

POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE

ETHICS, INTEGRITY AND COMPLAINTS COMMITTEE

PAPER MARKED

A

Report of	OFFICE OF POLICE AND CRIME COMMISSIONER
Subject	ANNUAL REPORT ON THE WORK OF THE COMMITTEE
Date	FRIDAY 16 DECEMBER 2016 – 2:00 p.m.
Author	ANGELA PERRY, HEAD OF GOVERNANCE AND ASSURANCE

Purpose of Report

1. The purpose of this report is to present the Annual Report on the work of the Committee for the period September 2015 to September 2016.

Recommendation

2. It is recommended that members provide their comments on the report.

Background

3. The terms of reference for the Committee includes that an annual report on the work of the Committee be produced.

Next Steps

4. The Chair of the Committee will meet with the Police and Crime Commissioner and the Chief Constable to discuss the findings of the Committee during the past 12 months. The final version of the Annual Report will include photographs and media releases will be prepared. The report will be published on the Commissioners website and hard copies will be provided on request. Each member of the Committee will receive their own hard copy.
5. To align with the Commissioner's Annual Report to the Police and Crime Panel which is taken in June each year the next annual report on the work of the Committee will be produced to cover the period September 2016 to March 2017 and annually thereafter based on the financial year.

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Appendices

Appendix 'A' – Members of the Committee.

Background Papers

Members reports from dip sampling.

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**POLICE & CRIME
COMMISSIONER
for Leicestershire**
*Your voice in Leicester,
Leicestershire & Rutland*
LORD WILLY BACH

**ETHICS, INTEGRITY AND COMPLAINTS
COMMITTEE**

ANNUAL REPORT

SEPTEMBER 2015 – SEPTEMBER 2016

Version 0.1

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Ethics, Integrity and Complaints Committee

FOREWORD FROM THE CHAIRMAN

TO BE DRAFTED – TO INCLUDE WHETHER OR NOT THE COMMITTEE HAVE RECEIVED CONFIDENCE FROM AN ETHICAL AND INTEGRITY PERSPECTIVE IN HOW THE FORCE HANDLES COMPLAINTS.

INTRODUCTION

The inception of Police & Crime Commissioners in late 2012 heralded a new era for policing in England and Wales. Through them, efficiency and effectiveness is monitored and the police held to account on behalf of the communities who they serve.

The way in which the police carry out their complex and often demanding duties is crucial to public confidence. In particular, the police are expected to display the very highest standards of professionalism, fairness, and integrity at all times and when such standards are not met, public support and confidence is invariably adversely affected.

It is against this backdrop that an Ethics, Integrity and Complaints Committee was first formed in December 2015. Through this body, Leicestershire Police is subject to even greater independent public scrutiny.

The Committee has the authority to examine and advise on Leicestershire Police Force's conduct; including scrutiny of how complaints against officers and staff are dealt with by the Force's internal Professional Standards Department. The Committee also have the authority to discuss complex policing issues from an ethical perspective and, where necessary and appropriate, provide guidance to senior leadership teams.

The aim of the Ethics, Integrity and Complaints Committee will be to provide assurance to the Police and Crime Commissioner that ethics and integrity are embedded within Leicestershire Police and that complaints against the police are being handled expeditiously and following due process. The Committee will debate and advise on these three areas and add value to the current audit and scrutiny processes already in place.

The Ethics, Integrity and Complaints Committee

The Ethics, Integrity and Complaints Committee undertake an advisory role and is not a decision making body. It is overtly unbiased and independent. It provides a forum for debate on complex operational or personnel issues with a view to defensible decision making. The Committee considers both broad thematic issues as well as practical day-to-day and historic matters. In certain circumstances, the Committee will advise on live operations or events.

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The Committee scrutinise the application of policy and procedure and provide advice about ethical issues.

The Committee provides a transparent and independent forum that monitors and encourages constructive challenge over the way complaints, integrity and ethical issues are handled by the Force and overseen by the Police and Crime Commissioner.

The work of the Committee focuses on following three areas:-

• Ethics

Police officers and staff work to a Code of Ethics. The principles of the Code are integral to the delivery of policing and are a part of growing police professionalism leading to increased public confidence. Professional ethics is broader than integrity alone and incorporates the requirement for individuals to give an account of their judgement, acts and omissions. The Committee facilitate public scrutiny in this area and help build and maintain trust and public confidence.

• Integrity

Integrity is pivotal to public trust and confidence and oversight of how this is embedded within the Force requires independence and transparency for the police to have 'legitimacy' with the public it serves. Integrity in policing is about ensuring that the people who work for the police uphold public confidence. It is about how well the police make decisions, deal with situations and treat people day in and day out. If the public don't trust the police to be fair and act with integrity and in their best interests it is unlikely that they will be inclined to assist the police.

• Complaints

The Police and Crime Commissioner has a duty to hold the Chief Constable to account on how effectively he discharges his responsibility for responding to complaints and misconduct allegations made against the Force. The Ethics, Integrity and Complaints Committee will provide a more robust, independent and transparent approach to the oversight of complaints and misconduct matters. Members of the Committee undertake dip sampling of completed complaint files and receive data in relation to the number of complaints, categories, trends etc.

The Ethics, Integrity and Complaints Committee contribute to developing trust and confidence in the following ways:-

- (a) By bridging the gap between academic debate on ethics and operational decision making.
- (b) Influencing changes in force policy.
- (c) Enhancing the debate and development of police policies and practices.
- (d) By anticipating and understanding future ethical challenges that the service will face and influencing any response by the police.
- (e) Articulating and promoting the influence of professional ethics in all aspects of policing.

MEMBERSHIP

The Committee comprises 7 members who have all been recruited from the local community. Currently the membership comprises of:-



Dr Steven Cammiss
Deputy Chair

Dr Steven Cammiss is a Senior Lecturer in Law at the University of Leicester. He read law at King's College London, where he also completed his LLM. He was awarded a PhD, on determining mode of trial in magistrates' courts, by Warwick University in 2005. He was previously employed as a lecturer at the University of Birmingham before moving to Leicester in 2007. He was promoted to Senior Lecturer in 2013.

