last year for superintendent but unfortunately did not get through; was disbarred from this year’s promotion process because they changed the goalposts on the time criteria; you had to have two years in the rank and she missed it by a matter of three or four weeks. She appealed under the exceptional appeal process. I saw her appeal. She is an absolute star. And still she was not called to the superintendent process. I would question the validity of systems that disbar quality staff from progressing.” (Evidence of Detective Chief Superintendent Sharon Kerr.)

“My perception of the promotion system is that officers who meet a middling all round standard will be successful but those who excel in most areas but cannot fulfil specific operational areas will not be successful. This leads to evidence manufacturing by individuals who are more interested in their own careers than to service or the public.” (Submission from IND 14.)

9.92 “We have officers, white and black and any other – female – at junior level who are still sergeants and PCs with university degrees. They cannot move up the ladder because the promotion system is failing them. We have youngsters who join the Police Service as cadets at 18 and they are moulds: they will say the right things, obey orders, and if they have got a problem you push it up. Common sense is not applied ... It is a simple issue. The whole promotion system needs to be addressed and needs to be changed.” (Evidence of Detective Sergeant Gurpal Viridi.)

9.93 We have also received a number of submissions from individuals raising issues of concern arising from their experience of the promotion process.

Case study – Ms GG

GG was a Sergeant who wished to take part in the Part III promotion process. She was put forward by her line manager, but the BOCU's Senior Management Team did not recommend her for a board. She requested detailed feedback so she could understand the reasons that her application for promotion had not been successful. This was not given. All eight male candidates from the borough were recommended whilst the only other officer who was not recommended was another female Sergeant.

Although GG has subsequently been promoted to Inspector, she was engaged in applying for promotion for three years. During this period, every male officer who applied for promotion (save one officer with a poor sick record) was recommended, while no female officer was.

Case Study – IND 14

IND 14 was a Sergeant wishing to apply for promotion, who was unable to do so even though he was fully qualified in every other way, because the relevant policy provided that an applicant needed less than 30 days sickness in the previous three years. As a result of injuries sustained during police operations, he had more sickness on his record than the policy allowed and this stood in the way of his application even though he was now fully fit.

The officer appealed, and his appeal was rejected on the grounds that he had "altered the font size on the appeal form." The MPS has commented that font size is prescribed because "equal space for all candidates ensures fairness." Taking this explanation into account, the Inquiry takes the view that the correct response would have been to ask the officer to resubmit his appeal using the correct font size.

The officer told us that when senior managers stepped in to help him after he complained, there was no discussion about the unfair application of the policy concerned but only talk "to work out strategies where I could manufacture evidence to fill in boxes on the next application for promotion."

He subsequently initiated a complaint under FAW, but this was refused on the basis that the promotion process has its own appeals process. He then wrote to the Commissioner, who referred the matter to the HR department. The officer has told us that "to this day, I have not even had an acknowledgment that they will deal with it or even pass it onto someone else to deal."

Case study – Ms LL

LL was a Sergeant applying for promotion in circumstances similar to Ms GG, and had her application blocked by the Senior Management Team in her BOCU. She ultimately initiated Employment Tribunal proceedings for discrimination on the basis of her gender and subsequently was promoted.

When LL met the Borough Commander who had sat on her board, he was under the impression that she had received face to face feedback and a development plan from her line manager, even though she had not.

LL commented that: "Once the decision was made to promote me, I had to make most of the telephone calls and enquiries to establish the date of my promotion and to find myself a suitable position. I am still waiting for my back pay from June to be paid to me, I am hopeful that it will be in my February pay."

9.94 We are not able to comment on the merits of these candidates. We accept that the MPS needs policies and procedures for dealing with promotion in a way that is fair and transparent. However, we would question the validity of those policies and processes where they act to prevent good candidates from being promoted.

9.95 We also have serious concerns that feedback is not automatically given to unsuccessful candidates so that they can address areas of weakness to ensure a more successful outcome in the future. The MPS contends that feedback is offered to each candidate in every centrally run process and that, where officers are not recommended locally, feedback should also be given, although it accepts that there is “a gap the MPS should examine”.

9.96 The failure of any line manager whose responsibility it is to give feedback or discuss development opportunities with an officer within their command, is inexcusable. In our view, it amounts to a failure of management.

9.97 We are particularly concerned that the MPS failed to identify the trend of discrimination against female candidates for promotion that occurred in the particular BOCU where Ms GG and Ms LL were based. This is not surprising as, when we requested statistics on promotion broken down into OCUs we were told that they were not available. If information is not collected, it cannot be used to identify trends or to take any action once a trend has been identified.

9.98 We are aware that the MPS collects extensive data on its workforce and that there is a monthly Workforce Data Report which is available on the Intranet. Managers are also able to request other data through the HR directorate. However, we have already recommended that the HR directorate reviews the relevant management information it currently collects with a view to ensuring that it has the data needed to fulfil all business objectives.

9.99 The examples of bad practice in this regard that we have received could be isolated, although we suspect they are not. Whatever the rights and wrongs of each particular case, it is clear that the officers concerned have not been managed effectively. As a result, the MPS has added to those officers working for it who are becoming disillusioned with the police service. This is to the detriment of the MPS and to the people of London.

“The promotion process appeared to me to be poorly thought out with frequent changes. I attended a briefing for the Chief Inspector assessment process to obtain information, but the Human Resources managers who attended a subsequent briefing were given a different set of instructions. This gave the impression that the process was not properly thought through and this to me explained some of the serious concerns I had.”

(Submission from the individual involved in HPC 2.)

“I think we need to look at the whole promotion system, we need to look at, you know, how people are blocked to get to the promotion boards, processes, but also, we need to look: are we promoting the right people?” (Evidence of Mr NN.)

9.100 We agree that it would be appropriate to conduct a full review of how the MPS approaches the promotion of police officers. We would advocate a more open and transparent system where individuals do not have to rely on being recommended for promotion by local management. At the very least, if the approval of local management is to be required before officers can go forward for promotion, there ought to be an entitlement to full feedback on the reasons why they have not been put forward.

9.101 It goes without saying that we believe appointments at all levels should be by open competition and we have already commented on this earlier when we dealt with appointments to DPS.

9.102 Lateral career development is also a form of career progression, particularly when this involves taking on a specialist role. Again, the processes to select individuals for these posts need to be totally transparent. Like AC Ghaffur we are surprised that “no corporate data is collected or available in respect of the lateral career development of visible ethnic minority officers and staff.”
(A Thematic Review of Race and Diversity in the MPS.)

9.103 The data which is available and which deals with the make-up of business groups indicates that there is a lack of career progression from boroughs to other business groups for those from ethnic minorities and that very few officers from ethnic minorities apply for specialist posts.

“... there is a perception by some that specialist roles or units are ‘no go’ areas for officers and staff from minority groups.”
(A Thematic Review of Race and Diversity in the MPS, AC Ghaffur.)

We support the positive action initiatives that AC Ghaffur suggests in his report.

9.104 The MPS needs to review its procedures for promotion and appointments to specialist posts and ensure that the system will result in the appointment of the best candidates. This should involve open competition and applications should not rely on the endorsement of senior managers. It must necessarily include feedback. It is also essential that the HR directorate monitors the application of the policy so that the MPS can be satisfied that it is operating fairly and consistently across the organisation.

We recommend that the MPS develops procedures for promotion and appointments to specialist posts which are fair and transparent and that the Human Resources directorate monitors their application.

Managing individuals

9.105 “My message would be to treat people as individuals, to talk to people and to be willing to listen and be willing to change.” (Evidence of Ms LL.)

9.106 All organisations are made up of individuals with their individual needs, strengths and weaknesses. We have dealt with how the organisation needs to ensure it uses the talents of its workforce to the full but the other side of the coin is ensuring that, so far as is possible, the organisation is able to accommodate individual needs.

9.107 Both the ACAS and HMIC definitions, which we cite in the previous chapter, refer to flexible working. ACAS specifically refers to ‘work / life balance’ and HMIC refers to ‘flexible terms and conditions’.

9.108 Flexible working is one way of promoting equality of opportunity as well as assisting an organisation to become more representative of staff from diverse backgrounds and with diverse skills.

9.109 The MPS needs to ensure it can get the best people to work for the organisation. Putting obstacles in the way of people who wish to work part-time or compressed hours runs the risk of losing some of the people the organisation needs. There is a strong business case for flexible working as it ensures that the organisation can retain the expertise of experienced staff in which it has invested.

9.110 Although the evidence is not all one way, we have received a substantial body of evidence suggesting that officers and staff work in a culture of long hours and that the organisation’s policies on achieving work / life balance are not fully implemented:

“Women still suffer detriment within the Service. Although policies on work/life balance exist, the MPS has a macho culture, which expects staff to show their commitment by working the hours necessary to complete the job. In operational areas shift workers are expected to start and end work at the same time. People who ask for part-time working, flexible working patterns or time off for family reasons are considered to lack commitment to the organisation. These attitudes affect men as well as women but have a greater impact upon women because of their role as primary carers.” (Submission from the MET-TUS.)

“... one of the factors that I think pervades through this organisation is that flexible working may be accepted at a certain level, but if a woman, for example, wishes to seek promotion, then it is pretty much the standard practice that ... unless you are committed to full-time, then you are at a serious disadvantage.” (Speaker at the Inquiry’s Women’s Forum.)

“But it is about resourcing. It is insufficiently resourced. So all of our staff, with the exception of kidnap, are on a 45 minute notice to scramble. A lot of my staff have not had weekends off in weeks and weeks, and it just cannot be right. I think in a service of total review of resourcing it is neither practicable nor doable. In fact, I saw a male detective inspector only this week who was leaving the command because he has two young children, he is not seeing them, his wife

works, and he cannot manage the unpredictability of it, and he is seeking a post elsewhere that gives him more certainty." (Evidence of Detective Chief Superintendent Sharon Kerr.)

"Going part-time very much depends on the station and the individual line manager."
(Speaker during a London Police Station visit.)

"This OCU as many others attracts exceptionally dedicated staff who make vast sacrifices in order to perform for the organisation. There are few if any who do not do so at considerable cost, be it divorce, dysfunctional relationships with their children or negative impact on personal health. Ask them if they would change it, few would say yes. Ask them if they should, most would say yes." (Submission from Detective Chief Superintendent Sharon Kerr.)

9.111 Our survey of all officers and staff indicates that 94% of respondents agree that it is important to them to strike a reasonable balance between their home and work responsibilities and, encouragingly, 56% agree that their manager supports them in achieving this.

9.112 However, over 30% of respondents who think that the MPS' family friendly policies apply to them are satisfied that the policies help them to achieve a reasonable balance between their home and work responsibilities. Of those who classify themselves as carers, only 28% agree with the statement.

9.113 Only 40% of respondents agree that the MPS treats people equally regardless of their contract / hours of work and 38% agree that the MPS treats people equally regardless of their caring responsibilities. Respondents who are carers return a negative response whereas their colleagues without caring responsibilities are more positive. 34% of carers agree that they are treated equally, whilst 38% disagree and 25% are neutral.

9.114 29% of respondents overall say that the MPS does enough to support those without family responsibilities to strike a reasonable work / life balance.



9.115 Work / life balance is clearly an issue which the MPS has yet to embrace fully. However, we have also seen some examples of excellent practice.

Child Protection Unit

The Child Protection Unit at Tintagel House now has 24 hour responsibility for the child homicide cases of the west half of London. The Unit consists of 32 police officers and seven support staff and has an approximate 50-50 split between male and female staff, though there is a high dependence on female staff with sufficient expertise.

The Unit has been flexible enough in its arrangements to accommodate part-time working for three police officers and one member of police staff and compressed hours for one other officer. It should be noted that the arrangements have required significant goodwill on behalf of both the staff and the management.

In addition, the Unit's members work on a rota basis under which they are effectively on call every six weeks. Sufficient advance notice is given of the rota and the feedback is that it works well, as staff know when they will be on call and can arrange cover for any other responsibilities.

Internal Consultancy Group

The Internal Consultancy Group is a relatively small unit which provides consultancy advice to the MPS and consists of 50 staff, of whom 35 are professional consultancy staff e.g. business analysts, researchers, etc. As a result of a recent internal review in relation to retention, it became clear that the staff wanted to be able to adopt flexible working patterns and now there are a number of staff who work part-time and/or from home in agreement with their line manager.

Since the introduction of the flexible working policies, ICG has not lost an employee in the last five years. In addition, the overall performance of the ICG compares very favourably with the public sector as a whole, with 73% of time being spent on chargeable (i.e. project related) work.

9.116 We do not believe that these are isolated examples but it is clear that managers' approach to flexible working is inconsistent across the MPS and that good practice is often not taken up elsewhere in the organisation.

9.117 As the MET-TUS pointed out, although difficulties with flexible working impact primarily on women, they are of equal relevance to men. This view is shared by others:

"And it is not just women, it is men as well; I have a male colleague who wanted to change his hours of working, and felt that he was marginalised, he was not – that was the reason he was not selected as a detective." (Evidence of Ms GG.)

9.118 This was also recognised by a speaker at the Inquiry's Women's Forum.

"A lot of the issues we are talking about today are not women issues, they are male and female issues, part-time, flexi-time, and women are getting bad press because we are looking at these issues from a woman's perspective."

9.119 This is a problem for the MPS. Its aspiration is to be an employer of choice, yet it risks losing the skills of talented officers and staff. The need to implement flexible working and work / life balance does not arise from political correctness, but rather a strong business case to maximize use of available resources.

"SCD [Specialist Crime Directorate] 7 does encourage family friendly policies on a local basis to cater for staff with exceptional circumstances in relation to work-life balance. This is known throughout the branch and has proven success towards retention of police officers and police staff."

(Submission from Detective Chief Superintendent Sharon Kerr.)

9.120 During the course of this Inquiry, we received much evidence about the difficulties officers experience in relation to flexible working. We welcome the interest and the commitment of the Commissioner and Deputy Commissioner in this area.

9.121 We also understand that flexible working must be introduced fairly:

"... if an individual wishes to work part-time, fine, you tell me when you want to work. But then my expectation in return is in line with the policy. If you are going to work two fifths of the week, then that two fifths will be a spectrum of the various shifts and include an aspect of weekend working.

"It is that side of it where I have seen the workforce does not understand it. Quite often there has been an expectation that 'My part-time working will be that I will do an early turn Monday, Tuesday and Wednesday and that is all I can offer', which I think is unfair on their part, and on the other side of the coin there is a lack of understanding of middle managers where they think, 'I can tell them they cannot do part-time working at all because it is not operationally effective'. My view is it might not be operationally effective but you have to live with it."

(Evidence of Chief Superintendent Alex Fish.)

9.122 However, we are sure that the MPS can devise more effective ways of how to use the human resources available to it. Indeed, examples of good practice, which were brought to our attention include the approach of the Child Protection Unit and the Croydon BOCU's scheme to make use of the services of retired police officers on a flexible basis. We are sure that, with a little imagination, the MPS can devise more flexible ways of working which will enable it to harness the talents of its officers and staff in the service of London.

9.123 Finally, we were impressed by an initiative launched by the Greater Manchester Police Service (GMP). The Service has employed a childcare co-ordinator, who deals

with issues relating to childcare and flexible working. GMP has a two year childcare strategy. The co-ordinator assists officers and staff by:

- arranging flexible child carers;
- providing information on nurseries, particularly in relation to discounted places and childcare voucher schemes; and
- raising awareness of flexible working e.g. part-time working and job share.

9.124 Whilst we appreciate that a similar resource would need to work differently in the MPS, given the geographic profile of its workforce, nevertheless, we consider that the MPS should examine the GMP scheme and how it might be adapted to the needs of the MPS.

