

Criteria for Designating Bodies in the Police Super-complaints System

A public consultation

Foreword from the Home Secretary

Since 2010, we've seen the most ambitious programme of police reform in decades. The creation of Police and Crime Commissioners has made forces far more accountable and responsive to their local communities. The College of Policing has been established to professionalise and promote standards of excellence in policing. Chief Constables have greater operational independence but are now more rigorously inspected by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) through their annual PEEL programme.

These reforms put in place the architecture to drive continuous improvement in policing and are already yielding results. The measures in the Policing and Crime Act 2017 go further still, by strengthening the voice of the public in holding the police to account. The Act contains provisions to overhaul the police complaints system to make it more customer-focused and ensure that cases are dealt with quickly and effectively.

We know that existing systems have sometimes, in the past, been too slow at capturing major issues in policing, such as widespread child sexual abuse or the misuse of stop and search powers. Super-complaints systems, such as those in the financial and commercial sectors, enable evidence on issues of concern to be gathered directly from the public, via civil society groups, and to be escalated to tackle emerging problems. The policing super-complaints system will provide an avenue for raising systemic issues in policing, which are significantly harming the interests of the public. The system will enable a joined-up response from policing partners, including HMICFRS, the College of Policing and the Independent Police Complaints Commission (IPCC).

This consultation seeks views on the criteria an organisation will need to meet in order to be eligible for designation as a super-complainant. These criteria will be set out in secondary legislation and open to parliamentary scrutiny. We seek to strike the right balance between providing maximum access to the system, whilst ensuring that those designated are able to meet the responsibilities entailed.

Your views will be very helpful in achieving this balance, and all responses will be welcomed and carefully considered.

The Rt Hon Amber Rudd MP

Introduction

1. In March 2015, the Government published its response to a public consultation on *Improving Police Integrity*¹, setting out a number of proposed reforms to the police complaints and disciplinary systems aimed at increasing accountability, transparency and efficiency.
2. We know that systems have, in the past, sometimes been too slow in capturing major issues, such as widespread child sexual abuse or the misuse of stop and search. Complementing reforms in the individual complaints system, the Government committed to bringing in a groundbreaking system of police super-complaints. This will ensure there is a clear mechanism to raise concerns about systemic issues in policing, which are significantly harming the interests of the public. Whilst there are existing super-complaints systems in the financial and commercial sectors to protect the interest of consumers, this will be the first to cover a public sector body.

About this consultation

3. The new super-complaints system will enable organisations that have been designated by the Home Secretary to raise issues on behalf of the public about patterns or trends in policing that are, or appear to be, significantly harming the interests of the public. These designated bodies will be able to take forward legitimate issues concerning policing that have been raised with them, either by members of the public directly or via other organisations or representatives.
4. The Government is keen to gather the views of the public on the criteria for the designation of bodies who will be able to take forward a super-complaint in the new system. We wish to ensure that as many of the bodies which the public sees as being able to make a real difference can be involved in the system as possible. Under s.29B(5) of the Police Reform Act 2002 (the 2002 Act), as amended by the Policing and Crime Act 2017, the Secretary of State must consult on the criteria to be specified or described in regulations that will apply in deciding whether an organisation may be designated as a super-complainant body. This consultation gives the public the opportunity to inform how the criteria will be shaped, so they can be confident of the system's future effectiveness.
5. This consultation can be completed online on the Home Office pages of the GOV.UK website. The consultation will close at 11:45pm on 08 December 2017. Further information about the consultation, including the use of data, and an e-mail and postal address for submitting hard copies of responses to the consultation document or other comments, are provided in the Annex to this consultation.

The Government's Proposals

6. The following section summarises the key proposals for the structure of the super-complaints system, under s.29A to 29C of the Police Reform Act 2002, taking into account

¹ For the Government response to the public consultation on Improving Police Integrity see: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411970/improving_police_integrity_reforming_the_police_complaints_and_disciplinary_systems.pdf

the existing systems and the need for a bespoke model for policing.

7. Questions seeking views on these proposals are set out on pages 6 to 12.

Background and Existing Super-complaints Systems

8. Super-complaints currently exist in the financial and commercial sectors.² Their primary purpose is to protect the interests of consumers through the identification of unfair commercial practice. The legislation which covers these systems provides for designated consumer bodies to make a complaint if they are aware of an issue harming the interests of consumers.
9. Under these systems, bodies must be designated by the Secretary of State. A body can only be designated if it meets set criteria that are laid out in the relevant guidance. In these systems, it is expected that designated bodies will be informed bodies in a strong position to represent the public interest and should have the resource and staffing to be able to provide solid analysis and evidence in support of any super-complaint. A super-complaint can be either based on evidence gathered by the designated body or submitted by the designated body on behalf of others who have collated and analysed evidence from the public.