His main research interests are the administration of criminal justice and law and language. He has previously undertaken empirical work with the Crown Prosecution Service and has a longstanding interest in policing and police accountability

Ms Karen Chouhan (PHOTO TO BE INSERTED)

Karen Chouhan is the Leicester Organiser for the Workers' Educational Association which is a national charity providing adult education including for the poorest and most disadvantaged people in society. She is also Chair of Healthwatch Leicester City, a body which aims to champion public and patient views and interests in the Health and Social Care System.

Her background is in Further and Higher Education and she is a qualified teacher. She was previously a senior lecturer at De Montfort University for 12 years where she managed the MA in Community Education. She has also built a body of expertise and practice in youth work, community development and equalities and human rights work and has managed a national equality charity. In 2005 she was one of 7 recipients of a Joseph Rowntree Charitable Trust award called 'visionary for a just and peaceful world'



Ms Lois Dugmore

Lois Dugmore is a nurse consultant for dual diagnosis and veterans with Leicestershire Partnership NHS trust. She works with the national nurse consultants group progress and all party parliamentary group on dual diagnosis.

Ms Linda James (PHOTO TO BE INSERTED)

Linda James Qualified Probation Officer, she has studied; Community Justice, Health Care Management, Mediation skills and Diversity and Equality Law.

With over 20 years experience working with statutory, voluntary and private organisations across England she has gained knowledge and understanding of the issues communities face in both inner city and the rural areas directly from their residents. Her main area of expertise is working within all aspects of the criminal justice system and with young people/adults. She has worked alongside local Councillors and led youth groups tackling anti social behaviour, delivered national government schemes and raised money for children's charities. She is a trained programmes facilitator and has lectured at De Montfort University around issues of partnership working and ethical dilemmas.

Linda James is confident with good communication skills; she has strong beliefs in fairness, equality and values diversity. She is highly self motivated to tackle issues of injustice in communities and has the skills to positively challenge others with the view of creating better outcomes for all.



Dr Mark Peel

Born and brought up in Leicester, Mark Peel attended Dovelands and Gateway Schools, before leaving the County to go to University in Newcastle and Oxford, before returning home to the City in 1985. Dr Peel subsequently embarked on an academic career, and is presently employed locally at University of Leicester, combining this work with independent national research and consultancy in the area of child care, protection and issues of complex ethical professional practice



Ms Lynne Richards

Lynne Richards is the Head of Fundraising at the National Forest Company, where she works with business leaders, partner organisations and members of the public to support The National Forest, a new forest being created for the nation across 200 square miles of north-west Leicestershire, south Derbyshire, and Staffordshire.

With over 20 years experience in the private, public and charity sectors she previously worked as the Director of the Brighton & Hove Business Community Partnership (part of BiTC), and as a senior manager at Brighton Dome & Festival, before moving to Leicestershire in 2008 to join the team leading the creation of the forest.

She is a strategic thinker and skilled negotiator, and has a range of knowledge across applied ethics and policy, finance, commerce and business/community partnerships. She takes a keen interest in sustainable economic growth and in her spare time enjoys the arts and exploring different parts of the country.



Prof Cillian Ryan
Chair

Professor Cillian Ryan FRSA is Pro Vice-Chancellor and Dean of the Faculty of Business and Law at De Montfort University (DMU). Prior to that he was Dean of Liberal Arts and Sciences at the University of Birmingham, and previously Head of the European Research Institute. Originally from Dublin, Ireland, Cillian is an economist, graduating with a BA and MA in economics from University College Dublin before taking his PhD at Western University, Ontario Canada. He has held appointments in Ireland, Canada and the USA as well as the UK and visiting appointments in Hong Kong, Singapore, France and Australia.

Nationally, Cillian was appointed Chair Institute for Learning and Teaching Economics Network Advisory Board in 2004 and subsequently served two terms in the same role for the Higher Education Authority Economics Network. He also served on the Advisory Board for the Higher Education Authority Centre for Sociology,

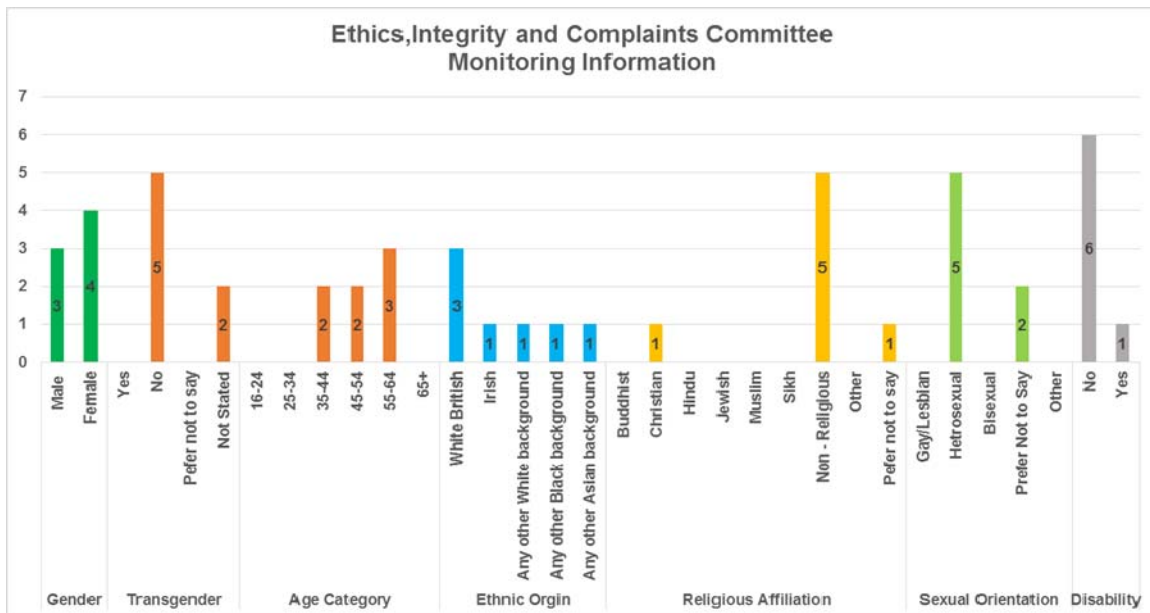
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Anthropology and Politics, and the National Committee of HEA Advisory Board Chairs (2005-2012). He is currently the Royal Economics Society nominee to the HEA College of Social Sciences Advisory panel. Cillian also serves on the Oxford Cambridge and RSA Higher Education Consultative Forum. He is a regular speaker at international fora on the value of multidisciplinary arts and sciences education.