We also recommend that the MPS takes steps to ensure that its policy on flexible working is fully understood and implemented, and that the Human Resources directorate rigorously monitors that implementation.

We recommend that the MPS establishes a central resource to provide guidance to managers on managing flexible working and to match requests for flexible working with job opportunities.

We recommend that consideration is given to a childcare co-ordinator post based on the Greater Manchester Police model.

9.125 Accommodating an individual's needs extends to more than facilitating their caring responsibilities. It also means ensuring they are able to do their job effectively and contribute to the work of the organisation.

9.126 The Disability Discrimination Act 1995 (DDA) now applies to police officers. We have received evidence on the steps the MPS took to prepare for this new obligation and we have also received evidence that its preparations may not have been as effective as might have been expected. The HMIC *Thematic Inspection of Workforce Modernisation* found that most forces were at an early stage in developing their approach to the impact of the DDA.

9.127 The DDA presents a particular challenge for all police services. Historically, officers with disabilities have been medically retired but this practice reduced in recent years as a result of considerable pressure from the Government. Police services have therefore had to explore employment opportunities for officers with disabilities and this has not always worked to the satisfaction of the officers concerned. Often the jobs that they have been allocated have not made best use of their skills and experience. The extension of the DDA to police officers underlines the need to accommodate officers with disabilities. We have received evidence from a number of officers who are aggrieved at the way they have been dealt with.

9.128 It has been suggested to us that the MPS should set up a central resource to act as a clearing house to find purposeful employment for officers with disabilities and to “make the reasonable adjustments quickly.”

(Evidence of Alan Robinson, Disabled Staff Association.)

9.129 Mr Robinson told us that there are delays in getting officers with disabilities into suitable jobs. He told us he had three welfare cases, with one officer having waited for over two years to be redeployed. In another case “we were looking for personnel who are on restricted duties, because it is – basically, we are taking crimes over the Internet and over the telephone, ideal for someone who needs office work. So we have said we want him, his department have said they want rid of him, and yet it is taking some five to six weeks to actually do it, when at the stroke of a pen, it could be done.”

9.130 The MPS has commented that the Workforce Planning and Employment Unit has responsibility for posting officers, taking into account all aspects of need, including welfare. We are told that the Unit has recently revised its policy, partly in response to the DDA.

9.131 We see great merit in Mr Robinson’s suggestion of a dedicated resource and we are not clear that the Workforce Planning and Employment Unit currently provides the kind of resource we and Mr Robinson are recommending.

We recommend that the MPS sets up a central resource to match officers and staff with disabilities to suitable vacancies and to ensure that any necessary adjustments are made speedily.

9.132 Both this resource and the resource for matching requests for flexible working to available posts are functions to be absorbed within the existing structure of the HR directorate.

Cross-fertilisation between the MPS, the private sector and other public bodies

9.133 We have already commented on the strong organisational culture in the MPS. This has many benefits, such as a strong sense of public service. However, on occasions we have also sensed that, if an idea or way of doing things was ‘not invented here’, it is not thought worthy of consideration.

9.134 For the reasons set out earlier, we believe that, if the MPS adopts such an approach, it will lose valuable expertise and, as a result, will not be able to serve London as effectively as it could.

9.135 One way of bringing about changes in the policies, procedures and practices of the MPS which would benefit the people who work for and are served by the

MPS, is for the MPS to embrace far greater interchange of skills and ideas with other public and private sector organisations.

9.136 By way of example, we consider that the idea of greater exchange of expertise with other public sector services during training, suggested by Sir Michael Lyons, is worthy of consideration by the MPS:

"I have got a very strong view there that we do not put enough energy into developing a one-system view of the public service in this country. We are still far too preoccupied, and indeed I see some evidence of this, for instance in the Metropolitan Police's presumption that they have their own in-house training. I would be much happier if I could see clear evidence – and it may exist – that police officers working in Lewisham, for instance, were having part of their training, part of their development work, in conjunction with the social services of Brixton, other emergency services, so that what we develop is much more of a one-system approach where you follow delivery chains down, even in different public sector organisations, and end up with people who understand the rationality of different services. Because there is this dreadful mythology that we are dogged with, that all accountants are only interested in saving money; all social workers are profligate; all education workers are only interested in the holidays. All of that mythology is because people do not understand the different rationality of different services and their contributions ...

"I would emphasise that even for the operational, if the Police Service is going to be effective in child protection, if it is going to be effective in community relations, in complex diverse communities, then the people who deliver the service, the constables and other police officers of today, need to be trained for at least part of their training with other people whose contribution is just as critical to the delivery of those services."

9.137 We consider that this approach should be employed with respect to the development of officers and staff at all levels in the organisation. Whatever leadership training is undertaken by the MPS, we think it would be of enormous value if it were to be a joint enterprise with others which would provide a forum in which management skills could be learned and developed by interchange of ideas from senior managers in other public and private sector organisations.

9.138 The Deputy Commissioner commented: "... we will certainly be trying to ensure that some of this is delivered in a way in which people from other professions and organisations also are involved in that learning environment."

9.139 We are encouraged by this, and would like to see the MPS make a step-change in considering and implementing a variety of schemes to enable a productive flow of ideas between its own officers and managers in other organisations.

"I am a great believer in the idea of interchange between different sectors, different types of business. We had at B&Q an interchange process with Whitehall and the Civil Service, and we had a prison governor who came to do a short placement at a B&Q store, and he was a brilliant success. He ended up running, after a very quick time – he stayed on longer than he

was actually being lent to us, and after a while he was running a region. And then he went back to prisons, and I am sure he would have been a more complete person and a better manager. He was already superb. We were delighted. It was his people management skills that – we thought that B&Q, you know, was one of the great management organisations in British retailing. He was head and shoulders above a lot of the other people within the organisation. He was not a particularly commercial guy, but he picked that up as he went along.

“So interchange – and perhaps that is the exception that may be hard to replicate, but I do believe in interchange for a period. And I actually think sending people to the likes of Tesco’s for a period would be good for the police people. I also suspect, if my prison officer analogy is right, then it could be quite useful for Tesco’s as well.” (Evidence of Nigel Whittaker.)

We recommend that the MPS introduces development programmes which will increase the opportunities available for cross-fertilisation with those managing other public and private sector organisations.

Chapter Summary

This chapter deals with four of the 'high profile' cases the Inquiry considered:

- ▶ Superintendent Ali Dizaei
- ▶ Deputy Assistant Commissioner Brian Paddick
- ▶ Chief Inspector Julia Pendry
- ▶ Detective Sergeant Gurpal Viridi
- ▶ Lessons to be learnt

“ The lessons and recommendations from the Lancet enquiry appear relevant here.”

IPCC Review Panel

10.1 In this chapter, we will consider four cases in detail in order to identify lessons the MPS can learn from the way these cases were handled.

10.2 Paragraph 4 of our terms of reference asks us “to identify lessons to be learnt from the outcome of recent high profile cases (including recommendations made by the Gurpal Viridi Inquiry, and the outcome of the case involving Supt. Dizaei).”

10.3 However, our terms of reference did not include a definition of the phrase ‘high profile case’ or a list of such cases, although they did mention Superintendent Dizaei and Detective Sergeant Viridi. One of our first tasks as an Inquiry, therefore, was to seek the assistance of stakeholders in identifying those cases generally regarded as being ‘high profile’. This led to the Secretary to the Inquiry writing to the MPA, the Police Federation, the MET-TUS and the staff support associations operating in the MPS, asking them to nominate appropriate cases.

10.4 We then compiled a list of 11 cases from those nominated to us. Two of the individuals did not wish to participate in the exercise which left us with nine cases.

10.5 We invited submissions from all nine individuals involved in the cases asking them to address a series of questions and issues. We are most grateful to these individuals for taking the time and trouble to set out their experiences in order to contribute to our work.

10.6 Having considered these submissions, we commissioned independent reviews in relation to seven of the cases, where we wished to clarify some of the facts. We felt we had sufficient information in the other two cases. Two of the reviews were carried out by an experienced HR professional and the other five by two former senior police officers from police services outside London.

10.7 The three professionals who carried out the reviews were given a brief by the Inquiry and reviewed original documentation held by the MPS and the MPA. We relied on their experience and professional judgement to look at relevant material and we are satisfied that they fulfilled their remit. We invited the individuals involved and the MPS to comment on our investigators’ reports.

10.8 Having considered the reports we had commissioned, we invited four of the seven individuals to give evidence and took their cases up with the Deputy Commissioner, Sir Ian Blair, when he came to give evidence on the second

occasion. It is these four cases we are using to identify the 'lessons to be learnt'. They are all cases which have attracted a significant amount of interest from the media and the public.

10.9 Our decision not to deal with the other five cases in detail should not be taken to mean that we do not think that the MPS has anything to learn from the way these cases were handled. Quite the reverse, we believe that there is merit in examining *all* cases once they are concluded and attempting to identify lessons for the future. We dealt with this specifically when we referred to Employment Tribunal cases earlier in our report.

10.10 Indeed, the details of the experiences of the individuals involved in all nine cases and the recommendations they made, together with those of the other 66 individuals who made submissions to us, have proved invaluable in assisting us in reaching our conclusions and in drafting this report.

10.11 Turning to the four cases we deal with in this chapter, we received evidence in relation to the high profile cases from the individuals involved, staff organisations and other commentators.

10.12 We have carefully reviewed all the evidence we have received, including the submissions of the individuals involved, other documents available to us and the reports of the independent investigators we engaged. We are mindful of the fact that we are necessarily considering the cases with the benefit of hindsight and have tempered our conclusions accordingly.

10.13 Our comments on each of the four cases begin with a summary of the facts surrounding the investigation. This is drawn from the work of our independent investigators and other evidence. We then outline criticisms of the way each case was handled. We do not outline all the criticisms we have heard but only those we consider are justified. Finally, we set out the lessons which we consider can be learnt as a result of the way each case was handled.

Superintendent Jamshid Ali Dizaei

10.14 Superintendent Dizaei was born in Iran. He was educated in the United Kingdom from the age of 12. He joined Thames Valley Police Service in 1985 and was promoted to the rank of Sergeant in 1990.

10.15 He was promoted to the rank of Inspector in 1993 and in 1997 became a Chief Inspector. He transferred to the MPS on promotion to the rank of Superintendent on 29th March 1999.

10.16 The following is a summary of the details of the investigation, drawn from our independent investigators' report:

Chronology

- 29 March 1999
Superintendent Dizaei moved to the MPS on promotion to the rank of Superintendent.
- June 1999
MPS received information that Superintendent Dizaei was friendly with a known drug dealer in Camden.
- July 1999
Operation Bittern commenced. As part of this Operation, approval was given by a Commander, for Superintendent Dizaei's office telephone at Kensington Police Station to be the subject of a Private Side Intercept (PSI), for an initial period of 4 weeks. This authority was subsequently renewed every 4 weeks until October 1999. Conventional surveillance and lifestyle checks were also authorised.
- 8 September 1999
Intelligence obtained from the PSI suggested that Superintendent Dizaei may have obtained a discount whilst purchasing a Cartier watch. Further intelligence suggested that he was associating with a solicitor who was connected to two former MPS officers who themselves were considered serious integrity risks.
- 22 September 1999
Further PSI intelligence suggested Superintendent Dizaei may be trying to resolve a dispute between a personal friend and some local builders and spoke to police officers at Epsom who were dealing with this problem.
- 24 September 1999
Further PSI intelligence suggested that Superintendent Dizaei may be associating with a nurse who was supplying him with needles.
- 15 October 1999
The Commander who was authorising the PSI decided that there were no grounds for the intercept to continue, based on the fact that there was no intelligence to show any criminal conduct.
- 12 November 1999
Conventional surveillance cancelled.
- 19 November 1999
Authority was given for an integrity test on Superintendent Dizaei.
- 16 December 1999
Superintendent Dizaei was successful at the extended interview for the Strategic Command Course, but his selection was deferred for 12 months to allow him to gain further experience / development.
- 28 January 2000
Letter of complaint about Superintendent Dizaei was received by his Borough Commander alleging criminal conduct and harassment in May 1999. The complainant, who was the mother of the victim of these incidents, was interviewed later that night but no witness statement was obtained. Operation Helios commenced.
- 29 January 2000
Authority was granted for the PSI to be redeployed on Superintendent Dizaei's office telephone.
- 31 January 2000
The victim of these incidents was interviewed but no witness statement obtained. During the course of this interview the victim informed the police that Superintendent Dizaei was also assisting Iranian nationals with visas and that he was charging for this service.

- 3 February 2000
Information was obtained which suggested that Superintendent Dizaei may have charged an associate £400 for assisting with a speeding ticket offence.
- 7 February 2000
Intelligence from the PSI suggested that Superintendent Dizaei may have received a reward from the organisers of a forthcoming concert for assisting with policing arrangements.
- 9 February 2000
Witness statement was obtained from the complainant who sent a letter to the police on 28 January 2000.
- 18 February 2000
Intelligence from the PSI suggested that Superintendent Dizaei may have associated with a cocaine user.
- 29 February 2000
Application for renewal of the continued deployment of the PSI was submitted to a Commander. Authority was granted despite the fact that the Senior Investigating Officer (SIO) stated that "a number of lines of enquiry, that existed a month ago, into his alleged criminal conduct have been completed with a negative result". The authority was granted on the basis that 'it would gain evidence to prevent further abduction attempts and threats to the safety of the complainant and her daughter. Also in the interest of national security in identifying possible links between Superintendent Dizaei and foreign nationals who are of interest to other agencies.' During the course of this next renewal period (four weeks) Superintendent Dizaei was on annual leave for a period of two weeks.
- 3 March 2000
The SIO made an entry in his decision log to arrange an interview / conference with at least two key opinion formers from the ethnic community about this operation with the aim of ensuring that it was not biased or unfair.
- 3 April 2000
MPS officers met representatives of the United States Federal Bureau of Investigation, Drug Enforcement Agency, Los Angeles Police Department and Beverly Hills Police to request assistance in the integrity testing of Superintendent Dizaei.
- 14 April 2000
Information was received which suggested that Superintendent Dizaei may have paid a cheque for £10,000 on 10 April 2000 to an associate who was suspected of money laundering in relation to fraud and drugs.
- 12 May 2000
MPS officers visited USA and Canada to discuss using an undercover officer for an integrity test.
- 25 May 2000
Intelligence from PSI suggested that Superintendent Dizaei may be continuing to associate with individuals suspected of fraud and drug offences.
- 15 June 2000
CPS wrote to MPS outlining their serious concerns about a proposed integrity test and stating that there was little or no evidence to substantiate the MPS' suspicions about Superintendent Dizaei.
- 5 July 2000
Operation review conference held.
- 24 July 2000
CPS wrote to the MPS again setting out concerns about any integrity test.
- 31 July 2000
Intelligence from the PSI suggested that Superintendent Dizaei may have added his girlfriend's name to his car insurance and advised her what to do if she were involved in an accident on her way to work, as this insurance did not cover travelling to work.
- 22 August 2000
Intelligence from PSI indicated that Superintendent Dizaei was giving advice to an associate about an incident involving a motor vehicle. He also gave advice to the officer who was investigating this matter.
- 25 August 2000
Strategic Review meeting held.
- 4 September 2000
Meeting between Deputy Commissioner, Assistant Commissioner and Commander to discuss the proportionality of the operation after the strategic review conducted on 25 August.
- 4 September 2000
SIO made a decision log entry regarding the formation of an Independent Advisory Group.
- 5 September 2000
An undercover officer was deployed to commence the integrity test in Superintendent Dizaei's gym in the UK.

