



Harriet Harman MP
Member of Parliament for Camberwell and Peckham
by e-mail only

18 March 2024

Dear Harriet,

Thank you for your time recently to discuss your proposed amendments to the Criminal Justice Bill.

The Government is committed to improving standards in policing and it is clear from our discussion that we share a common objective of improving trust and confidence in the police.

I was pleased to hear your wider support for the measures that the Government is introducing following the police dismissals review¹, and that you are content that these largely address the substance of your new clauses 3 to 5.

NC3 - Automatically dismiss a serving officer who is convicted of a serious criminal offence

The Government has already committed to deliver reforms which I consider largely meet the same objective as NC3. These reforms, which we aim to include in regulations to be laid ahead of summer recess, will see:

- A presumption for dismissal where gross misconduct is found proven; and
- Conviction of serious criminal offences (indictable only) will automatically amount to gross misconduct.

These improvements are also supported by the College of Policing's *Guidance on Outcomes in Police Misconduct Proceedings*². This provides guidance to those conduct misconduct proceedings and was updated in 2022 to significantly strengthen the response to violence against women and girls (VAWG), making it clear that the severity of the outcome will be high for those perpetrate VAWG.

I would have reservations around an automatic dismissal. Not only would it remove the principle of public justice at police misconduct hearings, it would also fail to allow police officers to provide evidence of mitigation, risking infringement of officers' Article 6 ECHR rights.

NC4 - Automatically suspend an officer charged with a serious criminal offence

¹ [Police officer dismissals: Home Office review - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/police-officer-dismissals-home-office-review)

² [Outcomes for police misconduct proceedings – updated guidance | College of Policing](https://www.collegeofpolicing.org.uk/guidance/outcomes-for-police-misconduct-proceedings)

Whilst the suspension of police officers is an operational matter for Chief Constables, the Government agrees that there are circumstances where it should be mandated.

Following the publication of the Angiolini Inquiry report on 29 February³, the Home Secretary made an oral statement in the House of Commons, during which he announced new legislation to introduce both an automatic suspension for any officer charged with an indictable only offence and a statutory presumption for suspension for any officer charged with an either way offence. Again, we intend to make these changes in regulations to be laid ahead of summer recess.

Chief Constables will continue to be able to use their existing powers to suspend officers in other circumstances, including where it is in the public interest to do so.

NC5 - Automatically dismiss a serving officer who fails vetting

The Government supports the position that anyone working in policing who is unable to hold the minimum level of vetting clearance should face dismissal proceedings. This position is outlined in the College of Policing's vetting code of practice which was revised last July.

We are now working to support this by creating a statutory requirement for officers to hold and maintain vetting clearance and by creating a new set of regulations which will govern the dismissal process for officers should they fail to hold the minimum level of clearance. Given many vetting decisions can be subjective, to avoid considerable risks of legal challenges, we are creating fair but robust processes in statute to set out the relevant obligations for both officers and forces themselves.

Like the wider changes to misconduct and performance, I aim to lay these Regulations ahead of summer recess.

NC6 - Create a 'duty to handover' to obtain relevant information from an officer's personal phone during a misconduct investigation

Where an officer is suspected of criminal wrong-doing, including the sharing of grossly offensive images or messages, then there are existing powers available to the police – or the Independent Office for Police Conduct (IOPC) - to search for and seize items, such as personal mobile phones.

However, allowing force Professional Standards Departments (PSDs) to demand officers' personal devices on the basis of suspected misconduct goes too far in my view. Such an approach would not be proportionate and risks creating arguments of unfairness or disproportionality.

I should also be clear that the Government has received strong opposition from the sector on this proposal, with the Police Advisory Board for England and Wales voicing significant concerns with its compatibility with Article 8 ECHR.

At our meeting you raised a further issue, namely the composition of misconduct panels. Whilst I acknowledge the sentiment behind your new proposal, which would allow Chief Constables to conduct all misconduct hearings alone, this approach is problematic. The police dismissals review, which was published in September last year considered, in-depth, the composition of misconduct panels. Removing all independence from the process would come with increased risk and, rather than improving public confidence, threatens to do the opposite. Having considered a range of options, I remain satisfied that the Government's proposed approach strikes the right balance – this will see a Chief

³ [Angiolini Inquiry Part 1 Report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/671111/Angiolini_Inquiry_Part_1_Report_-_GOV.UK.pdf)

Constable (or their delegate) now chairing proceedings, supporting by two independent panel members. We will of course review the impact of any legislative changes in due course and any necessary changes can be delivered through secondary legislation.

I will naturally repeat these points at the dispatch box at Report stage. I hope that in view of the steps we are taking to deliver the substance of new clauses 3 to 5 and the existing powers to seize an officer's mobile phone where they are under investigation for a criminal offence, you will not feel it necessary to press any of these new clauses at Report stage.

I am placing a copy of this letter in the library of the House.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C. Philp', written in a cursive style.

Rt Hon Chris Philp MP
Minister of State for Crime, Policing and Fire

A copy of this letter has also been sent to:

Peter Bottomley MP
Tim Loughton MP
Jonathan Djanogly MP