Cillian’s research embraces a wide-range of topics from trade theory (with particular emphasis on trade in financial services, the EU Single Market, the World Trade Organisation (WTO) and Basel Accords) to business-cycle theory. He has undertaken a large number of funded research projects and advised a wide range of governments and international organisations including the Cabinet office, Treasury and the Department of Business, Innovation and Skills (BIS) (in the UK), the Australian, Canadian and UAE governments, the EU, the WTO and United Nations Conference for Trade and Development.

Equality and Diversity

8. The breakdown of the membership of the Committee is as follows:-



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THE WORK OF THE COMMITTEE

The Committee held their inaugural meeting on 25 September 2015 where Prof Cillian Ryan was elected Chair and Dr Steven Cammiss elected as Deputy Chair. This meeting considered the Terms of Reference for the Committee, a training plan for members and dates of future meetings. All reports can be found at www.leics.pcc.police.uk. The members agreed their priority work plan for their first year of operation to be:-

- Complaints and misconduct allegations
 - 'Stop and search' processes
 - 'Whistleblowing' arrangements and processes
 - Facial recognition
 - Resource deployment in a time of austerity.
9. The Committee also agreed a Communications Plan to advertise the work of the Committee and to inform the public of the outcomes of discussions.
10. A Joint Audit, Reassurance and Panel is in existence for the Office of Police and Crime Commissioner and the Office of Chief Constable. In order to provide clarity between the work of the two forums, and to ensure no duplication or overlap, a working protocol between the forums has been put into place. A copy of this is included as an appendix to the annual report.
11. The following issues have been discussed and considered by the Committee:-

- **Communications and Engagement – Shared Service Model**

At its first meeting the Committee were informed of the shared service model of the Office of Police and Crime Commissioner and the Office of Chief Constable for the delivery of communications and engagement. A discussion was held on the risks and benefits of having a joint service in place for this business area. In particular members expressed some concerns about potential conflicts of interest however reassurance from an ethical perspective was provided. However the Committee advised that a new incoming Police and Crime Commissioner should consider the communications and engagement arrangement currently in place between the Office of Police and Crime Commissioner and the Office of Chief Constable.

Outcome: In 2015 a proposal was considered for a three force Strategic Alliance between Leicestershire, Nottinghamshire and Northamptonshire. As a result of that it was agreed that a joint Corporate Communications service could be compromised under such an arrangement and the delivery of the joint service was suspended.

- **The Loan of Vehicles to the Force from Private Sector Companies**

It was explained that the Force currently had the use of two vehicles, which were loaned from separate private organisations being a Gator vehicle (small 4x4 tractor) and a Landrover Defender. Both had police 'battenburg' livery added to them at a cost of £180 for the Gator and £330 for the LandRover. The vehicles were used at rural police stations and events to engage with farmers and those

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who reside in rural areas and to increase confidence in the police within these communities.

The Committee was asked to consider how appropriate it was for the force to make use of vehicles loaned by local companies, given that policing is a public service.

Outcome: The Committee agreed that generally the loan of vehicles from private sector companies was a good idea and in the public interest, however the Committee advised that due diligence was needed in terms of adherence to policies and written agreements. It was also felt that it was important to ensure that equal opportunities were applied in terms of procurement processes.

- **Facial Recognition**

The Committee received information and detail of the Force use of Facial Recognition Technology. It was noted that the Force was using the technology not as evidence, but to gather evidence, and therefore suspects were unable to challenge it. It was confirmed that whilst the police needed to ensure that suspects understood why they were under arrest the police did not need to tell the suspect or their legal representatives the grounds, being the evidence that led to their decision to arrest.

The Chair acknowledged that the Neoface Facial Recognition system technology was impressive and it was clearly a good investment. However concern was raised that the database contained photographs not only of known offenders but also a small subset of people who had been through the custody process and had subsequently been found not guilty of any offence or not been prosecuted. It was suggested that the force gave consideration to the implications of retaining these images. In terms of the retention of photographs, concern was raised in relation to privacy and the Convention of Human Rights.

The Committee invited the force to consider the points raised, but recognised that this technology was a wonderful asset that was being used in many conventional ways to assist the police. The Committee also noted the innovative ways the technology could be used to reduce crime and tackle other issues, such as identifying casualties.

Outcome: The Deputy Chief Constable informed that the images were taken lawfully for policing purposes, however he acknowledged the concerns raised and recognised the need to have safeguards in place.

- **The Code of Ethics**

The Committee considered the policing Code of Ethics and in particular how it had been embedded and communicated within Leicestershire Police. The Committee were asked for their comments and ideas to further embed the Code of Ethics and cultural change.

The view of the Committee was that it was extremely difficult to bring about cultural change in any organisation as such things took a considerable amount of time and required continued commitment from the most senior people. The Committee's view was that it was important to describe the changes in a clear way, showing what the organisation would look like in five years' time. The Committee emphasised the importance of utilising induction when changing

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ethical culture and also giving staff the opportunity to consider ethical issues on an ongoing basis and through Continuing Professional Development.

Force Response

The Deputy Chief Constable acknowledged the views of the Committee and confirmed that this was the approach being taken to embed the Code throughout the organisation. He added that people had the opportunity to express their views on the intranet and that 150 internal volunteers from the workforce had been recruited to act as ambassadors and provide feedback about the issues affecting them. This served to act as the conscience of the force with respect to the service delivered and decisions collectively made. He added that the Code of Ethics applied to everyone and part of the cultural change programme was to remind people why they do the job and not imposing changes upon them.