- 6 September 2000
Superintendent Dizaei made a report of criminal damage to his motor vehicle, claiming it was damaged close to his place of work. At the relevant time he was subject to surveillance, which suggested that his vehicle may have been at a different location.
- 14 September 2000
Intelligence from the PSI suggested that Superintendent Dizaei may have been involved in the revocation of a licence at the restaurant of an associate.
- 15 September 2000
An associate of Superintendent Dizaei was arrested for drink driving and sought advice from him. A cheque for £800 was subsequently passed to Superintendent Dizaei.
- 19 September 2000
Paper was produced by the MPS (origin unknown) about the proportionality of the Operation.
- 16 October 2000
Superintendent Dizaei attended a British-Iranian business conference in Los Angeles and gave a speech whilst in full uniform, without authority.
- 26 October 2000
CPS wrote to the MPS concerning the incident on 22 August 2000 and advised that no criminal offences were disclosed against Superintendent Dizaei.
- October 2000
Superintendent Dizaei was introduced to the organiser of an Iranian Concert who raised concerns that he had received a threatening letter.
- 6 November 2000
Gold strategy meeting was convened to review the progress of the Operation.
- 23 November 2000
Intelligence from the PSI suggested that Superintendent Dizaei may have received complimentary tickets for a concert.
- 5 December 2000
MPS decided to stage a tabletop exercise to review the operational strategy, media strategy and investigation plan for an open, conventional investigation.
- 20/21 December 2000
Tabletop exercise held in a hotel.
- 5 January 2001
Strategic meeting followed by a Detective Chief Superintendent making a Policy file entry regarding the conduct of this Operation.
- 18 January 2001
Superintendent Dizaei was suspended from duty. Regulation 9 Notices served on him and his home, office, car, and gym locker were searched.
- 2 February 2001
Additional Regulation 9 Notices served.
- 23 February 2001
Additional Regulation 9 Notice served.
- 26 March 2001
Second tabletop exercise.
- 26 March 2001
Strategic Briefing to Independent Advisory Group.
- 2 April 2004
Superintendent Dizaei issued proceedings against the MPS, alleging race discrimination.
- 9 April 2001
Gold Review of the Operation.
- 11 April 2001
Additional Regulation 9 Notice served.
- 1/2 May 2001
Victim of incidents in May/June 1999 made witness statements.
- 3 May 2001
Additional Regulation 9 Notices served.
- 11 May 2001
Superintendent Dizaei was arrested, kept in custody and interviewed for alleged deception.
- 13/14 June 2001
Third tabletop exercise.
- 9 July 2001
Gold Strategic Review of Operation.
- 10/11 July 2001
Superintendent Dizaei re-arrested by appointment and interviewed.

- 18 September 2001
Superintendent Dizaei re-arrested by appointment and interviewed.
- 31 May 2002
Superintendent Dizaei issued defamation proceedings against named officers in the MPS.
- 17 March 2003
Superintendent Dizaei stood trial at the Central Criminal Court.
- 11 April 2003
Superintendent Dizaei acquitted.
- September 2003
CPS decided that no further charges should be preferred against Superintendent Dizaei.
- 16 September 2003
The NBPA boycotted the MPS recruitment drives and announced a 'march of solidarity' on Scotland Yard to be held in November 2003.
- 24 October 2003
Settlement agreement, which provided for the return to duty of Superintendent Dizaei with him receiving words of advice for the two counts of misconduct which he admitted, his secondment to the NBPA with promotion to Chief Superintendent in due course, his attendance on the Strategic Command Course, an agreement that he would amend his Employment Tribunal claim to omit reference to Operation Helios, that he would not pursue his defamation claim or any private prosecutions or personal complaints, payment of a sum of money to him, a withdrawal by the NBPA of complaints against named senior officers and a public acknowledgment that it was no longer discouraging recruits from ethnic minority backgrounds from applying to the MPS and that it would re-route its march to avoid New Scotland Yard.
- March 2004
PCA directed that the MPS should take disciplinary action against Superintendent Dizaei.
- 1 April 2004
MPS requested that the IPCC review the PCA's direction to prefer disciplinary charges.
- 16 June 2004
IPCC decided to reverse the PCA's decision.

How the case was handled

10.17 A variety of witnesses have been critical of the way in which Operation Helios was handled. We also received evidence from the MPS and have considered all the evidence carefully in reaching our conclusions. We do not repeat here all of the criticisms of the investigation which we received but only outline those criticisms with which we agree.

10.18 As with the other high profile cases, many of the issues which in our view merit criticism are generic and apply to other cases we have examined.

The investigation process

10.19 We have previously identified what we consider to be weaknesses in the way DPS conducts investigations. We think these weaknesses are evident in relation to Operation Helios, where we consider there to have been a fundamental lack of strategic grasp of the investigation and a failure to step back from it, during its course, and objectively assess the evidence that had been gathered.

10.20 Superintendent Dizaei comments on a failure of leadership in relation to the Operation in his submission: “What was clearly taking place was a steam train on its way with no one able to stop the SIO placing more coal in the furnace. There was no U turn and Helios had to continue with more surveillance and more resources. There was no leadership capable of intervention.”

10.21 The decision of the IPCC makes this point clearly:

“The delay has been caused largely by the extent to which in this case it seems to us the criminal inquiries came to dominate the handling of the case inappropriately, with no clear overall strategic grasp of the case at senior level in the MPS evident.

“The disproportionate resources given to the covert surveillance of Supt Dizaei and the many lines of investigation that were pursued to no avail have in our view been a contributory factor in the excessive delays that compromise this case as an example of justice throughout its history. The lessons and recommendations from the Lancet enquiry appear relevant here.

“We consider that several of the misconduct allegations could and should have been investigated as such and prosecuted as such a good time ago, instead of which some of them were put inappropriately into a criminal case that was then abandoned late in the day, and others apparently left in the sidings until all of the criminal matters had been pursued. We consider this to be a typical weakness of the police complaints and misconduct system, reflecting the manner in which too many complaints and misconduct allegations against police officers fail to progress timeously.”

10.22 In response to the criticism of a lack of strategic grasp of the investigation, the MPS strongly disputes that this was the case. It contends that “the evidence shows that the Helios investigation was in fact subject to an unprecedented level of strategic management and external supervision.” **It points to the involvement of the Surveillance Commissioner, the Lay Advisors Group (LAG), the MPA, the CPS, the PCA and the trial judge, the Recorder of London. (The Recorder refused Superintendent Dizaei’s application to have the prosecution stayed on the grounds that it was an ‘abuse of process’.)**

10.23 We accept that all of these individuals and bodies had an involvement in the case but we do not accept that their involvement constituted strategic management of the investigation, nor do we accept that it was their role to exercise this function. Ultimate responsibility for decision-making in an investigation lies with the MPS. This cannot be abdicated in favour of outside bodies.

10.24 The independent investigators considered that DPS pursued allegations that were difficult to prove in a way that resulted in allegations that were capable of proof being sidelined:

“More important was the fact that the SIO had good evidence to either arrest or at the very least discipline Superintendent Dizaei in respect of the telephone calls to his former girlfriend

and her family. Throughout the remainder of 2000 up until the point when Superintendent Dizaei was suspended from duty the PSI continued to be authorised. The review has examined various documents covering this period of time and in summary the quality of the evidence obtained could best be described as limited and as such the continued justification for this facility is questionable."

10.25 We refer below to our concerns about the way in which the MPS used the LAG in this investigation. It is worth noting here, however, that the MBPA attributes failings in this respect to the lack of strategic grasp of the investigation which we have identified more generally:

"We believe that many of the decisions that were made and actioned during this investigation can only be explained by reference to the fact that no one of sufficient seniority or independence was carrying out the necessary checks and balances required in order to prevent what we consider to have been a serious manipulation of the original IAG concept." (Submission from the MBPA.)

10.26 The MPS has pointed out that, in addition to the surveillance reviews, management reviews were conducted by a number of very senior officers and that the evidence does not support that those senior officers abdicated responsibility for intervening in the case.

10.27 Notwithstanding this, our overall impression of the investigation from the evidence we have seen has led us to concur with the views of the IPCC in this respect.

10.28 This lack of co-ordination of the investigation is, we consider, exemplified by the sequential way in which formal notices of alleged misconduct (Regulation 9 Notices) were served on Superintendent Dizaei:

"On the 18 January 2001 when Superintendent Dizaei was suspended he was served with a Regulation 9 Notice, which gave general details of eleven allegations, which were under investigation. Over the following months there were a further five occasions when regulation 9 notices were served although it was not until the 10 and 11 July 2001 that Superintendent Dizaei was interviewed about any of the allegations." (Independent Investigator's report.)

10.29 The MPS has commented that Regulation 9 Notices were served on Superintendent Dizaei at times and locations convenient to him to minimise potential distress. It also contends that one delay in serving some Regulation 9 Notices in 2001 was "due to intelligence being turned into evidence once the investigation became overt ... It needed that 6 months to develop the intelligence. The investigation wanted to avoid unnecessary service of Regulation 9 notices until the picture was clearer."

10.30 Our investigators' conclusions are somewhat different:

"What this staged service has left the MPS open to is the allegation that it was designed to inflict the most stress and anxiety on Superintendent Dizaei. Similarly that the service of the

notices was a reaction to legal advice that there was insufficient evidence to proceed on criminal matters and that consequently the MPS were resorting to discipline matters. The situation was far from ideal." (Independent investigators' report.)

10.31 In addition, Superintendent Dizaei told us in his submission that: "My lawyers who have represented superintendents for many years were astonished in the way the investigation was unfolding. It seemed to them and others that there was no coordination, no aim but a series of seat of the pants decisions based on no rational [sic] or logic."

10.32 We think this lack of co-ordination led to an unfocused and disproportionate investigation, where the MPS concentrated on minutiae that were unlikely to take the matter much further and seemingly put evidence of greater strength on a back burner.

10.33 In response to this criticism, the MPS cites problems with the legislative framework for police discipline, in particular section 75 (3) Police Act 1996. This section has now been replaced but it is still the case that, if a criminal offence may have been committed, no misconduct process can take place until the Director of Public Prosecutions has considered the criminal aspects.

10.34 We accept that this represents the legal position but consider that the lack of co-ordination led to efforts being directed at attempting to find evidence to support a criminal case, as opposed to simply moving ahead with conduct proceedings. We are not alone in our view and cite again the views of the IPCC Review Panel:

"We consider that several of the misconduct allegations could and should have been investigated as such and prosecuted as such a good time ago, instead of which some of them were put inappropriately into a criminal case that was then abandoned late in the day, and others apparently left in the sidings until all of the criminal matters had been pursued."

10.35 The MPS has told us that what emerges from consideration of Operation Helios is that: "those who have had the widest extent of exposure to the case, with the obvious exception of Superintendent Dizaei, appear to be most satisfied as to proportionality and those who have not had such access, appear less satisfied. In the end the MPS accepts, and has always accepted, that mistakes will have been made but would rely on the fact that the most detailed scrutiny of this case occurred during the trial ... after four weeks of voir dire presented by one of the finest defence advocates of the criminal bar, the Recorder of London specifically and wholly rejected defence submissions that the investigation had been characterised by bad faith and disproportionality."

10.36 We have considered the text of the Recorder's judgment in which he concludes: "I do not find that there was any element at all of bad faith. Nor do I find despite some minor errors that there was anything approaching serious fault amounting to gross negligence in the course of the operation."

10.37 We accept, of course, that, in reaching this conclusion, the Recorder considered the conduct of the investigation. However, his task was very different from ours. He was asked to consider whether the prosecution of Superintendent Dizaei constituted an abuse of process. We accept his finding that it did not.

10.38 Notwithstanding this, we remain concerned about a number of features of the investigation which we consider to be disproportionate. The IPCC also expressed concerns about disproportionality: “The disproportionate resources given to the covert surveillance of Supt Dizaei and the many lines of investigation that were pursued to no avail have in our view been a contributory factor in the excessive delays that compromise this case as an example of justice throughout its history.” (Decision of the IPCC Review Panel.)

10.39 It is certainly difficult to understand, given the allegations made against Superintendent Dizaei of which we are aware, how, for example, the following situation could have been justified:

“My eating habits were of particular interest to my accusers. I think in the region of ten statements were taken in the local restaurants I ate at to see whether I ate halal meat. A four page statement was taken from the canteen manager as to whether I eat curry on a Thursday. I say no more.” (Evidence of Superintendent Dizaei.)

10.40 In short, from the evidence we have seen, we consider that there was a lack of strategic direction resulting in a failure to apply a robust objective analysis which we think DPS should apply to all investigations.

“I think it is only proper and appropriate that a complaint against a police officer should be investigated, but that is said with the proviso that it is equally incumbent on the investigator to use rational judgment, fairness and unbiased criteria in investigating that complaint.” (Evidence of Superintendent Dizaei.)

Gold Group

10.41 We are concerned about the way in which the MPS used a Gold Group in relation to Operation Helios. As we understand it, in the MPS, Gold Groups are formed when there is a ‘critical incident’. The definition in the MPS’ *Investigation of Critical Incidents Manual (2002)* is “any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and / or the community.”

10.42 In passing, we note that there has been no general agreement to this definition being extended to apply to cases such as Operation Helios.

10.43 In essence the MPS has argued that a Gold Group was formed in this case because “the investigation of a senior police officer, regardless of race or gender, has the potential for a significant impact on a community”. We do not agree that the seniority of the officer concerned, in itself, would necessarily lead to a significant impact on a community, although we can see that Superintendent Dizaei’s race may well have been an issue.

10.44 From the evidence we have considered, we can see that there was a point in the investigation into Superintendent Dizaei when a Gold Group could have been established appropriately, to advise on the possible impact on the community of the arrest of such a senior and high profile minority ethnic officer.

10.45 However, our concern is the involvement of the Gold Group in the strategic management of the investigation, which is the role of senior officers in DPS.

10.46 Under the current disciplinary system as operated by the MPS, investigations into the alleged misconduct of an officer below ACPO rank are the responsibility of DPS. The MPS argues that a Gold Group is formed to strengthen decision-making and accountability. In our view, the use of a Gold Group in this case only served to blur the lines of decision-making and accountability.

Policy File / Decision Log

10.47 We have already noted our concern about the failure of DPS always to maintain a proper written record of decisions made during the course of an investigation. For Operation Helios, a policy file was maintained but, as our investigators highlighted, it failed to document key decisions:

“The decision not to inform [Superintendent Dizaei] is outlined in decision log 1 on 29 January 2000 and reviewed at decision log 18 on 14 February 2000 and again at log 20 on 28 February 2000. In each case the reason not to do so relates to there being an ongoing criminal investigation, which was likely to be jeopardised should Superintendent Dizaei have become aware of its existence. The policy log fails to go into any detail as to how it is thought he would place the investigation in jeopardy. ...

“With regard to the arrest of Superintendent Dizaei in May 2001 the review has had sight of an MPS document headed ‘Operational Strategy’. This document is undated, but it has clearly been prepared around the time that the operation was moving from the covert to overt stage. Contained within this document is a paragraph, which reads, ‘Mozart [code name for Superintendent Dizaei] will not be arrested at this stage, the evidence to justify doing so is weak’. No further record or Decision Log entry has been made by the SIO to justify a change of stance when in fact the evidence against him was no stronger.” (Independent investigators’ report.)

10.48 Failure to record the reasoning behind key decisions during any investigation puts the MPS at risk. It means that the organisation does not have an adequate audit trail of decisions made. Inevitably, this makes it difficult for the organisation both to justify actions if they later become subject to scrutiny, and to rebut allegations that it has discriminated against the officer concerned or infringed his or her human rights.