Police Super-complaints: Definition

10. The police super-complaints system will allow designated organisations to raise issues on behalf of the public about patterns or trends in policing that are, or appear to be, significantly harming the interests of the public. The primary purpose of the system will be to capture national or cross force issues that are not otherwise captured - either by the existing complaints system or by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) inspection regime. The secondary purpose is to act as an additional safety net providing a mechanism for capturing localised systemic issues.
11. The new system is provided within the Policing and Crime Act 2017 (the 2017 Act) alongside a wider package of reforms to the police complaints system and improvements to the police disciplinary system. The 2017 Act sets out key components to the super-complaints system, including giving HMICFRS responsibility for the system, naming the policing bodies covered and defining what a policing super-complaint is. However, the majority of the detail of how the system will operate is to be set out in secondary legislation.
12. The new super-complaints system will sit alongside the reformed complaints system. Though both of these systems can play a key role in improving policing and reinforcing public trust in the police, the individual complaints system will remain separate from the super-complaints system. Super-complaints will, therefore, not be an avenue of appeal or escalation for an individual complaint.

² For further information on the commercial super-complaints system see:
<https://www.gov.uk/government/publications/what-are-super-complaints/what-are-super-complaints>

For further information on the financial services super-complaints system see:
<https://www.gov.uk/government/news/financial-services-super-complainants-confirmed-by-government>

The Structure of Police Super-complaints System

13. It is envisaged that upon receipt of a police super-complaint HMICFRS will convene a triage committee made up of the Independent Police Complaints Commission (IPCC), the College of Policing, and HMICFRS. The committee will consider the super-complaint and decide on appropriate action. The committee will also be responsible for prioritising police super-complaints if the system receives a higher number of super-complaints than is anticipated. In order to ensure the system is as effective as possible, regular meetings between the designated bodies and members of the triage committee will be encouraged. This will allow designated bodies to notify the correct policing body of any issues they have identified at the earliest possible opportunity.

The Designation of Bodies Process

14. In order to identify the bodies best placed to work for the improvement of policing through a super-complaints system, the Government proposes a 'designated body' system, similar to the model adopted in the finance and commercial sectors.
15. As in the existing systems, the Home Secretary (as the relevant Secretary of State in this case) will be responsible for designating bodies who can then submit super-complaints under s.29A of the 2002 Act. The legislation does provide for delegation of this function and so, in the future, a person authorised by the Home Secretary could be asked to take decisions on designation on her behalf.
16. Any application for designated body status will be judged against set criteria which will be set out in secondary legislation and published, thus ensuring a transparent and open process. An organisation will need to meet all the set criteria in order to become a designated body.
17. These criteria must not create inappropriate barriers that would prevent key groups or charities from accessing the system. However, adopting a designated body model provides a measure of control to ensure bodies unsuitable, politically motivated, unduly biased or openly hostile are not able to become super-complainants. This will make the system better able to work efficiently and effectively.
18. The designation process will involve a body being designated in regulations made by the Secretary of State. A list of designated bodies will also be published to provide transparency and enable individuals or bodies not designated to see which groups they would need to access to make a super-complaint. For example, a local charity may notice an issue with policing which, though not crossing force boundaries, causes significant harm to the public interest. They could refer to the published list of designated bodies to find a suitable organisation to take forward a super-complaint on their behalf.

Consultation Questions

The Criteria for Designation

- 19. As set out above, the Government proposes to implement a new system of police super-complaints and intends this to operate through a designated body process. The criteria that will apply in deciding whether an organisation may be designated as a super-complainant body will be set out in regulations made by the Secretary of State (s.29B(3) and (4) of the 2017 Act).
- 20. In order to make sure the criteria match the needs of the system, and to meet the statutory requirements of the Act, the Government is seeking your views on a number of points.

SECTION 1

TO WHAT EXTENT DO YOU AGREE OR DISAGREE THAT THE FOLLOWING CRITERIA SHOULD DEFINE WHICH ORGANISATIONS CAN SUBMIT SUPER-COMPLAINTS?:

1. That they are well placed to represent the interests of the public and work for the improvement of policing.

This criterion is aimed at ensuring that the bodies involved in the system are there to work towards the improvement of policing and are able to represent the public interest. This would exclude bodies who are opposed to policing in general, bodies with limited public interaction or bodies which represent a vested interest.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

2. That they are so constituted, managed and controlled as to be expected to act with integrity.

This criterion is aimed at ensuring that organisations demonstrate they are so constituted, managed and controlled as to be expected to act independently, impartially and with complete integrity. This will ensure that those involved in the super-complaints system can command the trust and respect of the public.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

3. That they can demonstrate considerable experience and competence in representing the interests of the public.

Organisations would need to show what activities they had engaged in that demonstrate quality work in representing the public interest. This may be through the production of reports, the raising of important issues through the correct channels, or simply through the everyday work of the body.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

4. That they have the organisational capability to put together reasoned super-complaints.

Bodies could demonstrate that they meet this criterion by showing that they have a body of staff capable of producing high quality, evidence-based reports and through showing adequate financial provision for research. This criterion would prevent any bodies that would not be in a position to produce a fully-evidenced super-complaint from being designated.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

5. That they are able to demonstrate secure and sensitive data handling ability.

This aims to exclude any body that cannot adhere to the relevant data protection legislation. A super-complainant may need to be trusted with sensitive information provided by other bodies for which they are an umbrella organisation (see 9). It is important that these smaller bodies are able to share this information with confidence.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