Outcome: Members acknowledged that Leicestershire Police were taking a comprehensive approach indicative of best practice. They recommended that it would be beneficial to refer any ethical issues discussed at strategic board meetings to this Committee in order to link the work of this Committee to other work throughout the organisation. This has been actioned and is now a standing item on all strategic board meeting agendas.

- **Stop and Search**

Following a training session on stop and search the Committee considered the use of stop and search within the force and in particular the Best Use of Stop and Search Scheme.

The Committee were informed that in early 2014 the Home Secretary introduced changes to the police service's use of stop and search powers with the introduction of a national Best Use of Stop and Search Scheme. Leicestershire Police was one of the early adopters of the scheme, implementing some elements in June 2014. The scheme is designed to make the use of stop and search powers more transparent, involve the community in monitoring of its use, focus encounters on intelligence led searches and expanding the ways in which outcomes from searches are measured. The scheme also saw changes to the authorisation levels for the use of Section 60 search powers elevated to Chief Officer rank. (Section 60 is a power designed to provide a response to anticipated violence. It allows for police to be authorised to search any person or vehicle for weapons in an area where serious violence is reasonably anticipated, without reasonable grounds).

The Committee learned that Leicestershire Police had adopted a number of other work-streams designed to increase transparency and accountability. These included the mapping of stop and search on the Police.UK website to enable members of the public to view encounters in their locality and the use of body worn videos to record all stop search encounters.

Outcome

The Committee commended the Force for the evidence of cultural change to a more effective and precise use of stop and search shown by the significant decrease in numbers. It was noted that members identified that complaints arising from stop and search were only one or two per year. It was highlighted

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that people needed to be aware of their right to complain and that this could lead to an improvement in service delivery.

A discussion took place on the time at which the officer decided to activate camera recording prior to undertaking a stop and search. As such members of the Committee requested to view video footage of stop and search in order to assess whether recording should commence earlier in the process.

- **Fox Hunting**

The Committee considered the policing of hunts, specifically the policing strategy, how the organisation dealt with membership of hunts by officers and staff and the ethical debate that this brought in relation to the Code of Ethics and Police Regulations.

The Committee were informed that hunting legislation was difficult to enforce and some say it had been poorly crafted. Leicestershire Police was one of a small number of forces who had been involved in arrests and prosecutions of persons from both sides of the debate and in particular the prosecutions of 2 people from the hunting community in 2011.

An extensive discussion followed which included the position of a police constable who was a voluntary wildlife liaison officer for Leicestershire Police from November 2015. The officer was a previous member of the Belvoir Hunt however following threatening and hateful comments on websites, and personal attacks on the officer and their family, the officer had stood down as voluntary wildlife liaison officer. The Committee were in agreement that individual officers' being targeted was not acceptable and this was very regrettable.

The Committee gave their views on a number of issues relating to hunting as follows:

Outcome

Discussion: Whether police officers who hunt as a hobby may be breaching the Code of Ethics.

The Committee felt that police officers who legally hunt as a hobby were not prohibited from doing so but consideration should be given to public perception, believing an officer should ask themselves whether the public might perceive there to be a potential conflict of interest if a police officer was a member of a hunt within their operational area. The Committee noted that a police officer was obliged to uphold the law at all times and would be expected to act appropriately whether participating in a hunt or other sporting or social event even if off-duty. However, the Committee observed that it would be unlikely an officer would be asked to investigate a complaint against a fellow player at his or her own sports club and similarly an officer who hunted within their policing area had to consider whether the appearance of a potential conflict could arise in the mind of the public if they were asked to police a hunt or investigate a complaint.

The majority of the Committee did not believe officers who hunted as a hobby were breaching the Code of Ethics but that individual officers undertaking such roles needed to consider how they would be perceived by the public, particularly if they did so within their operational area.

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Discussion: The Committee's views on any officer who may be hunting with a hunt where there is information/intelligence to suggest that the hunt practices may be illegal and where there has been a previous prosecution for illegal hunting?

The Committee observed that a police officer would be expected to report any information about illegal practices. They agreed that the situation may present further problems to an individual who was an officer, particularly if they also took on the role of a wildlife officer. They expressed concern as to how the public would perceive the police's impartiality and the impact it may have on the Force as a whole, hence the desirability of not engaging in hunts within the operational area.

Discussion: The views of the Committee in relation to the organisations' current practices around hunting and their effects on public confidence?

The Committee reiterated the difficulty in policing hunting due to a poorly drafted legal framework and recognised there were human rights issues with regard to freedom of expression. The Committee expressed the need for dialogue to continue with both sides and praised the Force for their efforts in this regard however the Committee added that anything that affected public perception needed to be considered very carefully.

- **Evaluation of Op Edison – one year on**

The Committee received information on Leicestershire Police transformational change programme (Project Op Edison) to deal with changing demands and tThe project which released £10.2 million savings in efficiencies.

The Committee commented that they were impressed with the analysis showing the difference between volume and harm and decisions based on joined up working and how that might actually operate.

Outcome: A further report is to be presented to the Committee covering the ethical issues, being how resources were deployed leading to communities being served appropriately and financial issues relating to the project.

- **Whistleblowing and Confidential Reporting**

The Committee considered the differences between the Force Whistleblowing Procedure and the Confidential Reporting Procedure, how it was made available to staff and the ownership for the respective procedures and responsibilities.

Outcome: The Committee advised that it would be sensible to amalgamate the whistleblowing and the confidential reporting policy documents, although specific pathways for particular types of reporting would be required. They also commented that it was crucial to build a culture for people feeling safe to report and not to blame where not proportionate or appropriate. The Committee stated their support for the Force wanting to move ahead with building a learning culture. The Force were commended for their openness on this topic.

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- **Gifts and Gratuities**

The Committee received information on the Force Policy and Procedure for Gifts, Gratuities and Hospitality and inspected the Force and Office of Police and Crime Commissioner Gifts and Hospitality Register,

Outcome: One Committee Member had no issues with alcohol being presented as a gift, with the exception of if the person giving the alcohol was a Licensee, as police issue the licence to sell alcohol in the first instance.