Lay Advisors

10.49 We welcome the use of the IAG in appropriate cases and have made recommendations in a previous chapter about how the IAG might be put on a stronger and more transparent footing. We have also commented about the way in which the LAG was used during Operation Helios. We have expressed our concern that they were not given all the relevant information nor informed of the decision to settle the case:

“There is no indication in the researched paperwork that suggests that these concerns as to the validity of some of the proposed methods of investigation and their proportionality were ever brought to the attention of those providing independent advice or peer review. The tone of the letters from [redacted] is at odds with the tone of documents being provided to those advising the investigation. It is open to speculation as to whether their conclusions would have been different if they have been made aware of the shortcomings outlined by the CPS.”
(Independent investigators’ report.)

10.50 If external advisors are to be used by the MPS, the benefit the organisation may gain from this process is greatly reduced if they are not brought in at an early stage of the investigation or if they do not have full access to all relevant documentation. A number of people told us about their perception that the valuable asset of the LAG was used selectively, evidenced in relation to Operation Helios by the failure of the MPS to inform them of the settlement agreement with Superintendent Dizaei.

10.51 This could give rise to the perception that the organisation does not really value the Lay Advisors’ input with regard to decisions that really count, and that it is only concerned to use them to ‘race-proof’ decisions it is sure it can already justify. When asked, however, how he could be sure that there was no ‘race-proofing’ involved in the process in which he took part, Lord Dholakia, a member of the LAG involved in Operation Helios, refuted that allegation:

“I was given every documentation that was available and I spent two days studying those documents in the privacy of my own room, without any help from anybody else, and I was able to come to a judgment at that particular stage, and I made it very clear that if at any stage I felt there was any racial, cultural or religious bias I would jump like a ton of bricks, and it never happened.” (Evidence of Lord Dholakia.)

10.52 Representatives of the LAG have commented that: “The Helios LAG was composed of individuals drawn from different professional backgrounds, faith, ethnic and cultural groups, all of whom gave their time voluntarily and exercised their views independently ... Individual members shared a common view throughout our work on Helios.”

10.53 We do not seek to criticise either the individual Lay Advisors themselves or the work of the LAG. Our concern, as set out above, is how the MPS treated the Lay Advisors by not providing them with all the relevant information and documents.

10.54 Similar considerations apply to the use of other external advisors, who need to be given a full account of all relevant information and have their advice considered constructively.

“ACU (the Anti Corruption Unit) also sought the advice of [redacted], a Deputy Chief Constable, and yet failed to inform [redacted] that others members of the NBPA were being investigated. More importantly the DCC (from whom advice had been sought) specifically recommended that the mileage allegations should not be subject of discipline (due the triviality and age of the claims) let alone a criminal trial. Yet that advice was wholly ignored. Cherry picking of bits and pieces of advice from ‘advisors’ to fit a prescribed agenda is contrary to common sense, disingenuous and abuse of the role of advisors. However, the MPA were quick to argue that because a DCC had quality assured the investigation and conduct of the officers, they as a police authority did not need to address our complaint.”
(Submission of the NBPA.)

Settlement Agreement

10.55 The IPCC strongly criticised the MPS’ decision to enter into a settlement agreement with Superintendent Dizaei in the way that it did:

“We have also considered the agreement between the MPS and others dated 24 October 2004 [sic – should be 2003] and referred to above. The agreement sets out the terms to facilitate the reinstatement of Supt Dizaei within the MPS. As noted, this agreement is ultra vires and does not bind the PCA or the IPCC insofar as parts of the agreement relate to the termination of misconduct proceedings against Supt Dizaei, a point conceded by the MPS. Whilst we note that the MPS has withdrawn the undertaking rashly given to Mr Dizaei’s solicitors to offer no evidence at any misconduct tribunal, we are of the view that it can now be argued to be unfair to Supt Dizaei to proceed with a hearing. Mr Dizaei entered into the agreement with the benefit of legal advice, and he can, not unreasonably, seek to rely on the undertaking he was given by the MPS. In any other employment context such an agreement would stand. We have to weigh the public interest in upholding the special powers accorded the PCA/IPCC under the police disciplinary system with the application of the principles of justice applicable in any such individual case. As noted above, we consider subordinating the latter to the former risks frustrating the very objective sought.

“The MPS has relied in its arguments for not proceeding with a disciplinary hearing primarily on broader public interest arguments concerned with the needs of the police service to recruit and retain more people from black and minority ethnic groups, and specifically its assessment that in this case to set aside the agreement reached with the Black Police Association would be to jeopardise its own strategy and plans for such recruitment. We have given careful consideration to these arguments but dismiss them as matters that do not have sufficient pertinence to either the case in hand or to the specific public interest in upholding the police disciplinary system. They are essentially extraneous management concerns, legitimate and important in their own right but never sensible grounds for manipulating a disciplinary system. Indeed the failure of the MPS to keep the two separate has led to the confusion and poor judgements characterising this case.”

(Decision of the IPCC Review Panel.)

10.56 We asked the Deputy Commissioner about the IPCC’s criticism and he made clear that, in the MPS’ view, there were over-riding strategic management concerns which justified the approach taken. Superintendent Dizaei referred to these when he gave evidence:

“... once you look at where this case started, the cost to the taxpayer, the cost to the confidence of policing, the trauma it caused to my family, to my colleagues, to my community, and the potential damage this would have had as this matter went to discipline – which, from my understanding, a further eminent QC was appointed to represent the Metropolitan Police – and for it to then go to an employment tribunal listed for four months, I think it was perfectly sensible for all those involved, the Metropolitan Police Authority, the Commissioner and my legal team, to try to resolve this problem and I am delighted that they did.” (Evidence of Superintendent Dizaei.)

10.57 To an extent, we understand the MPS’ concerns at the time, in particular its desire to resolve intractable management issues facing the organisation. However, we consider that it is never appropriate for a public body such as the MPS to enter into an agreement that is ultra vires, and which is likely to bring the organisation into disrepute with its own staff and officers, as well as the wider public.

10.58 Failing to consult the PCA, which had a statutory role in the case at the time the settlement agreement was drafted, was a fundamental error, as the Commissioner himself pointed out when he gave evidence: “I do not know whether Ian Blair actually contacted the PCA. If it had been me as Deputy Commissioner I would have contacted the PCA and they would have been involved in negotiations, because remember, of course, they had the job of supervising that inquiry from start to finish.”

Media issues

10.59 A number of criticisms have been made of the way in which the MPS handled media issues during Operation Helios. Superintendent Dizaei contends that the organisation had a proactive media strategy that apparently was devised

with little regard to the welfare of a serving police officer who had not been found guilty of any misconduct:

“On 18th January 2001 I was asked to attend [redacted]’s office ... and I was suspended. It was only then I was told of operation Helios and informed that my house, my car and premises belonging to my friends and family were being searched. My phone and warrant card was taken off me and I was told to get out. Rather than providing any support or welfare for me as a human being let alone a fellow colleague after a clear shock and trauma my colleagues decided to place me under further surveillance and tap the surrounding phone boxes ... I called home to be told by my terrified children that they could not go to school because there were 30 reporters standing outside my house since 7 am (I was suspended at 0900) ... The initial allegations and the way they were given to the press before they were even served on me was a carefully prepared strategy.” (Submission of Superintendent Dizaei.)

10.60 The MPS emphatically denies that this was the case or that there was any strategy designed to inform the media of the existence of the investigation before Superintendent Dizaei was himself aware of it.

10.61 The NBPA commented on the MPS’ press strategy during Superintendent Dizaei’s trial: “One member of the DPA sat in court throughout the entire trial talking to and reassuring members of the press. Even before the jury had reached a verdict [redacted], who had booked a golfing holiday in Alacanti [sic], could not wait and with the assistance and support of the DPA held a press conference at the Yard expressing their distaste for Mr Dizaei. Selected journalist [sic] were invited and asked to sign confidentially clauses, after which they were given a detailed briefing during a ‘live’ trial”.

10.62 The MPS confirmed that the briefing took place but commented that this was in line with MPS and ACPO guidelines and that those who attended were not specially selected by the MPS.

10.63 We understand the vital role of the media in relation to the MPS’ work and do not seek to criticise the organisation for needing to take a proactive stance in relation to its dealings with the media in appropriate cases. However, we would question any strategy where statements are made to the media before the individual concerned is aware of what is being said and particularly when the officer concerned has not yet been made aware that an investigation is even taking place.

10.64 In this case, it seems likely that the media were alerted to the investigation into Superintendent Dizaei before he was aware of the investigation himself. The likely source for such information is someone in the MPS.

10.65 Whether official or unofficial, such contact with the media can only serve to cause unnecessary distress to those involved, including family and friends. If unofficial, the MPS needs to find ways of preventing similar leaks in the future.

“Learning from my own experience, what caused the most trauma to my family, and in particular my children, is the clandestine briefing to the press.” (Evidence of Superintendent Dizaei.)

10.66 In addition, in our view, while the public interest may require the MPS to announce to the media the fact of an investigation taking place, it is not appropriate for it to make subjective comments about the ‘guilt’ or ‘innocence’ of any officer or member of staff who is subject to disciplinary proceedings, until decisions about misconduct or criminal activity have been made by the appropriate body. We believe that any process which permits this kind of briefing should be changed.

Unfairness

10.67 The failings which we have identified above present a picture of an organisation acting unfairly towards one of its own officers who happens to be under investigation. There are numerous examples, such as the scale of the investigation and the disproportionate use of resources. No regard seems to have been had to the welfare of Superintendent Dizaei, a senior officer who, although under investigation, had not been found guilty of any relevant criminal or conduct offence.

“Within weeks of being served regulation 9 notices which were the most damaging namely sexual relationships with prostitutes and unauthorised visits to the Iranian embassy they were withdrawn without me even being questioned. By that time [redacted] had inflicted the personal damage to my reputation as he had intended ... The vagueness of the discipline notices was deliberate and intended to keep me guessing. Eg Assault: no date, no name, no circumstance. Just ‘Assault’. And then the allegations were dropped without a question put to me. However the allegation appeared in every newspaper on the day of my suspension.” (Submission of Superintendent Dizaei.)

10.68 It is undeniable that race played a considerable part in aspects of Operation Helios. It seems that Superintendent Dizaei’s Iranian descent, and his links with the Black Police Associations, were part of the MPS’ thinking in a number of unusual decisions they took in the course of the case, as outlined by the independent investigators:

“As the investigation progressed, and moved from being covert to overt several issues around fairness based on race, arose that now need to be considered. In particular the formation of a Gold group and the decision to arrest Superintendent Dizaei rather than to arrange a voluntary attendance at a police station for interview cause concern.

“... The review cannot establish the justification for the formation of such groups but the issue of Superintendent Dizaei’s race and the community cannot be ignored. The review considers that on the balance of probability, issues around race and the community were the key drivers for such a group being formed.” (Independent investigators’ report.)

10.69 We see this as part of the pattern of the MPS' difficulty in managing difference which we have identified more generally.

10.70 We have received evidence in relation to race discrimination from Superintendent Dizaei, the NBPA and others. In the absence of a full case review, we are not satisfied, on the evidence we have received, that race discrimination occurred.

10.71 However, we particularly note the following observations from our independent investigators:

"Soon after transferring to the force Superintendent Dizaei was posted to the Borough of Kensington.

"This Borough has a large Farsi/Iranian community and as such this could have been seen as a good move for the force, the officer and the community. Unfortunately little to no regard for the pressure such a transfer would put on the officer, from the Iranian Moslem community, appears to have been considered and as such his personal/professional roles became merged. As he had no formal briefing with regard to how much involvement he could have with this community he found himself in a position where he was able to get involved in the community, but was not functioning in an official capacity. This position would result in members of the community having expectations of him in his professional role that were beyond that which a police officer was able to deliver. This situation could be interpreted as unfair treatment based on race. However, the review considers it was more of a strategic and operational failing in respect of supporting officers from specific communities to manage professional and social pressures that result from a posting such as this.

"Consideration has also been given to failings by senior officers to curb Superintendent Dizaei's activities in respect of his community contacts and although this probably occurred as a result of the intelligence gathering operation that commenced in the summer of 1999, it clearly put the force in a difficult and vulnerable position. This situation could be considered as being unfair, but is not based on race.

"The review has examined an official MPS record touching on this subject of intervention (dated 05.01.01 by a Detective Chief Superintendent). The document has tried to defend the MPS position but unfortunately it is dated in excess of eighteen months after the officer has been posted to the Kensington community and some twelve months after the second part of the operation commenced. There is no decision log entry or other record, which addresses the issues surrounding management intervention in August 1999 ...

"With regard to the arrest of Superintendent Dizaei in May 2001 the review has had sight of an MPS document headed 'Operational Strategy'. This document is undated, but it has clearly been prepared around the time that the operation was moving from the covert to overt stage.

"Contained within this document is a paragraph, which reads, 'Mozart will not be arrested at this stage, the evidence to justify doing so is weak'. No further record or Decision Log entry

has been made by the SIO to justify a change of stance when in fact the evidence against him was no stronger. Superintendent Dizaei makes reference to his arrest in his submission to the Inquiry ... and the review considers that with regard to the manner in which he was treated, it appears that in the circumstances it was unfair and the element of race cannot be excluded." (Extracts from independent investigators' report.)

10.72 It is clear to us that an investigation such as this, which lacks strategic direction in the manner we have identified and does not have a full paper audit trail for the rationale behind decisions, lays itself open to such allegations being made.

10.73 The review conducted by our independent investigators was, however, not a full case review. In relation to the issue of discrimination on the grounds of Superintendent Dizaei's race, although the evidence is inconclusive, the issue clearly remains live and it should be looked at in the full case review we are recommending.

10.74 The MPS has commented that it is concerned that the "relatively brief nature of the independent investigators' review of Operation Helios provides insufficient basis for the very severe criticisms made of it." The two investigators, who carried out this review, are both experienced former senior police officers and looked at sufficient original material to focus on key issues. We are satisfied that their work was both professional and objective. But, in our view, the comment of the MPS only serves to strengthen the argument for a full case review. Nothing less can do justice to everyone concerned.

We therefore recommend a full case review of Operation Helios which is independent of the MPS. The review should include examining the issue of race discrimination.

Lessons to be learnt

10.75 We consider that the MPS needs to learn lessons from our analysis of Superintendent Dizaei's case in relation to the following areas:

- case management;
- settlement agreements;
- the use of Gold Groups;
- the use of policy files;
- the use of lay advisors; and
- the issuing of press statements.

10.76 We hope that the recommendations that follow will enable it to do so.

- We advocate urgent adoption by DPS of our earlier recommendation that investigations by DPS should be run in accordance with the

recommendations of the Review of Operation Lancet and the normal investigative process for criminal cases. Arrangements should be made to put the necessary systems in place, as a matter of urgency, which should prevent investigations such as this becoming a 'runaway train'. We also think that our recommended model of case management, if adopted, will help to ensure that the right checks and balances are in place to ensure that the investigation is subject to the appropriate strategic direction and scrutiny.

● ***We recommend that the MPS avoids entering into agreements in relation to professional standards and conduct matters that are ultra vires.***

- We repeat our earlier recommendation that all DPS investigators should keep a full policy file documenting the reasons for key decisions made.
- In respect of the use of lay advisors in such investigations, we repeat our earlier recommendations in chapter 6 on the appointment of IAG members and the resourcing of the IAG. In particular, we emphasise our earlier recommendation on disclosure.

We recommend that the Independent Advisory Group and the MPS agree a protocol in relation to disclosure of documentation and the rationale for decisions to Independent Advisory Group members. This must be based on the presumption that Independent Advisory Group members see everything that is available to the investigating officers. Where possible, this should be before decisions are taken.