6. That they agree to follow guidance issued by HMICFRS on the making of super-complaints.

This criterion is to gain the agreement from the participating bodies that they will use the system in the correct manner. This will allow for the possibility that any bodies disrupting the process could lose their designation.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

7. That they have at least a regional footprint (England & Wales).

Though the super-complaints system can capture localised single force issues, it is not the primary purpose of the policy. In order to make sure any body applying for designation can bring a super-complaint about cross force border issues, they must have (at a minimum) a regional footprint. For this consultation, a regional footprint means that a body works in one or more counties, or one or more police force areas.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

8. That they are not a police staff association or trade union.

The super-complaints system is intended to provide a voice for organisations such as charities to raise a complaint on behalf of the public about patterns or trends in policing that are, or appear to be, significantly harming the interests of the public. This criterion is aimed at ensuring that any body that is designated as a super-complainant organisation is independent of those working in policing.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

9. That they are willing and able to act as an umbrella body providing a conduit enabling smaller bodies to bring super-complaints.

While the super-complaints system will be for cross-force issues, it is important that more localised issues can also be raised. Ensuring that the body is prepared and able to act as an umbrella organisation for those who have collated evidence from the public (such as smaller charities, organisations, or in some cases, individuals) will help ensure that more systemic issues can be captured. It will also allow for issues that may be apparent to separate, localised, or single issue bodies to be collated into one super-complaint.

STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW

SECTION 2

10. To what extent do you think the current draft criteria are fair?

VERY FAIR	FAIR	NEITHER FAIR NOR UNFAIR	UNFAIR	VERY UNFAIR

11. Do you think the requirement to meet all criteria will exclude bodies that could bring legitimate super-complaints?

YES	NO	DON'T KNOW

If yes, name the body/bodies you think may be excluded and why.

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SECTION 3

12. Which three organisations do you think would make good super-complainants, and why?

1	2	3

Other comments

SECTION 4

13. Do you have any other comments in response to the above questions, or on other matters in relation to this public consultation, or about the super-complaints system and the way it is structured and organised?

Any other comments or suggestions:

[free text box – 500 words maximum]

About you

The information requested below will help the government analyse and make best use of the feedback it receives from this public consultation and inform further discussions with the public and partners.

SECTION 5

14. Are you responding on behalf of an organisation or in a personal capacity?

On behalf of an organisation	
In a personal capacity	

15. If you are responding on behalf of an organisation, please state the name of the organisation below:-

16. If you are responding in a personal capacity, which of the following applies to you (please tick ONE box only):

I am:

A police officer or employed by the police (or another body over whom the IPCC has jurisdiction)	
A member or an employee of the IPCC, the College of Policing or HMICFRS	
A campaigner or professional (not from the police) who has had contact with the IPCC, HMICFRS or the College of Policing as part of my work	
A member of the public	
None of the above	

MY DETAILS: (see Annex to this consultation for further details on data protection)

- Name:
- Address:
- E-mail address:

Annex

Scope of this consultation

Topic of this consultation	This consultation seeks views on the designation criteria for the police super-complaints system.
Who should respond	Anyone with an interest in the police discipline and complaints system and super-complaints in general.
Geographical scope	The new system of super-complaints covers all 43 police forces in England and Wales, as well as the National Crime Agency (NCA) and its work in England and Wales. Forces external to the Home Office, including the Ministry of Defence Police (MDP) and the British Transport Police (BTP) are also covered by this system.
Duration	This consultation will close at 11:45pm on 08 December 2017.
How to respond	Please respond online via the GOV.UK website. If you are not able to respond via the online system, please contact the Home Office via the e-mail address below.
Additional ways to become involved:	Please contact the Home Office via the contact details listed below if you require information in any other format, such as Braille, large font or audio. The Department is obliged to offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed by the Government and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

The Government has already consulted informally with a number of key partners, prior to publishing this consultation.

How to respond to this consultation

Online

<https://www.gov.uk/government/organisations/home-office>

e-mail

policesupercomplaints@homeoffice.gsi.gov.uk

Post

Police Integrity Unit
Home Office
6th Floor, Fry Building
2 Marsham Street
LONDON SW1P 4DF

Consultation Coordinator

If you have a complaint or comment about the Home Office's approach to this consultation, you should contact the Home Office Consultation Coordinator at the e-mail address HOConsultations@homeoffice.gsi.gov.uk. Alternatively you can write to them at:

Consultation Co-ordinator
Better Regulation Unit
Home Office
3rd Floor, Peel Building
2 Marsham Street
London SW1P 4DF

Responses: Confidentiality & Disclaimer

The information you send us may be passed to colleagues within the Home Office, other Government departments and related agencies for use in connection with this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with applicable access to information frameworks (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want certain information you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this you should explain to us why you regard any information you have provided as confidential. If we receive a request for disclosure of the information we will take due account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The department will process your personal data in accordance with the DPA. In the majority of circumstances, this means that your personal data will not be disclosed to third parties.