Another Committee Member felt that alcohol should not be accepted because of the signal that this could give off as the Police deal with issues relating to alcohol misuse, however the Member did comment that they could be persuaded if the gift was not worth more than £10 and if the intention was right.

Members commented that there was a perception of who the gift of alcohol was from and that boundaries needed to be very clear.

Members considered whether the Gifts and Gratuities list could be misinterpreted by a third party and they felt that the overwhelming evidence, the probable value and circumstances in which it was given, could not be misinterpreted by a third party.

Concern was expressed about accepting gifts from vulnerable victims.

The Committee asked if there was any provision for officers to pass their gifts to charity and were informed that this was the case.

- **Cyberbeat**

The Committee received information on a new initiative by which the techniques of neighbourhood policing would be exercised using freely available social media platforms.

The Committee were informed that the Force had chosen to use existing available social media for this project. Members of the Committee expressed their concern over the intended effects of the project which they felt were too generalised and in some areas pointed to particular communities.

Outcome: The Committee were delighted to hear how social media was going to be used and felt that it was an efficient and effective way of engaging with the public. The Committee asked for an update report on this project in six months' time.

- **Positive Action Project**

The Committee considered the 'positive action project' which concentrates on recruitment, retention, progression and engagement of under-represented groups within Leicestershire Police and options for positive action initiatives going forward in recruitment and progression.

The Committee felt that as Section 159 existed in law that it should be used where appropriate. They also felt that communication of the provision was important and that as far as possible it should be added to job descriptions and personal specifications, thus making it clear at the point of advertising that applications were being encouraged.

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Outcome: The Chair concluded that Leicestershire Police should be representative of the community, which he said was the overriding message and to support the use of Section 159 of the Equality Act 2010.

- **Complaints and Misconduct**

The Committee consider monitoring of performance data regarding complaints to ensure that the Force has an effective complaints reporting system in place and is identifying and learning from any recurring patterns or themes and to review, by dip sampling a statistically significant number of completed complaint files and misconduct investigations that cause or are likely to cause particular community concern or raise reputational issues.

The Committee suggested that police officers may require additional training on resolving complaints as it was a sophisticated and complex skill. It was agreed with the Force that training should be revisited to promote a more flexible approach and ensure that officers had confidence to resolve complaints.

- **Dip Sampling of Complaint Files**

The Committee have dip-sampled complaint files on the following occasions:-

19 February 2016 – 35 files examined

16 May 2016 - 36 files examined

8 August 2016 – 17 files examined

The Committee commended the Force on some cases and noted that some investigating officers went beyond what was expected. They noted the variance between cases according to how well an officer had completed a write-up. They relayed that there was room for improvement but that overall they had an appreciation of the work that had been undertaken. The outcome of all files examined are published on the Police and Crime Commissioner's website.

The Committee expressed their belief that if more front line resources were available earlier on in the process some of the complaints may have been avoided. The Committee were informed that the implementation of a Service Recovery Team would address resolving complaints at an early stage.

- **Independent Police Complaints Commission (IPCC) Non-Referral Log**

On each dip sampling occasion members of the Committee have also inspected the Force IPCC Non-Referral log where decisions not to refer a matter to the IPCC have been recorded and the rationale for those decisions. In total 19 non-referrals were examined. In 18 of those cases members reported that they were satisfied that all cases were dealt with appropriately and that none were within the referral criteria. On one case members endorsed the suggestion in the log that the non-referral decision be reconsidered after post mortem.

- **Ethical Scenarios**

Members have considered a number of ethical scenarios throughout the year. These are outlined in the appendix to the report.

ETHICAL SCENARIOS

SCENARIO 1

Circumstances

Inspector A was off duty when he attended a football match in a neighbouring police Force area. He was accompanied by a friend who was not a serving police officer and, during the period of the football match, Inspector A was not identified as a police officer, nor did he provide an indication or act in a manner which would lead someone to draw this conclusion.

Police Officers responsible for patrolling the football match considered Inspector A to be less than co-operative during the period of escort within a police cordon to the ground. The degree of conduct was such that police evidence gatherers were directed to film Inspector A and his friend (although this footage does not add any detail of relevance to this enquiry).

Specifically, the evidence of three police officers later indicated that:

- Inspector A and his friend had to be physically moved back to the intended (police escorted) route after they persistently refused to follow reasonable directions.
- Inspector A delayed the passage of the cordon and intentionally stepped outside the perimeter, and on each occasion scolded the police officer who was attempting to advise him
- The wilful refusal of Inspector A to cooperate with the directions of police officers may have led to the escort becoming elongated, fractured and more difficult to manage; thereby increasing risk to those within it and making the role of the police officers more difficult.
- An escorting police officer was unfortunate enough to walk into a streetlamp whilst on duty at the football match. Having filmed this incident, Inspector A uploaded the footage onto a public social media platform in a way which was calculated to embarrass and humiliate the officer.

The conduct was only reported after the police officer who had been filmed by Inspector A discovered the social media footage and conducted his own enquiries. The footage had been viewed by such a large population as to be considered 'viral' and Inspector A was heard to refer to the officer as a "twat" and laugh with glee at his accident. He identified that the officer uploading was in fact a serving police Inspector. **It is believed that no action would have been taken against the Inspector had they not been identified as a serving police officer.**

During the subsequent investigation, Inspector A declined to provide details of the person they had been with at the time of the incident. He denied that he had been within the police escort, taking the view that he and others were beyond this perimeter and unescorted. He refused to accept that he had been moved back into

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the escort after persistently refusing police direction. He alleged that an officer had pushed him onto the pavement, and he had considered this to be unreasonable. He had chosen to film the police officer as he believed that he might be assaulted by him or the officer would further misconduct himself. He denied any intention to humiliate the officer by his subsequent uploading of the footage, describing it as a light hearted incident. He explained that he would not have uploaded such footage had the officer received injury from the incident.

Contended issues were therefore whether or not Inspector A was in fact within the escort, whether his refusals to cooperate were reasonable or not, and whether his video footage was uploaded with a view to embarrass and humiliate a colleague.