- ***We recommend that where Gold Groups are established in relation to disciplinary matters, their purpose and powers are set out in writing so that all involved are clear about their role and lines of accountability.***
- We repeat our earlier recommendations on issuing of press statements and dealing with the media.

We also recommend that no comment is made about an officer's guilt or innocence by the MPS until it has been established by the appropriate decision-making body, and no embargoed interviews should be given.

Deputy Assistant Commissioner Brian Paddick

10.77 DAC Paddick was born and educated in south London. He joined the MPS after university and was promoted to the rank of Sergeant in 1981. He rose rapidly through the ranks and was the Chief Superintendent in charge of Merton borough in 1998. He was promoted to Commander in 2000 and took over command of Lambeth borough. He was promoted to Deputy Assistant Commissioner in 2004.

10.78 As DAC Paddick was (and of course still is) and ACPO rank officer, the allegations relating to his conduct were dealt with by the MPA and not the MPS.

10.79 A summary of the details of the investigation, drawn from our independent investigator's report and other evidence, is set out below:

Chronology

- October 1995
Whilst serving as a Detective Chief Inspector in the MPS, Mr Paddick met and formed a relationship with Mr A.
- November 1995
Mr Paddick accompanied Mr A to a London police station where Mr A had to answer to bail. Commander Paddick waited in the public area. Within a period of several months, Commander Paddick and Mr A decided to live together.
- November 1998
Mr Paddick and Mr A moved into a flat together. After a period of time (the duration of which is disputed by both parties), Mr A started to smoke cannabis in the property.
- July 2000
The relationship was terminated, owing to Mr A having failed to honour an agreement not to smoke cannabis in the home.
- March 2002
Mr A contacted Commander Paddick and informed him that the Mail on Sunday newspaper had offered Mr A £100,000 to tell his story about the relationship with Commander Paddick, including references to Commander Paddick smoking cannabis.
- 17 March 2002
Story printed in the Mail on Sunday newspaper.
- March 2002
The Professional Standards and Performance Monitoring Committee of the MPA invited Humberside Police to carry out an investigation in to the allegations made in the Mail on Sunday newspaper article that Commander Paddick had allowed his premises to be used for smoking cannabis, he had smoked cannabis and that he had breached Police Regulations by meeting a person on bail without lawful authority. The MPA also invited the PCA to supervise the investigation.
- March to July 2002
Investigation was undertaken. This included Commander Paddick being interviewed under caution on 8 July 2002.
- 18 July 2002
Report by the Deputy Chief Constable of Humberside Police submitted to the PCA.
- 16 September 2002
The Humberside report forwarded to the CPS.
- 9 October 2002
The CPS decided that it would not be in the public interest to prosecute Commander Paddick. The report was forwarded to the MPA to consider if any disciplinary action should be taken.
- 12 November 2002
Commander Paddick was advised by the MPA that no disciplinary action would be taken against him. The MPA advised the Commissioner, Sir John Stevens, of their decision. The MPA also invited the Commissioner to consider seeing Commander Paddick to discuss the matter with him.

How the case was handled

10.80 We agree with the conclusion of the independent investigator that “there is no evidence to suggest that the investigation was authorised to treat Mr Paddick unfairly or that it was directly related to his sexuality”.

10.81 There is one particular aspect of DAC Paddick’s case, however, where criticism has been made of the organisational response, namely media handling:

“At the end of the day, in order to stop a certain national newspaper, or group of newspapers ... to repeat allegations that I had been acquitted of in the course of a formal investigation, I had to sue the newspaper, which, if I had lost, would have cost me £400,000.

“I had no support whatsoever from the Metropolitan Police Service or from the Metropolitan Police Authority in terms of taking that action. Yes, the Commissioner did make a statement, which was helpful in those proceedings, but in terms of – it was my responsibility to take that action; ... I was liable for whatever the outcome was going to be of those proceedings, and I think that in those sort of circumstances, you are only in that position because of the position that you hold of senior rank within the Police Service. If I was a bus driver or in some other profession, this would not have arisen, therefore there is an obligation on the Metropolitan Police Service and the Metropolitan Police Authority to defend my position.

“So, for example, when I am appointed Deputy Assistant Commissioner and a national newspaper alleges that I have only been promoted because I am gay, and I go to my press office, they turn round and say, ‘It is nothing to do with us, we did not promote you, the police authority did, go and talk to them’, it is not, I think, an acceptable support from an officer who is under attack because he is a member of a minority group.” **(Evidence of DAC Paddick.)**

10.82 The Deputy Commissioner refuted the allegation that the MPS had been unsupportive in this respect:

“I think the key point here for this kind of media issue is that what Brian is saying is what is the Met doing to stop newspapers repeating misleading allegations, and the answer to that is that the Met will do its best to inform and cajole newspapers to say stop doing it, but unfortunately ... we do not control the newspapers and the newspapers will or will not take any notice of what we have actually said. If we turn for instance to the issue about the cannabis pilot, I know that the DPA held two briefings, including the Commissioner being at one of them, where they made absolutely clear that Brian had not started this off on his own and this had the Commissioner’s support. Most newspapers printed that. One newspaper decided they did not want to print that and went a different way. When we then come to the issue about the major legal action in which Brian is involved, I think that becomes much more difficult. Something I said last time was that we have to understand that the issue for Brian, and in fact for Ali Dizaei, about newspapers which caused them personally most grief were nothing to do with the MPS; they were to do with the allegations of an ex-partner. At that point, using public money to support Brian in that position might have been extremely difficult. It would not be normal for to us support an officer taking ... privacy proceedings, because that, I think, opens us up to almost an open-ended cheque book to a number of officers.

"I do think that Brian did get more support than again he acknowledges here. There is a very senior member of the DPA with whom Brian was in regular contact, home, mobile, office numbers and so on, but Brian was being very, very bruised by what was going on.

"... I am extremely pleased with the way Brian has actually come through this. There were some very, very difficult times for him for a couple of years while all of this was going on. He and I had many discussions, and there is one particular piece of advice I was able to give him which I think he has done, which is to stop being a story and make a story about his own achievements and the achievements of the Met, and since that stage the interest in him has diminished in the newspapers. I think he is now doing a very good job ..."

(Evidence of the Deputy Commissioner, Sir Ian Blair.)

10.83 We consider it unfortunate that, whatever support was offered to DAC Paddick, in particular in relation to the way his case was reported in the media, he should have been left with the impression that the organisation failed to support him during this difficult time. It appears that despite the support given, communication failed in this respect with the result that a senior officer, with a great deal to offer the MPS, genuinely believes the organisation failed to support him at a time when he needed its help.

Lessons to be learnt

10.84 We consider from our analysis that the MPS needs to learn lessons in relation to the following areas:

- dealings with the media; and
- support for officers under investigation.

10.85 We hope that the recommendations that follow will enable it to do so.

- We have already made recommendations about how the MPS should handle media issues relating to officers under investigation.

In addition we recommend that the MPS reviews its policy in relation to correcting errors in media reporting about its officers and staff.

- We repeat our earlier recommendation about the role of the HR directorate in relation to welfare support.

We recommend that the MPS examines the adequacy of welfare support to officers under investigation.

The role of the HR Directorate is clearly key in this respect and the MPS should also consider involving the Directorate of Public Affairs to determine the extent to which professional support on media issues can be offered to officers under investigation.

Chief Inspector Julia Pendry

10.86 Chief Inspector Pendry joined the MPS in 1983 and was posted to Vine Street Police Station. In the next 13 years she held a variety of postings, including as a Community Liaison Officer, an instructor at the Cadet School and a response team officer.

10.87 She was promoted to the rank of Sergeant in 1996 and posted to Southall, where she worked until earlier this year. She was a response team Sergeant for two years and was then selected to work in the Borough Liaison Office. In 1990, she was promoted to Inspector and over the last four years has held several roles including duty officer, staff officer to the Borough Commander, Inspection and Review and Custody Manager. She was promoted to Chief Inspector in March 2004.

10.88 A summary of the details of her case, drawn from our independent investigator's report and other evidence, is set out below:

Chronology

- 2 November 2003
Guru Nanak parade held in Southall, where Inspector Pendry is Bronze Command and gave a briefing to officers.
- 23rd November 2003
Letter of complaint about this briefing was handed to the Borough Commander.
- 25 November 2003
Inspector Pendry identified as the officer subject to the complaint.
- 30 November 2003
Email stated that the officers concerned wished to make a formal complaint and that the MPS Sikh Association would like to be associated with the complaint on behalf of the community.
- 11 December 2003
Borough Commander identifies the complainants.
- 12 December 2003
Recommendation that an Investigating Officer should be appointed.
- 15 December 2003
Decision to implement a Gold Group, *"to manage the various issues, i.e. the welfare of the officer complained of the support of the complainants and the community impact etc"*.
- 16 December 2003
Internal investigation commenced.
- 17 December 2003
Inspector Pendry discovered, unofficially, that an investigation was taking place into her alleged racist behaviour and that consideration was being given to suspending her from duty.
- 18 December 2003
Inspector Pendry was advised to see members of the Senior Management Team (SMT) and another senior officer the following morning.
- 19 December 2003
Having waited for 1 hour and 45 minutes, Inspector Pendry was informed that one member of the SMT would not be in attendance. The Borough Commander served a Regulation 9 Notice on Inspector Pendry. While on duty at Southall Police Station, Inspector Pendry saw various police officers that had been attending a Gold Group meeting in relation to the impact on the community of the investigation into her conduct.
- 23 December 2003
Inspector Pendry was interviewed under caution.
- 24 December 2003
Inspector Pendry was informed that her promotion to Chief Inspector had been delayed.

- 27 December 2003
Whilst acting as Duty Officer, Inspector Pendry felt unwell and was examined by the Police Surgeon, who diagnosed her as suffering from stress.
- 29-31 December 2003
Inspector Pendry was made Acting Chief Inspector at Southall, during the absence of other senior officers on annual leave.
- 4 January 2004
Inspector Pendry received various telephone calls from friends and colleagues informing her that there was an article in a national newspaper about the allegation against her. Although Inspector Pendry was not named in the article, she was identified by these people because of her role as Inspector – Operations.
- 9 January 2004
MPS Police Notice announced that Inspector Pendry has been promoted to Chief Inspector with effect from 2 February 2004.
- 25 January 2004
Inspector Pendry was appointed Bronze Commander for the Sikh procession of Guru Ravi Dass, and conducted the briefing for the procession.
- 26 January 2004
SIO submitted his report. Inspector Pendry sent an email to the Borough Commander setting out concerns about her welfare and the lack of concern by the MPS for deploying her the previous day to another Sikh procession.
- 29 January 2004
Response from Borough Commander via email stating that he was unable to see her until 3 February 2004. Inspector Pendry went off work suffering from work-related stress.
- 6 February 2004
Inspector Pendry was informed that her promotion was further delayed. Report submitted to DPS.
- 12 February 2004
Final decision on disposal of complaint made by DPS and file returned to Borough Commander.
- 17 (or 18) February 2004
Inspector Pendry was informed by a Personnel Manager that there was to be no formal discipline action taken against her.
- 23 February 2004
Inspector Pendry officially notified that no disciplinary action would be taken against her.
- 26 February 2004
Borough Commander met Inspector Pendry, informed her that her promotion would be delayed and administered words of advice. Inspector Pendry was unclear about whether she had been given words of advice and what the Borough Commander had said.
- 27 February 2004
Inspector Pendry met a senior police officer, in the presence of her Police Federation Representative. This meeting resulted in her raising a series of complaints about the way her promotion / posting was discussed in relation to issues in her personal life. Inspector Pendry raised these complaints by lodging a Fairness at Work claim.
- 1 March 2004
Minutes of the Metropolitan Police Sikh Association (MPSA) meeting stated: *“With regards to the Southall complaint (Inspector Pendry), an outcome has been reached. It was substantiated that the officer had used inappropriate language and as a result was given words of advice. The two officers that brought the matter to our attention have been commended by the MPSA and [redacted]. MPSA sincerely thank them for the personal courage shown. We encourage and support any member of the MPS to challenge inappropriate behavior, language and attitudes. The MPSA committee have strongly expressed that any intolerance based on faith should be treated as seriously as all other bigoted behaviour within the organisation and our communities.”*
- 7 March 2004
Senior MPS officer addressed the Sri Guru Singh Sabha Gurdwara and discussed Inspector Pendry's case.
- 26 March 2004
Inspector Pendry's case was discussed at length during an open forum at the Annual General Meeting of the MPSA.

How the case was handled

Investigation process

10.89 The independent investigator made the following comment in relation to how the complaint about Chief Inspector Pendry's remarks was made:

"It is clearly unfortunate if not unacceptable that where serving police officers hear such a remark, or suspect that another officer, irrespective of that officer's rank, have made a racist remark, they did not report the fact to a more senior officer at the earliest opportunity. In the circumstances surrounding the remarks subject to this review, the delay appears unacceptable."

10.90 While we understand that junior officers may feel reluctant to criticise the actions of more senior officers, we hope that our recommendations for reform of the disciplinary and grievance procedures will facilitate earlier and swifter resolution of such problems in the future.

10.91 We do, however, consider that late reporting of an allegation, particularly where the complaint is not made directly to the officer concerned or her line manager, is a factor that should be weighed in the balance by those responsible for its investigation.

10.92 Despite the lateness of the reporting of the allegation, there remained an opportunity for early resolution of the complaint. This was missed because the MPS immediately adopted formal processes which involved the formation of a Gold Group and the involvement of senior managers:

"With regard to the issue of resolving this complaint at the earliest possible stage, mention has already been made of this matter. The reviewing officer is of the opinion that there were clear opportunities for this to be done at an early stage and ironically the officer indicated in her response to the Form 163 (regulation 9 notice) that if she had offended someone she would have liked to have the opportunity to apologise." (Independent investigator's report).

10.93 For her part, Chief Inspector Pendry made it clear to the MPS and the Inquiry that she was open to an early and amicable resolution of the matter:

"Obviously, as I said in my response to my 163 (regulation 9 notice), which was obviously delayed as well, was the fact that had I said something that could be resolved at the time I would like to have sat down with the officers, discussed the issues, and, if necessary and if appropriate, apologise. I do not feel in this case I had to apologise but I would have had to have heard what they said first of all." (Evidence of Chief Inspector Pendry.)

10.94 We consider that had the opportunity been taken at any early stage, the matter might have been resolved in a way that could have satisfied the

complainants and defused an issue of community relations quickly, while addressing any weaknesses in Chief Inspector Pendry's approach in a manner that was not distressing. We think the failure to seize the opportunity to deal with the case in this way resulted from weaknesses we have already identified in the MPS' ability to manage difference.

10.95 It seems that the organisation's response to the complaints, to quote Lord Harris in a different context, was to react like a 'rabbit frozen in the headlights'. This had serious consequences for the officer concerned.

Lack of information

10.96 The independent investigator commented on the way in which Chief Inspector Pendry discovered that a complaint had been made against her:

"An area of concern that has been identified during the review is the manner in which Inspector Pendry found out that she was the subject of a complaint (17 December 2003). Ideally the officer should be served with the Form I63 (regulation 9 notice) at the earliest opportunity and, in this case, it was not served until the 18th December 2003. This was unfortunate but in fairness to the investigating team the notice is dated the 17 December 2003. Notwithstanding this, the review has confirmed that the complaint was made on the 23rd November, and the officer deserved to at least be made aware of the allegation."
(Independent investigator's report.)

10.97 In response to this, the MPS has told us that it believed it was "unfortunate" that Chief Inspector Pendry was notified by a Sergeant at Southall that she was subject to a complaint, but that it was also "inevitable".

10.98 Chief Inspector Pendry, in her submission to us, raised a number of questions about the way in which the investigation was handled and the way in which she was treated:

"52. Why did I have to be informed by a Sergeant at Southall, in the corridor that I was being investigated?"