The Committee took the view that this was not a matter of gross misconduct but that it did warrant a reprimand. The inspector had behaved badly by ridiculing a junior constable on social media but he had a right to a private life under article 8 of the European Convention of Human Rights and had not identified himself as a police officer at any stage.

Outcome

The Committee were advised that the outcome in this case was that on the balance of probabilities it was referred to a misconduct meeting (where the sanctions go from management action through to final written warning), however the inspector retired from the Force beforehand. It was pointed out that only in cases of alleged gross misconduct are officers not permitted to retire or resign.

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SCENARIO 2

Circumstances

Police Sergeant A attended their police station prior to their duty time commencing and joined a number of subordinate police officers within the station canteen. The police officers were discussing a member of the public who had just attended the police station front enquiry desk to discuss a crime investigation. The member of the public was known by the officers to be homosexual and had since departed the station.

Police Sergeant A overheard the conversation between the police officers and said, "Oh, God, he's a right sausage jockey."

He then went on to say, "Well I'm not in uniform and haven't started work yet, so I can say what the fuck I like. They can't do anything."

Police Sergeant A then left the canteen and commenced duty. His comments were subsequently reported by the police officers present, to the Professional Standards Department (PSD). The officers all found the comments of Police Sergeant A to be unacceptable and provided witness statements to the PSD. The matter was also referred to the IPCC due to the allegation of discriminatory conduct.

During the investigation, Police Sergeant A provided a written response in which he claimed to have documented mental health issues originating from a failed relationship. He had been diagnosed with depression and could not recall saying the words alleged. The solicitor acting for Sergeant A in this matter, argued that their health issues went beyond mitigation and should excuse the conduct alleged in its entirety, although fell short of demonstrating why the particular health condition of Sergeant A caused him to say comments of a homophobic nature in the presence of others.

Contented issues were therefore whether or not Sergeant A should be entirely excused of the alleged conduct or should be referred to a misconduct hearing (Gross Misconduct), meeting (Misconduct) or receive management action.

The Committee took the view that although the welfare issues would need to be considered, this behaviour did not constitute a symptom of mental illness and would certainly warrant disciplinary action, although possibly not dismissal. It was agreed that this would be taken very seriously in most organisations, such as social work and nursing professions, and it was important to support those officers who had highlighted unacceptable behaviour and to ensure that this type of language was not 'normalised' in any way.

Outcome

The Committee were advised that that if there was an incident involving racism or homophobia, which are similar in terms of impact, the organisation would consider it as gross misconduct as a starting point, after which any mitigating circumstances would be taken into account. The outcome in this case was that it was assessed as gross misconduct in the first instance, with the mental health issues not considered to be a factor; however when it went through to the next stage in the process the

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Deputy Chief Constable reviewed it and decided to apply more mitigating weight. It was therefore changed to misconduct alone with the ultimate sanction being management action. The Committee observed that this was quite a significant drop. It was confirmed this would remain on the officer's record.

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SCENARIO 3

Circumstances

Constable A entered into an extra-marital affair with another serving police officer (Constable B). This relationship deteriorated over time, and at its most acrimonious point, Constable A began to send abusive and offensive SMS messages to the partner of Constable B, in which the officer declared the nature and presence of their affair in graphic and distressing detail. On one occasion, whilst both officers were off duty, Constable A forced their way into the house of Constable B, engaged in an argument with those present, and assaulted relatives of Constable B. The conduct was experienced and witnessed by those within the house of Constable B, but also more broadly within the street and neighbouring properties. The officer was arrested after police were summoned.

Constable A was interviewed under caution and admitted to malicious communications and disorderly conduct. Constable B, and those witnesses affected by the conduct, declined to support a prosecution for assault.

As a result of admitting the conduct, Constable A was issued with an adult caution for:

1. Section 5 Public Order Act 1986 (an offence of being threatening or abusive in a way which is likely to cause harassment, alarm or distress) - Summary: fine not exceeding level 3
2. Malicious Communications Act 1988 (Legislation which makes provisions in relation to the sending or delivering of letters, electronic communications or other articles for the purpose of causing distress or anxiety) - Summary: maximum 6 months Imprisonment and/or a fine.

The Committee acknowledged that this was a difficult case. It was agreed it would certainly be misconduct. Although the officer was off duty there had been an assault and he would have been prosecuted had the family decided to take it further. The risks to the organisation were discussed and how other organisations would deal with a similar case.

Outcome

The Committee advised that the outcome was that it went to discreditable conduct proceedings under Gross Misconduct and the officer was on restricted duties during the investigation. The result was that he was given a final written warning.

The Professional Standards Department commenced misconduct proceedings for Discreditable Conduct due to the fact that a serving officer had been issued with a police caution, upon their admission, for criminal offences.

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SCENARIO 4

Circumstances

With a view to furthering police community relations with specific groups and events, the police service arranged a football match with a local football team associated and comprised of members from the lesbian, gay, bisexual and transgender community.

Although conducted outside of regular policing duties, the police officers participating in the event were considered to be on duty and representing their police force. There is therefore an expectation that the officers remain bound by the Police Standards of Professional Behaviour. Any misconduct during the course of the event is therefore considered to be 'on-duty' conduct and both recordable and referable to the IPCC where appropriate.

At the closure of the football match, a member of the team playing in opposition to the police force, made a report that an officer had said to them, "*You'd better watch your back Faggo!*". The football player made a witness statement in which they considered the comment to be derogatory and homophobic and not the conduct expected of a police officer who was there with the purpose of furthering relations with the LGBT community.

On receipt of this report, the Professional Standards Department are obliged to consider whether or not if proved, the conduct would amount to gross misconduct, misconduct or neither.

An assessment was duly completed on the basis of the information provided by the witness.

The Committee discussed and agreed that in their opinion this would certainly amount to misconduct and that Gross Misconduct should be a possible outcome in the case, given that the officer was representing the police force and was aware that as such he was 'on duty' and also due to the nature of the event. It was noted that the initial assessing officer must make a decision based upon limited information.

Outcome

The Committee were advised that the outcome was that there was no case to answer as there was not enough evidence from the investigation to show that it had happened. It was brought here to specifically highlight the difficulties in making decision based upon limited information. It was assessed as Gross Misconduct and as such other factors came into play, such as referral to IPCC and removing the officer from duty, hence putting strains on policing as no longer deployed. The IPCC decided it was for the force to investigate.

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SCENARIO 5

Circumstances

Sergeant A is a police officer who joined the Force in 2000. They have completed fifteen years of service with the Force, during which there has been no suggestion of poor performance or misconduct. On the contrary, they are an officer who is well regarded and has received much in the way of exceptional comment from supervisors, peers and the community for their work. They currently supervise a team of officers on the Local Policing Directorate, undertaking 24/7 shifts and general policing duties.

The Force Child Abuse Investigation Unit (CAIU) received an allegation from a member of the public who claims that in 1993- 1994, they were repeatedly sexually assaulted on several occasions by the same Sergeant when they attended the same house at family functions. The person reporting the sexual assaults has been video interviewed and was 11 years of age at the time of the alleged assaults. Sergeant A would have been 12 years of age.

The Force Professional Standards Department were notified that Sergeant A had been arrested, interviewed and totally denied the offences. They had been released on police bail while further enquiries were undertaken by the Child Abuse Investigation Unit.

The Professional Standards Department now need to consider how they will deal with the officer while the criminal enquiry continues and prior to any decision from the Crown Prosecution Service. In particular, the PSD will need to consider whether there is a case for discreditable conduct at:

1. This stage of the enquiry
2. In the event that Sergeant A makes admissions to the police in a subsequent interview
3. In the event that Sergeant A is charged to attend court on the advice of the Crown Prosecution Service
4. In the event that Sergeant A attends court and is found guilty

The ethics committee are invited to consider apply the Standard of discreditable conduct to this scenario and consider the stages 1 – 4 above, along with any considerations as to the when / if the officer should be suspended from duty.

The Committee stated they would have liked more information to understand the context fully (even though no more was available). They agreed that restrictions should be implemented at stage 1 to protect both parties. From stage 2 suspension may be appropriate to protect the reputation of the Force who need to be seen to take a strong stance to protect the public. However, this was not unanimous and the members questioned an individual's right to a childhood, particularly taking into consideration the close proximity of age. Overall, it was felt that the public would not see the minutiae but the fact that the individual was a serving officer. As the individual was accused of an incident prior to becoming an officer it was felt that it may not be considered as discreditable until Stage 4. The Committee resolved that overall suspension would protect both parties and the reputational impact on the service.

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SCENARIO 6

Circumstances

Police Officer A was subject of a Gross Misconduct investigation into his conduct (particularly in this case around the exchange of communications using social media). The investigation was protracted and complex and involved allegations that the officer had breached the Standards of Professional Behaviour in respect of Authority, Respect and Courtesy, Discreditable Conduct and Failing to Challenge Improper Conduct. The officer was not suspended from duty but placed upon restricted duties and subsequently reported sick citing stress and anxiety as the primary cause of their absence. Medical certification of the sickness was provided to the Force.

The sickness absence of the officer extended to five months, during which time they made an application for a business interest which was approved. The declared wish was to become a director in a business with his wife which operated from shop premises within a neighbouring Force area and which provided hair cutting / barber services to members of the public. The officer intended to provide such services by hair cutting within the establishment. Neither parties draw a wage from this business but the business belongs to them.

In support of their application, the officer declared that the business interest activity would not conflict with their operational policing duties (once back at work) and would be therapeutic, relieve their stress and anxiety and therefore ultimately assist in their return to work. This has been supported by the force medical officer and the business interest remains in place.

The officer returned to work in January 2016 again on restricted/recuperative duties working 6 hours per day. As he returned within the 6 months he did not trigger the half pay consideration as stated in regulations and remained on full pay throughout. The officer's health is such that he has still been unable to return to full hours.

1. Under these circumstances, should the Force consider the application favourably?
2. What precedent would authorisation of this particular request set for the Force?
3. What level of performance shortfall or sickness absence (or combination of both) do the Ethics Committee determine to be a bar to business interests being accepted (or a cause to revoke existing business interests)?

The Committee felt that in these circumstances approval should not be given for the business interest. However as approval had been given on appeal this should be time-limited. The Committee expressed concern as a decision of approval in this case could be setting a precedent for future requests.

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SCENARIO 7

Circumstances

Police Officer A was a specialist road policing officer whose role included the accurate and evidence based assessment of road traffic collisions and supporting provision of evidence to judicial proceedings. The officer had been supported by the Force to receive training in the discipline of accident investigation. The training was University accredited and involved the officer completing a number of modular assignments, with the expectation that each would be passed prior to receipt of a final, nationally recognised qualification. Successful completion of this qualification enabled the officer to continue and advance within the role and also added weight to the quality of expert evidence that they could offer during relevant judicial proceedings. The course was fully funded by the Police Service.

During submission of a particular assignment to the University for marking, it became apparent that much of the analytical content had been copied from an assignment submitted by another officer a year earlier.

The officer was interviewed over the matter and accepted that certain aspects of the assignment had not been their own work. Furthermore the officer accepted that they had made superficial changes to the research taken from the earlier officer's work, so it did not readily appear to be plagiarised once inserted in their own assignment. In mitigation they stated that they were under considerable personal pressures at home, and apologised on this occasion for plagiarism.

1. What is the view of the Ethics Committee in respect of whether this amounts to Misconduct or Gross Misconduct?
2. On the circumstances presented, what is the appropriate sanction/discipline outcome?

The Committee felt that this was a serious matter and which could be classed as fraud and that therefore this should be classed as gross misconduct. The Committee noted that one of the principles of being a police officer is to be a law abiding citizen and to ultimately have integrity. They took into consideration that the officer did not come forward to report this themselves and was only highlighted when they were put under some duress. One member of the committee felt that because the cost of the course could be reimbursed by the officer then gross misconduct may be an overreaction.