53. Why were officers interviewed before I was given notice? ...

68. How did a Chief Inspector (Black Police Association member) know of the decisions affecting my promotion before me?

69. Why was the email from workforce deployments, delaying my promotion sent on Christmas Eve, thus ruining my family Christmas?

70. Who made the decision to delay my promotion and what process was involved?

71. What is the MPS process / policy to review such decisions? My belief is that it was not followed.

72. As my promotion was delayed. Why was I continually used as both Acting Chief Inspector and Acting Superintendent on the Borough?

73. Why was I offered no official organisational support and why was I not communicated with as per "Doing the right thing"?

74. I again refer to [redacted]'s comments about the international seriousness of the investigation and that he had personally postponed my promotion. Why did he allow me to act as an Acting Chief Inspector / Superintendent. Perhaps more importantly. Why did he allow me to lead the Sikh procession of Ravi Dass, through the streets of Southall on the 25 January 04?" (Submission of Chief Inspector Pendry.)

10.99 The MPS has told us that Chief Inspector Pendry had not been suspended, and was therefore fit for operational duties. Its view was that, since she remained innocent of any misconduct until the contrary was established, it was appropriate for her to be deployed in relation to other religious processions.

Unfairness

10.100 We are also particularly concerned by the way in which issues impacting on Chief Inspector Pendry's posting were handled and we consider this to be unfair. In our view, the lack of sensitivity has needlessly added to the inevitable distress caused to the officer under investigation and has led to an Employment Tribunal claim being brought against the MPS.

10.101 The independent investigator reported that: "... there is clear evidence of issues surrounding her personal life and in particular a previous relationship she had, being used in the consideration of her promotion to the rank of Chief Inspector and transfer to another station."

10.102 Chief Inspector Pendry commented: "You know, I am a female officer, I have been a police officer for 21 years. It is obvious that most of your life, when you work as police officer, you are going to socialise with police officers; that is the way that it works. If I am going to be discriminated against and treated differently because I once used to go out with somebody, then I think that is very unfair and discriminatory behaviour."
(Evidence of Chief Inspector Pendry.)

10.103 We do not see how such issues can be of relevance. Be that as it may, it is quite clear that the way in which these issues was raised was badly handled, with the result that the organisation now has to face grievances raised under the Fairness at Work process and an Employment Tribunal claim.

10.104 We are also concerned about the way in which Chief Inspector Pendry's case was discussed by a senior officer in public at the Gurdwara and at the Sikh Association Annual General Meeting. The MPS has justified this action by reference to a need to "communicate with a significant sector of Southall's community" and to be open and transparent.

10.105 We accept the requirement for openness and transparency. However, in this case, we are concerned that there was public discussion of Chief Inspector Pendry's case without her knowledge, and following the conclusion of the disciplinary process. We are also concerned about the level of detail of the discussions.

10.106 In his evidence to us, the Deputy Commissioner referred to "the most intense pressure in [Ms Pendry's] personal life" and seemed to imply that the obvious distress being suffered by Chief Inspector Pendry was the result of issues in her personal life, rather than the way in which her case was handled. Having seen and heard from Chief Inspector Pendry, we reject that suggestion.

10.107 The MPS provides a service to London through its people, which are its greatest resource. Inevitably, they all have other facets to their lives other than serving the MPS. Failure to appreciate this, and to manage difference in all its varieties, will inevitably mean that the MPS will fail to get the best from its people. Such comments are extremely unsupportive of an officer who is a valuable asset to the organisation and we regret that they were made.

Welfare support

10.108 The independent investigator reported that: "Throughout the duration of this investigation there was clearly a failing by the MPS in relation to the welfare of Inspector Pendry". We agree with this conclusion which is evidenced by a number of aspects of the investigation.

10.109 Although the MPS has told us that a Superintendent was appointed to look after Chief Inspector Pendry's welfare, we are concerned that Chief Inspector Pendry herself perceived there to be a lack of official support when she was under investigation and was clearly unaware that the Superintendent had an official responsibility for her welfare:

"I suppose the first thing I can say is what support? I was not offered any support at all. I was not offered any occupational health. I was told on the eve of the Christian festival of Christmas, for want of a better way of describing it, that my promotion was going to be withheld. Nobody gave me any support inside, I obviously had no idea what was going to happen to me. On 27th December I was duty officer and I actually asked to see the force medical officer, who came to the station because I at the time thought I was about to suffer a stroke and I had a pounding headache and he examined me and said I was suffering from stress and I was

offered absolutely no support at all. But I will say, and I think this is very, very important, I was offered no official support, but there have been people who have been truly, truly loyal and kind to me ... It would have been nice if the Gold group had considered my welfare needs in the first place, rather than just thinking about everybody else's needs."
(Evidence of Chief Inspector Pendry.)

Gold Group

10.110 We have already said that we consider that the MPS missed an opportunity to address the issue raised by the complaint about Chief Inspector Pendry's conduct at an early stage. Instead, it formed a Gold Group, partly out of a desire, it was said, to secure her welfare, which we consider it signally failed to do. A Gold Group is formed where there is a critical incident. We have already referred to the definition as "any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and / or the community."

10.111 In this case, we see the involvement of a Gold Group as an over-reaction because the complaint came from Sikh officers and an example of the MPS' difficulty in managing difference where race is an issue.

"It was completely and utterly disproportionate and an appalling way of managing a case."
(Evidence of Chief Inspector Pendry.)

10.112 Under the current disciplinary system as operated by the MPS, investigations into the alleged misconduct of an officer are the responsibility of DPS. In our view, the use of a Gold Group in this case, as in the case of Superintendent Dizaei, only served to blur the lines of decision-making and accountability.

10.113 Even if the decision to form a Gold Group were justified, it is clear that there were a number of errors in the way it was used and its composition. Chief Inspector Pendry has raised some pertinent questions in this respect:

"63. Why was the Gold Group held at Southall police station. Was this designed to intimidate me?"

64. Given that Gold Groups should be independent and unbiased. Why was [redacted] allowed to sit in the meetings and be the minute taker? He was a supervisor and witness at my briefing for Guru Nanak.

65. Why was [redacted] excluded from the Gold Group?

66. Why was [redacted] [the officer who wrote the letter of complaint to [redacted] and personal friend of seven years, to [redacted – one of the complainants], allowed to sit on the Gold Group and make decisions about me? Why were the federation and the association of senior women officers excluded from the group?

88. [Redacted] informed me that he had been overseeing the investigation. Why were the Gold Group overseeing the investigation and not DPS? What is the policy?" (Submission from Chief Inspector Pendry.)

10.114 The MPS has told us that it accepts that holding the first meeting of the Gold Group at Southall Police Station was a mistake. We agree that it is inappropriate for such a Gold Group to be held at the station where the officer concerned is working and for officers involved in making the complaint in any way to be included on such a group. The way in which this Gold Group was established and conducted itself suggests that insufficient regard was paid to the welfare of the officer under investigation. It also raises questions about the objectivity of the management of the investigation process.

10.115 The MPS has sought to persuade us that in this case "the Gold Group provided for a measured and scrupulously fair process where the interests of all parties were represented." Chief Inspector Pendry was not represented on the Gold Group. In any event we would query whether a Gold Group should have representatives of either complainants or other interested parties, given its role in managing a 'critical incident'.

10.116 These failings seem to have been compounded by an apparent failure to communicate with the officer even after she raised concerns at the time:

"So every time I asked and said, 'Please, I feel I really have concerns about the make-up of the Gold group and the bias of the Gold group and people are sitting in judgment of me, some of them with their own agendas', that I wanted somebody sitting there considering my needs and also fairness. So we asked and we were just ignored." (Evidence of Chief Inspector Pendry.)

10.117 In addition, as we noted earlier in this report when we dealt with the Fairness at Work procedure, when Chief Inspector Pendry raised various concerns under the FAW procedure, the MPS was reluctant to deal with the matter and it took three months and 12 days to have her 'Form 1' accepted, as it was initially said that the issues she wanted to raise related to disciplinary matters. That is over three times as long as the *entire* FAW process is intended to take and hardly the best way to deal with a senior officer who already feels that the organisation is being unfair to her.

Lessons to be learnt

10.118 We consider that the MPS needs to learn lessons from our analysis in relation to the following areas:

- early resolution of disputes;
- confidentiality of the discipline process;
- support for an officer under investigation;
- the use of Gold Groups;
- the way in which investigatory decisions are notified to the officer concerned;
- Fairness at Work; and
- dealing with difference.

10.119 We hope that the recommendations that follow will enable it to do so.

● *Except in the most serious cases (such as allegations of criminal behaviour) where doing so is clearly inappropriate, we recommend that the MPS should always explore options for early informal resolution.*

● *We recommend that the MPS take steps to ensure that discipline matters relating to individuals are kept confidential and not discussed with third parties in a public forum.*

● We repeat our earlier recommendations in relation to welfare support to officers under investigation.

● *Where Gold Groups are involved, we repeat our earlier recommendation about their establishment. Further, we recommend that clear guidelines are established about the make-up of a Gold Group as, for example, it is not appropriate for representatives of complainants or other parties involved to be members of such a Gold Group or to be present at any meetings.*

● *We recommend that officers under investigation be provided with a written record of the outcome of such an investigation and a summary of the reasons for that outcome.*

It is clearly inappropriate for Chief Inspector Pendry to remain unclear about the way in which her case has been concluded, and she should be provided with such a document.

● *We have drawn attention to a number of questions posed by Chief Inspector Pendry and we recommend that the MPS provides her with written responses to the questions she has posed in her submission.*

● Our earlier recommendations in relation to Fairness at Work are also of relevance as are our comments on the MPS' ability to manage difference.

Detective Sergeant Gurpal Virdi

10.120 Detective Sergeant Virdi was born in Delhi, India. He came to the United Kingdom at the age of eight and was educated in West London. He joined the MPS in 1982. After a period in Battersea, he became a member of the Metropolitan District Crime Squad. In 1987, he joined the Directorate of Intelligence. He was promoted to Police Sergeant in 1992 and appointed as Detective Sergeant in 2003.

10.121 His case is the most well-known of the cases we considered. It has been the subject of two reviews: one an Inquiry established by the MPA and chaired by one of its members, Mr David Muir, and the other a case review commissioned by the PCA from a senior officer in the Professional Standards Department of the South Wales Police Service. We have already referred to the MPA Inquiry in Chapter 6 of this report.

10.122 A summary of the details of his case, drawn from our independent investigator's report and other evidence, is set out below:

Chronology

- 24 December 1997
Racist documents received by 13 minority ethnic officers who work at Ealing police station (including Police Sergeant Virdi).
- 29 December 1997
Ealing senior management requested an investigating officer from 2 Area Complaints Unit. The Daily Mail newspaper published a story titled 'Race Hate Campaign'.
- 30 December 1997
Back up computer tapes at Ealing seized.
- 13 January 1998
Policy file opened.
- 19 January 1998
Second racist document is received by minority ethnic police staff at Ealing police station. The computer systems administrator identified the MPS logo used in the second document as one he had created on the Operational Technology Information System (OTIS), investigated the system at Ealing and concluded that the second document originated on the OTIS account of Police Constable B and was printed at Hanwell police station on 18 January 1998.
- 20 January 1998
Forensic Science Support Unit commenced work on computer evidence.
- 21 January 1998
Police Constable B seen by management with the agreement of the investigating officer, and advised she was not a suspect. Meeting not recorded.
- 27 January 1998
At her instigation, Police Constable B is interviewed under caution on audiotape.
- 17 February 1998
Press strategy options paper was agreed – this was later used. It allowed the release of the officer's ethnicity on an 'if asked' basis.
- 25 February 1998
Request was made to place covert cameras at Hanwell police station.
- 27 February 1998
Conversation between management and Police Sergeant Virdi was covertly taped on the advice of the Investigating officer.
- 24 March 1998
Police Constable B was interviewed under caution on audiotape.
- 15 April 1998
Police Sergeant Virdi was arrested. Operation takes 23 hours. PoLSA (Police Search Adviser) search of Police Sergeant Virdi's home takes seven hours.

- 16 April 1998
Police Sergeant Virdi suspended from duty in early hours of the day. A national newspaper publishes an article relating to the arrest, search of home and suspension of an Asian officer. News items also on ITV, BBC and Asian news.
- 17 April 1998
Police Sergeant Virdi interviewed under caution on audiotape and denied any connection with the sending of racist mail.
- 28 June 1998
Police Sergeant Virdi instigates proceedings in the Employment Tribunal.
- 30 June 1998
External computer specialist is asked to examine the seized computer equipment from Ealing police station.
- 7 July 1998
Search warrant executed at Hanwell and Ealing police stations searching lockers for the remaining nine copies of the second racist document.
- July 1998 – July 2000
Six Directions Hearings held, mainly awaiting the outcome of MPS internal processes.
- 6 October 1998
Police Sergeant Virdi interviewed under caution.
- 19 October 1998
File of evidence submitted to the CPS for advice on whether to charge Police Sergeant Virdi with sending racist mail.
- 9 February 1999
The CPS advises that no criminal charges should be brought.
- 22 March 1999
File of evidence on Police Sergeant Virdi sent to MPS solicitors for counsel's advice in respect of discipline charges.
- 29 April 1999
Police Sergeant Virdi informed of date of hearing and supplied with a copy of the charges.
- 30 June 1999
Discipline papers served on Police Sergeant Virdi.
- 25 August 1999
Solicitors appointed by the Police Federation on behalf of Police Sergeant Virdi sought an adjournment of the discipline hearing, as their computer expert was not ready.
- 1 September 1999
MPS agreed to the adjournment.
- 24 September 1999
New hearing date set for 7 February 2000 for four weeks.
- 26 October 1999
Pre-hearing set for 15 December 1999 to deal with any submissions.
- 15 December 1999
Pre-hearing held. Discipline hearing convened.
- 7 February 2000
Disciplinary Panel hears legal arguments concerning the admission of members of the Independent Advisory Group (IAG) to observe proceedings.
- 3 March 2000
Discipline hearing concluded. Police Sergeant Virdi is dismissed from the service on 11 charges and reprimanded on three charges.
- June 2000
Report of the IAG into the case of Police Sergeant Virdi.
- 2 June 2000
Police Sergeant Virdi sets out grounds for appeal.
- 7 June 2000
Police Sergeant Virdi lodged a further claim with the Employment Tribunal relating to his treatment at the discipline hearing.
- 3-7 July 2000
Interim decision of the Employment Tribunal.
- 9 August 2000
Reserved decision of the Employment Tribunal which found, on the balance of probabilities, that there was no evidence that Police Sergeant Virdi produced the racist letters; a fellow white officer was treated differently during the course of the investigation; the explanations put forward by the MPS, as representing good investigation practice, were not sustainable or justifiable; and the reasons for the failings of the MPS in the investigation were not incompetence but that

the MPS had discriminated against Police Sergeant Virdi on grounds of his race.

- 20 September 2000
Appeal to Commissioner hearing set for 6 October 2000, after consideration of dates to avoid.
- 26 September 2000
Police Sergeant Virdi informed MPS he was unable to attend appeal hearing set for 6 October 2000.
- October 2000
Report of paper review published.
- 30 November 2000
Police Sergeant Virdi was successful in his appeal against the decision of the disciplinary panel decision and was reinstated to the MPS. He was handed a letter of apology from the Deputy Commissioner, Ian Blair.
- 5-8 December 2000
Remedies Hearing in the Employment Tribunal.
- February 2001
MPS settles the claim with Police Sergeant Virdi relating to his treatment during the discipline process, prior to a hearing before an Employment Tribunal.
- January 2002
Publication of the Virdi Inquiry Report, chaired by R. David Muir.
- 5 February 2002
The Commissioner gives a written apology to Police Sergeant Virdi and his wife. Police Sergeant Virdi recommences work at the MPS.
- 20 February 2002
A senior officer from the Professional Standards Department of the South Wales Police Service was appointed, with the approval of the PCA, to conduct a case review of the investigation which led to discipline action against Police Sergeant Virdi.
- 5 January 2004
Report of the case review supplied to the MPS.

How the case was handled

10.123 As we have indicated, the facts of this case have already been considered by an inquiry established by the MPA and chaired by David Muir, as well as by a case review by a senior officer from the South Wales Police Service. Both of these reviews were able to consider the case in much greater detail than this Inquiry.

10.124 Our terms of reference ask us to highlight lessons to be learnt from high profile cases such as this and, in the light of the previous very detailed exercises, we have concentrated on this and do not intend to comment on all aspects of this case.

Policy File / Decision Log

10.125 This case presented the MPS with the problem of attempting to justify the decisions taken without a proper record of the reasons for those decisions. We agree with the independent investigator's assessment that: "The Complaints and Discipline (Advice to Investigating Officers) Manual contained no specific instructions on the keeping of decision logs also known as policy files [at the time the investigation commenced]. However once a decision was taken to keep a decision log in this case then it should have been maintained to a professional standard."

10.126 The policy file in relation to this investigation was inadequate and unprofessional. As a consequence, the MPS was unable to give sufficient justification to its actions when they were challenged in the Employment Tribunal.

10.127 We agree with the following criticisms made by our independent investigator:

“The policy file in this case was loose leaved, contained in a ring binder and, with the exception of the first seven entries, was not consecutively numbered. These deficiencies together with the failure by the investigating officers to record important decisions and the rationale behind them had the effect of making it difficult for them to justify their decisions during the Employment Tribunal Hearings and for senior managers of the MPS to defend the actions of their staff ...

“Because the use of a PoISA in these circumstances is highly unusual I would have expected that a decision log entry would have been made outlining the reasons for using one in the case of PS Viridi. No such log exists and there is no reason shown in the Operational order prepared for the arrest and search of PS Viridi’s home ...

“The issue of staffing of the investigation is not addressed in the policy file ...

“However this was only one hypothesis. There were others. For example the documents could have been created on another IT system (there was nothing on the documents themselves which indicated where they had been created or produced) and brought to a police station and placed into the internal mail system. This may well have been considered by the investigators but again there is no acknowledgement in the policy file that other theories existed, that they were explored or tested and that they were dismissed on the basis of the evidence uncovered.” **(Independent investigator’s report.)**

Investigation process

10.128 Criticisms have also been made of the investigatory process in this case, and the lack of policy file entries gives the impression that insufficient rigour was applied to important decisions made during the course of the investigation:

“The nominating of a suspect on an enquiry is one not taken lightly. There is a need to identify a criteria to apply to a suspect to see if they can be eliminated from an enquiry for instance by means of an alibi or through forensic evidence. This criteria should be the subject of a policy entry. The lack of such an entry means that there is no evidence of a methodical approach being applied to the Implication or Elimination of any of the suspects in this case. This led to confusion about who was and was not a suspect at a particular time and raised the question about why one suspect was interviewed whilst under arrest and had their house searched whilst the other was not subjected to these processes.”
(Independent investigator’s report.)

Delay

10.129 One aspect which is of particular concern for us is the length of time the investigation took, in particular the delay involved in arranging a disciplinary hearing:

“Delay was a factor in my case. I wanted the matter to be resolved as quickly as possible in order that I could go back to work and limit the damage done within the Asian community. Delay started on the day of my arrest, after carrying out lengthy searches at different locations – the investigation team put me in front of [redacted] to be suspended and released on police bail without being interviewed. I was then interviewed and rebailed on several occasions. These delays kept on going for two years. The federation representatives and solicitors made an application on my behalf to adjourn the disciplinary hearing. I was completely against this move as it meant more delay. I could not go to the Employment Tribunal until this hurdle (disciplinary hearing) was completed.” (Submission from Detective Sergeant Viridi.)

10.130 Whatever the reasons for the delay (and we have received several explanations for this), we agree that: “It is totally unacceptable for 10 months to elapse from the time a decision is made to hold a discipline board until the date when it is actually held. The strain on the officer and his family must have been immense.” (Independent investigator’s report.)

Arrest

10.131 We were surprised to discover that Detective Sergeant Viridi was not interviewed on the day of his arrest, although his home was searched with a PoISA (Police Search Adviser) team with consequent distress to his family. This, and similar examples of officers being arrested without being immediately interviewed, leaves DPS open to the allegation that its officers arrest suspects so that it can make use of the provisions of Police and Criminal Evidence Act 1984 to search the homes of arrested suspects, in a situation where there is insufficient evidence to justify the obtaining of a search warrant. This in turn could suggest that arrest is used so that it can go on a ‘fishing expedition’ for evidence, a practice with which we are far from comfortable.

Lessons to be learnt

10.132 The MPA Viridi Inquiry Report and the PCA case review have identified lessons for the MPS in relation to its handling of this case. In addition, from our analysis, we consider that the MPS needs to learn lessons in relation to the following areas:

- keeping a policy file;
- adopting normal investigative procedures in DPS;
- progressing investigations at a suitable pace and ensuring appropriate oversight; and
- the use of powers of arrest.

10.133 We hope that the recommendations that follow will enable it to do so.

- We repeat our earlier recommendation that all DPS investigators should keep a full policy file documenting the reasons for key decisions made.
- We repeat our earlier recommendation that investigations in DPS should be conducted in the way advocated by the Review of Operation Lancet and the normal investigative process for criminal cases. Arrangements should be made to put the necessary systems in place as a matter of urgency, which should help prevent investigations gaining unstoppable momentum.
- We think that our recommended model of case management, if adopted, will help ensure the right checks and balances are in place to ensure that the investigation is subject to the appropriate strategic direction and ensure delays are kept to a minimum, especially in relation to the convening of disciplinary hearings.
- We are concerned about the use of powers of arrest, in case they are employed for the purpose of searching a suspect's home on a 'fishing expedition' for evidence.

We recommend that the MPS gives clear guidance to Directorate of Professional Standards' officers on the use of powers of arrest where the real objective is to search the premises of an officer under investigation.

- We note that the MPS has not had any internal review of the managerial mistakes identified by the Employment Tribunal in relation to this case.

Lessons to be learnt

10.134 We have dealt with these four high profile cases in some detail on an individual basis. However, it is clear that many of the criticisms that we have endorsed, and the recommendations we have made, relate to themes which are common to more than one of these cases.

10.135 Indeed, these high profile cases cannot, and should not, be seen in isolation from the other cases we have looked at. In our earlier chapter on Professional Standards, the section on *The experiences of individuals* comments on many of the same issues which have been features of the high profile cases.

10.136 We believe that the MPS does not simply need to learn from cases which are high profile, and attract extensive public and media interest, but from all the professional standards cases for which it has responsibility.

10.137 We have commented at length on the work of DPS and have made many recommendations which we hope will assist the directorate. However, at this stage, as we conclude our consideration of professional standards matters in this report, we feel compelled to highlight a number of common themes and issues we have identified during the course of our work.

10.138 Firstly, disproportionality was an issue in a number of cases we considered. From the evidence we have received, it is clear that DPS must ensure that it conducts investigations in a manner which accords with the recommendations of the Review of Operation Lancet and the normal investigative process for criminal cases. This should improve the management of the investigation and eliminate the potential for allegations of disproportionate investigations.



10.139 Secondly, DPS must refine its practice in relation to maintaining policy files, so that the reasoning adopted by the relevant officers for decisions made in investigations is properly recorded. This will ensure that there is a proper audit trail for decisions taken.

10.140 Failure to do this will cast doubt on the rationale adopted and put the organisation at risk of being challenged. The lack of a proper audit trail does not just affect the officer under investigation but also casts doubt on the professionalism of the directorate as a whole.

10.141 Thirdly, we have already made it clear that there is a need for greater scrutiny of complaints and discipline cases. We have recommended a new model of case management which we believe will address our concerns and the criticisms that have been raised with us. Above all, properly applied, the model should address the issue of delay, which has featured so prominently in the evidence we have received.

10.142 Media handling is not a straightforward matter, but we think the MPS would benefit from clear guidelines about the way in which officers under investigation are treated by the organisation and the support they are to be given. We consider that unfairness can easily be caused to an officer under investigation if the MPS comments publicly about the allegations made or the investigation conducted. We accept the public interest argument that the MPS is entitled to make the public aware that an investigation is taking place into the conduct of an officer. However, we cannot agree that it is ever right for the organisation to comment publicly on the guilt or innocence of any officer until it has been determined by the appropriate decision-making body.

10.143 We have also raised our concerns about the lack of welfare support to officers who are under investigation. This has been drawn to our attention by a number of individuals and is a theme of most of the cases we have considered. We consider that this issue requires urgent attention.

10.144 We have commented on the use of Gold Groups in relation to two of the high profile cases. We would urge the MPS to consider our comments carefully as we strongly believe that over-use of the concept of a 'critical incident', and the resultant formation of a Gold Group, leads to confused accountability. We question their use in disciplinary investigations in anything other than the most exceptional circumstances.

10.145 Finally, we are concerned by the apparent failure of the organisation to learn lessons when investigations go wrong. We suspect that one reason for this is that officers of senior rank seem consistently to avoid accountability for either their actions or those of the officers under their direction.

10.146 We have not heard of any officer of ACPO rank, with responsibility for any of the cases we have considered, being subject to any sanction for failings in the way the investigations were handled. Whilst we have no desire to contribute to the blame culture within the MPS, it follows that a corollary of power and responsibility is a requirement of being held to account when matters, which fall within one's sphere of responsibility, go seriously wrong.

10.147 For the future, we hope that our recommendations will ensure a culture of greater accountability amongst senior officers involved in disciplinary processes. In addition, we would expect both the MPS and the MPA to give greater priority to holding senior officers to account for decisions made under their command. Unless this is done more regularly, we do not believe that the MPS will become the learning organisation that it needs to be.

“ The first lesson I learned is to be careful when you are running a large organisation, to keep the windows open, keep looking outside and not to get too pompous about where you might learn lessons from.”

Sir Michael Lyons

11.1 During the course of the past year we have had a unique opportunity to examine one of the largest and most important organisations in the country. It has been a fascinating experience with many highlights.

11.2 One of the most interesting parts of our work involved meeting some of the people who carry out the day to day work of the MPS. We were very grateful for the opportunity to experience policing London during our night out on patrol with officers in Lambeth. We also enjoyed meeting officers and staff during our visits to London police stations, New Scotland Yard, Tintagel House, Regency Street, Cobalt Square and the Hendon Training Centre.

11.3 We were impressed by the people we met and consider that the MPS is fortunate to have such a committed workforce.

11.4 We recognise that policing London is an ever greater challenge and there is no doubt that the people who make up the MPS rise to that challenge on a daily basis, often at great personal cost. We feel privileged to have been able to experience the MPS at first hand.

11.5 We began our work by stating publicly that we did not just want to know what was wrong with the MPS but also what was right with it. Most importantly, we wanted to know what needed to be done to make it better. We remain impressed with the commitment and loyalty of the people we saw, even those who have experienced ‘ups and downs’.

11.6 During the Inquiry, we found much that was good about the MPS, as well as areas where we considered improvements could be made. We have dealt with both in our report and we hope that the recommendations we have made will assist the MPS in moving forward.

11.7 The MPS itself recognises that “how it treats, uses and plans for” its people will be crucial to its future success and its ability to meet key policing objectives. We concur with that view and it is against that background that we make these concluding remarks.

11.8 Our Inquiry focused on professional standards and employment matters and we examined a wide range of issues around how the MPS treats and manages its officers and staff. If there is one theme which ran through all our work, it is that so-called ‘people issues’ do not appear to be accorded the prominence they deserve within a modernised police service.

11.9 This manifested itself in a number of different ways. At the strategic level, the Human Resources directorate does not appear to have the profile it should have in a successful organisation. Issues of people management do not appear to be high on the organisation's agenda.

11.10 As a consequence, when difficult management issues arise, they are not always handled as sensitively as they should be. We were concerned by some of the evidence we received about how officers subject to investigation have been treated, how some workforce disputes have been handled and how the MPS has approached flexible working and other work / life balance issues.

11.11 We were also concerned at the apparent difficulty some managers have in managing situations where difference is an issue. At its worse, this has led to discriminatory practices in the area of police complaints and conduct but we have also received evidence of problems in managing difference in other contexts, specifically matters affecting female officers and staff.

11.12 Many of our recommendations are designed to tackle these issues and introduce a stronger 'people focus' into the MPS. We would like to see an increased emphasis on management and a recognition that good management skills are a prerequisite to operational success and not optional.

11.13 To that end, we would also like to see the MPS focus more on internal communication. We accept that internal communication will not be an easy issue to address in an organisation of the size of the MPS. However, we consider that more could, and should, be done. Officers and staff are unlikely to be as motivated or as effective as they could be if they are not receiving the information they need to do their jobs.

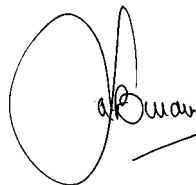
11.14 We are confident that the size and scale of the MPS will not be used as an excuse to avoid tackling important issues, nor for not looking outwards to other public and private sector organisations for new ideas and ways of working. The MPS is not unique.

11.15 Like the MPS, we firmly believe that the way officers and staff are led and managed is the key to successful operational policing. Focusing more closely on the people who make up the MPS will bring dividends for both the organisation and the policing of the capital city.

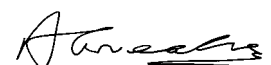
11.16 The officers and staff we have met deserve the best and we wish them the very best for the future.



Sir William Morris
Chair of the Inquiry



Sir Anthony Burden



Anesta Weekes QC

- ▶ Appendix One – The Secretariat Team
- ▶ Appendix Two – The Inquiry Process
- ▶ Appendix Three – Terms of Reference and Commissioning Brief
- ▶ Appendix Four – The Witnesses
- ▶ Appendix Five – Abbreviations

THE SECRETARIAT TEAM

Amanda Kelly	Secretary to the Inquiry
Graham Spencer	Assistant Secretary
Martin Smith	Clifford Chance LLP
Kaspar Nazeri	Clifford Chance LLP
Selena Anderson	
Helen Richards	
Shakeela Aziz	
Edward Smith	

Clifford Chance LLP were Solicitors to the Inquiry. Michael Smyth was the partner-in-charge.

Other professional support was provided by:

Citigate Communications

Netfundi

The Work Foundation

Dennis McGookin

Bernard Postles, QPM

Dennis Roberts

Precision Creative Services

Amanda Kelly is an Associate of Solace Enterprises Ltd



Standing left to right: Shakeela Aziz, Edward Smith, Selena Anderson, Graham Spencer, Amanda Kelly, Helen Richards, Martin Smith, Kaspar Nazeri.

Seated left to right: Sir Anthony Burden, Sir William Morris, Anesta Weekes QC.

1. The Inquiry was established as an independent and impartial inquiry by the MPA, which set out its terms of reference. The Members of the Inquiry, Inquiry Secretary and Inquiry Solicitors were independent of the MPA, the MPS and all other organisations and individuals who were likely to wish to contribute to the Inquiry process.
2. The Secretary to the Inquiry invited written submissions from individuals and organisations which the Inquiry believed might be able to assist them in their task. The Inquiry also invited written submissions from any interested organisations, groups and individuals who believed they had relevant information falling within its terms of reference.
3. The Inquiry then considered the written submissions it had received, and invited the individuals and organisations that it believed could assist further to do so by giving oral evidence at a hearing.
4. The Inquiry received extensive written submissions and heard in total from 109 witnesses at its hearings, the first of which was held on 18 February 2004. Of these, Inquiry Members had further questions for 10 witnesses, who attended the Inquiry to give evidence a second time. Hearings were held in public, except in a small number of cases where the Inquiry was anxious to protect the identity of individuals. All questions were asked by Members of the Inquiry.
5. The Inquiry also held a forum for women in the MPS, attended by approximately 40 officers and staff.
6. Individual Inquiry Members visited 14 police stations in MPS borough operational command units, the Hendon Training Centre, New Scotland Yard and other central London MPS buildings. They spoke to groups of officers and members of staff working there.
7. In addition, the Inquiry spent a day with each of the Greater Manchester Police Service, the Merseyside Police Service and the West Midlands Police Service.
8. The Inquiry considered nine cases designated as 'high profile cases'. In seven of these cases, the Inquiry was assisted by reports prepared by two former senior police officers, Dennis McGookin and Bernard Postles, and an experienced human resources practitioner, Dennis Roberts.
9. The Inquiry published all the submissions it received on its website, together with transcripts of its hearings and notes of its visits to police stations and other police services. The evidence and submissions were redacted where appropriate to prevent the identification of individuals.
10. The Inquiry's last hearing was held on 6 July 2004. After that date, the Inquiry was engaged in considering the material before it and drafting its report. By mid-September 2004, the Inquiry had completed an initial draft of its report.

Extracts of this draft were provided to any person or organisation who might feel that they were criticised in them. They were provided with an opportunity to respond in writing. The last of these responses were provided in October 2004. The Inquiry considered these responses carefully and made whatever changes the Inquiry felt were necessary to the draft, before finalising its report.

Terms of Reference

The Metropolitan Police Authority, pursuant to its powers and duties under the Police Act 1996, the Local Government Act 1972, the Greater London Authority Act 1999 and the Race Relations (Amendment) Act 2000, has appointed Sir William Morris OJ (Chairperson), Sir Anthony Burden O St J, QPM, and Ms Anesta Weekes QC to conduct an Inquiry with the following Terms of Reference:

1. To inquire into the conduct by the Metropolitan Police Service of the following matters in relation to police officers and police staff
 - i. Policies, procedures and practices for and resolution of complaints and allegations against individuals and grievances by individuals;
 - ii. Policies, procedures and practices for and resolution of Employment Tribunal claims, in particular those claims involving allegations of race or other discrimination against the MPS; and
 - iii. Policies, procedures and practices for and resolution of workplace conflicts falling short of allegations or grievances.

The Inquiry's attention is drawn to points 1 to 8 in the Notes below.

2. In relation to matters outlined in 1 (i) (ii) and (iii) to establish whether the policies, practices, procedures and structures of the MPS in relation to those matters represent good effective practice in line with key strategies and the statutory obligations of the MPS and MPA under the Race Relations (Amendment) Act 2000 and other relevant legislation.
3. In relation to matters outlined in 1 (i) (ii) and (iii) to establish whether the policies, practices, procedures and structures of the MPS in relation to those matters represent good effective practice when compared to other police forces and public service organisations.
4. To identify lessons to be learnt from the outcome of recent high profile cases (including recommendations made by the Gural Viridi Inquiry, and the outcome of the case involving Supt Dizaei).
5. To consider and make recommendations on the role of the Police Authority and its Members in relation to the consideration of high profile or sensitive cases, and the oversight of the performance of the MPS in relation to the matters covered by this Inquiry.
6. To publish a Report with its findings and recommendations.

Notes to Terms of Reference

The Authority asks the Inquiry to consider these matters in the context of the Authority's strong support for the Commissioner's philosophy on integrity and anti-corruption in the MPS.

The Authority invites the Inquiry to consider the following matters, amongst others.

1. Whether the arrangements within the MPS for making decisions on individual cases (including obtaining and considering legal advice) and for the review of decisions and progression of cases, are appropriate and effective.
2. Whether there are disparities in the treatment of black and other minority police officers in relation to grievance, complaint and disciplinary proceedings and hearings.
3. Whether the organisational structures and allocation of functions in these matters within the MPS is effective.
4. Whether appropriate consideration is given to early resolution of grievances and conflicts, through mediation/conciliation or an internal ombudsman or other restorative justice techniques, and whether there are adequate processes to achieve such resolution.
5. Whether there should be arrangements for employment tribunal claims, particularly those involving allegations of discrimination or harassment, to be subject to independent review as part of the MPS handling of such cases, in order to encourage and facilitate efforts to achieve resolution by agreement.
6. Whether it is possible for the investigation of complaints and allegations to be dealt with in a swifter, less bureaucratic and less resource intensive way, so that the investigative effort can be seen to be proportionate to the gravity of the allegation.
7. The extent to which the current requirements of the relevant legislation and Regulations hinder the swift resolution of cases.
8. What progress has been made by the MPS on the implementation of recommendations from the Gurpal Viridi inquiry.

Commissioning Brief

The Metropolitan Police Authority is the statutory body with responsibility to secure efficient and effective policing for London. The Authority sets the medium term strategy for policing London, publishes an annual policing plan setting out priorities and targets, and holds the Commissioner to account for the performance of the Metropolitan Police Service.

The Authority was created in July 2000 at the same time as the Greater London Authority. There are 23 Members of the MPA: 12 are nominated by the Mayor of London from amongst members of the Greater London Assembly, 4 are Magistrates, 6 are independent members and 1 is appointed by the Home Secretary.

The legal powers of the Authority are the same as other Police Authorities, under the Police Act 1996.

Following the case of Superintendent Dizaei, and a number of other high profile cases in recent years, the Authority has expressed serious concerns about perceptions of unfairness in the way that some internal investigations are handled by the MPS. Members of the Authority are aware of officers from ethnic and other minority groups within the MPS who feel vulnerable and discouraged by what they perceive to be discrimination and disproportionality in the way in which investigations are conducted. More generally, Members have also expressed concerns about the scale of the investigation of complaints against police in general, believing them sometimes to be out of proportion with the gravity of the matters complained of.

The Authority is also concerned whether the MPS deals as effectively as it could with internal conflicts and grievances, especially those involving allegations of discrimination.

The Authority reaffirms its strong support for the Commissioner's philosophy that integrity is non-negotiable in the police service, and for the determination of the MPS to tackle corruption and impropriety by police officers.

Nevertheless, the Authority decided that, in the interests of public confidence in the MPS, there should be a comprehensive and independent inquiry into these matters. The Commissioner and Deputy Commissioner have indicated their full support of the Authority's decision.

The Authority is clear that this Inquiry should not be an inquiry into any individual case or investigation, though it accepts that the Inquiry Panel will want to identify and draw on any relevant lessons to be learnt from the handling of a number of cases, as well as taking account of the recommendations of the report into the case of Sgt Gurpal Viridi.

The Authority wishes the Inquiry to commence its work before the end of 2003 and to present its report as early as possible in 2004. If the Inquiry feels that it will be unable to complete its work by the end of March 2004, the Authority would wish to have an interim report with emerging conclusions.

The Inquiry will wish to have regard to

- a. The statutory responsibilities of the Police Complaints Authority for the oversight of the police complaints process and for the supervision of investigation of certain categories of complaint/allegation.
- b. The statutory responsibilities of the Independent Police Complaints Commission created by the Police Reform Act 2002 to succeed the PCA.

The Authority will meet the expenses of the Inquiry including the appointment of a Secretariat to the Inquiry and Solicitors to the Inquiry.

The Inquiry will not possess powers to compel witnesses. However, given that the Commissioner supports the Inquiry, it is anticipated that the MPS will give its full co-operation to the Inquiry. It is also expected that Metropolitan Police Staff Associations, representative groups of minority police officers and community stakeholder groups will wish to give evidence.

The Authority will leave the Inquiry to determine its own rules of procedure. The Authority expects the Inquiry to hold evidence taking sessions in public in order to engage with all stakeholders openly and transparently, but recognises that the Inquiry should be able to hold some sessions in private if there are good reasons to do so. The Authority also considers that stakeholders and parties should not, as a general rule, be legally represented.

The Inquiry would like to thank all the individuals and organisations who provided written submissions and came to give evidence at a hearing. Their contributions were invaluable.

The following witnesses provided written submissions and also gave evidence at hearings:

Sir John Stevens, Commissioner, MPS	Mr Glen Smyth, Metropolitan Police Federation
Sir Ronnie Flanagan, HMIC	Andrea Earl, Metropolitan Police Federation
Sir Alistair Graham, PCA	Robert Justham, MET-TUS
Ian Bynoe, PCA	Sevi Yesildalli, MET-TUS
Wendy Towers, PCA	Russell Mills, MET-TUS
Commander Stephen Allen, MPS	Bevan Powell, MBPA
Lord Harris of Haringey, MPA	Leroy Logan, MBPA
Reshard Auladin, MPA	Gareth Reid, MBPA
Cecile Wright, MPA	Alfred John, MBPA
Ken Jones, Chief Constable of Sussex	John Taylor, ACAS
Jane Stichbury, Chief Constable of Dorset	Ray Powell, NBPA
Nick Hardwick, IPCC	David McFarlane, NBPA
John Tate, IPCC	Patricia McLeod, NBPA
Jennifer Douglas Todd, IPCC	Philip Aspey, PSAEW
DAC Stephen Roberts, MPS	Michael McAndrew, Metropolitan Police Superintendents' Assn
Commander Phillip Hagon, MPS	Kevin Boyle, Metropolitan GPA
AC Bernard Hogan-Howe, MPS	Mahommed Mahroof, AMP
Simon Marshall, MPS	Josephine Poole, JPA
Commander Shabir Hussain, MPS	Meryem Cast, MPS Turkish and Turkish Cypriot Assn
George McAnuff, MPS	Kitty Hung, Metropolitan Police Chinese and S. E. Asian Assn
David Hamilton, MPS	Franco Ianelli, Police Anglo-Italian Assn
Sandra Burrows, MPS	Elizabeth Owsley, BAWP
Esme Crowther, MPS	AC Tarique Ghaffur
Robert Pull, CPA	John Azah, IAG
Andrew Cameron, CPA	Beverley Thompson, IAG
Kashmira Singh Mann, MPSA	Ben Owusu, IAG
Carole Howlett, ASWO	Alan Robinson, DSA
Clint Elliott, Police Federation of England and Wales	Mahesh Nandha, Metropolitan Police Hindu Assn
Jan Berry, Police Federation of England and Wales	
Rene Barclay, CPS	
Don Ratcliffe, Metropolitan Police Federation	

Stephen Banyard, Inland Revenue
 John Middleton, Inland Revenue
 Pat Samson, Inland Revenue
 Anthony Murphy, PALG
 Jane Deighton, PALG
 Raj Bhatt, PALG
 Baroness Henig, APA
 Bertram Woolnough, APA
 Sharon Pantry, APA
 Janet Champion,
 H M Customs and Excise
 Annie Purkis, H M Customs and Excise
 William Pickup,
 H M Customs and Excise
 Sarah Drury, Metropolitan Police
 Federation Women's Committee
 Lindsay Kitchener, Metropolitan Police
 Federation Women's Committee
 Chief Inspector Julia Pendry
 DAC Brian Paddick
 Paul Carroll, Prison Service
 Brian Caton, Prison Officer Assn
 Detective Sergeant Gurpal Virdi
 Superintendent Ali Dizaei
 John Wadham, IPCC
 David Riddle, MPA
 Sir Michael Lyons
 Lord Dholakia, LAG
 Nigel Whittaker
 Sir Ian Blair, Deputy Commissioner, MPS
 Chief Superintendent Alex Fish, MPS

Detective Chief Superintendent
 Sharon Kerr, MPS
 Detective Chief Superintendent
 Peter Spindler, MPS
 Detective Chief Superintendent
 John Coles
 Chief Superintendent Victoria Marr
 Sue Adams, Court Service
 Sharon Black, Court Service
 Peter Herbert, MPA

The following individuals, whose names have been anonymised, also provided written submissions and gave oral evidence:

Ms AA
 Ms BB
 Mr CC
 Mr DD
 Mr EE
 Mr FF
 Ms GG
 Mr HH
 Ms JJ
 Mr KK
 Ms LL
 Mr MM
 Mr NN
 Ms OO
 Mr PP

In addition, we received written submissions from the following individuals and organisations:

Dr James Hart, Commissioner of Police
 for the City of London
 Commander Ian Carter, MPS
 Dick Fedorcio, MPS
 Keith Luck, MPS
 Denise Milani, MPS
 Linda Van den Hende, MPS

David Wilkinson, MPS
 Discrimination Law Association
 Nigel Arnold, Deputy Chief Constable
 of Devon and Cornwall
 Conflict Management Plus Ltd
 People Resolutions Group Ltd

The individuals involved in 'high profile' cases, whose names have been anonymised:

HPC 1
HPC 2
HPC 3
HPC 4
HPC 5

Other individuals, whose names have been anonymised:

IND 1	IND 27
IND 2	IND 28
IND 3	IND 29
IND 4	IND 30
IND 5	IND 31
IND 6	IND 32
IND 7	IND 33
IND 8	IND 34
IND 9	IND 35
IND 10	IND 36
IND 11	IND 37
IND 12	IND 38
IND 13	IND 39
IND 14	IND 40
IND 15	IND 41
IND 16	IND 42
IND 17	IND 43
IND 18	IND 44
IND 19	IND 45
IND 20	IND 46
IND 21	IND 47
IND 22	IND 48
IND 23	IND 49
IND 24	IND 50
IND 25	IND 51
IND 26	

ABBREVIATIONS

AC	Assistant Commissioner	HR	Human Resources
ACAS	Advisory, Conciliation and Arbitration Service	IAG	Independent Advisory Group
ACPO	Association of Chief Police Officers	ICG	Internal Consultancy Group
APA	Association of Police Authorities	IND	Submission from an individual
ASWO	Association of Senior Women Officers	IPCC	Independent Police Complaints Commission
BAWP	British Association of Women in Policing	LAG	Lay Advisors Group
BOCU	Borough Operational Command Unit	MBPA	Metropolitan Black Police Association
CIB	Complaints Investigations Bureau	MET-TUS	Trades Unions in the Metropolitan Police
CPA	Christian Police Association	MPA	Metropolitan Police Authority
CPS	Crown Prosecution Service	MPS	Metropolitan Police Service
DAC	Deputy Assistant Commissioner	MPSA	Metropolitan Police Sikh Association
DDA	Disability Discrimination Act 1995	NBPA	National Black Police Association
DEM	Diversity Excellence Model	OCU	Operational Command Unit
DLS	Department of Legal Services	PALG	Police Action Lawyers Group
DPA	Department of Public Affairs	PCA	Police Complaints Authority
DPS	Department of Professional Standards	PCSO	Police Community Support Officer
DSA	Disabled Staff Association	PCS	Public and Commercial Services Union
DTI	Department of Trade & Industry	PDR	Performance Development Review
ETU	Employment Tribunal Unit	PNB	Police Negotiating Board
FAW	Fairness at Work	PSAEW	Police Superintendents' Association of England & Wales
FAWA	Fairness at Work Advisor	PSI	Private Side Intercept
FAWAA	Fairness at Work Appeal Advisor	SCD	Specialist Crime Directorate
GMP	Greater Manchester Police	SIO	Senior Investigating Officer
GPA	Gay Police Association	SO	Specialist Operations
HMIC	Her Majesty's Inspectorate of Constabulary	SMT	Senior Management Team
HPC	High Profile Case	VEM	Visible Ethnic Minority
HPDS	High Potential Development Scheme		