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SCENARIO 8

Circumstances

Domestic Violence Protection Notice's (DVPN) are being requested when there has only been one reported incident of Domestic related violence between 2 people and often very low level.

In many cases the victim does not wish to pursue a criminal investigation, neither do they support the issue of a DVPN on the suspect. These type of incidents are usually rang in by third parties or in the heat of an argument.

Investigating officers are faced with lack of evidence to obtain a charging decision from CPS and therefore revert to the consideration of a DVPN as a positive outcome.

There is no requirement for us to find the suspect alternative accommodation; therefore we can often create more problems.

Question - Should we as authorising officers, remove someone against their partners will from their place of residence for a period of up to 28 days when there is limited intelligence/history to indicate a risk of further incidents?

The Committee felt that if a Domestic Violence Protection Notice was issued, this could place restrictions on an individual who was yet to be convicted which did not respect their rights to liberty and to a fair trial.

The Committee also felt that issuing a DVPN would give out a good signal that the police are willing to protect the victim and take safeguarding seriously.

The Committee confirmed that they welcome the issuing of Domestic Violence Protection Notices and that clear guidance was required.

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SCENARIO 9

Circumstances

Mr X was arrested for a public order offence outside Melton Mowbray police station. The officers knew Mr X and were aware of his vulnerability and that he was due to see the mental health care crisis team that morning.

His detention at Keyham Lane started at 9.40am on Thursday 25th August 2016. He was seen by a mental health practitioner at 11.04am who deemed he required a mental health assessment and at 2pm the crisis team saw Mr X and determined he should be moved to the Bradgate unit for urgent care. The public order offence was not pursued and Mr X was then detained purely for his own safety and prompt transport.

Mr X remained in custody whilst a bed was arranged for him at the Bradgate unit. Despite numerous phone calls a bed did not become available until the next day and he finally left police custody at 6.15pm on 26th August. Totalling just over 32 hrs detention. 28hrs since the crisis team determined he should be admitted to the Bradgate Unit. He had been assessed as not being fit to release, so in his best interests we had no choice but to care for him until alternative arrangements were provided.

The circumstances were exceptional, the initial police detention was necessary, but the delays in arranging care, a bed and transport were not.

Question: What might be done to improve the service provided to Mr X and Leicestershire Police in these circumstances?

The Committee felt that a judgement call would need to be made about whether it was safe for the person in question and for the public, if they were released.

The Committee said that lack of bed concerns should be taken up with the mental health commissioning.

OFFICE OF POLICE AND CRIME COMMISSIONER

**Working Protocol
between
Joint Audit, Risk and Assurance Panel (JARAP)
and
Ethics, Integrity and Complaints Committee (EICC)**

1. BACKGROUND

The Police and Crime Commissioner (PCC) has two forums which provide assurances that the appropriate internal controls are in place and that integrity and ethical approaches are taken across all areas of business.

1.1 The Joint, Audit, Risk and Assurance Panel (JARAP)

In line with the principles of good governance as laid down by the Chartered Institute of Public Finance & Accountancy (CIPFA) and the Financial Management Code of Practice for the Police Service of England and Wales, the independent Joint Audit, Risk & Assurance Panel (JARAP) was established covering the separate roles and offices of the Police & Crime Commissioner (PCC) and the Chief Constable.

The Terms of Reference for the Panel meet the requirements of the Police and Reform and Social Responsibility Act 2011 (the Act), Home Office Financial Management Code of Practice (FMCoP) and the Chartered Institute of Public Finance and Accountancy (CIPFA) Audit Committee guidance.

The JARAP play a key part in assuring all stakeholders that probity, regularity and value for money are obtained in the use of public money by both the PCC and Chief Constable in the pursuance of the priorities set out in the Police and Crime Plan. Having the JARAP in place demonstrates to all stakeholders that the PCC and Chief Constable take their governance and risk management responsibilities seriously.

The purpose of the JARAP as an independent body is to seek assurance over the adequacy of the following:

- The risk management and the internal control framework operated by the PCC and Chief Constable.
- The effectiveness of their respective governance arrangements.
- The appointment, support and quality of the work of internal and external auditors as they provide assurance on risk management, internal controls and the annual accounts through their work.
- Financial and non-financial performance to the extent that it affects the PCC and Chief Constable's exposure to risk, weakens the control environment and undermines their ability to provide good value for money.
- The financial reporting process.

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The JARAP is a non-executive Panel and has no executive powers, other than those specifically delegated within its Terms of Reference an extracted copy of which are attached at Appendix 'A' to this report.

1.2 The Ethics, Integrity and Complaints Committee (EICC)

In recent years there has been a heightened focus on the integrity of police officers and police forces. Her Majesty's Inspector of Constabulary (HMIC) has produced two reports on this issue commencing in 2011 with their report entitled '*Without Fear or Favour*' which was followed up in 2012 with their second report entitled '*Revisiting Police Relationships: A progress report*'. The follow up report concluded that there was more work to be done in this area. These reports, together with the annual HMIC inspection on Police Effectiveness, Efficiency and Legitimacy (PEEL) which reports on integrity within forces as part of the 'legitimacy' pillar of the inspection process; the need for transparency and accountability of decision making within the police service and the growing vulnerability for senior officers regarding some of the new challenges that policing in austerity brings, led the Police and Crime Commissioner in 2015 to convene an Ethics, Integrity and Complaints Committee with the aim of providing assurance and adding value to the current audit and scrutiny processes.

The Committee undertakes an advisory role and is not a decision making body. It is a forum for debate on complex operational or personnel issues with a view to defensible decision making. In delivering their remit, the Committee considers both broad thematic issues as well as practical day-to-day matters and examines current as well as historic matters. In certain circumstances, the Committee advises on live operations or events or examines the application of the national decision making model. The Committee will discuss and provide advice about ethical issues and not just scrutinise the application of policy and procedure.

The Committee provides a transparent independent forum that monitors and encourages constructive challenge over the way complaints and integrity and ethical issues are handled by the Force and overseen by the Police and Crime Commissioner. It assists Leicestershire Police in maintaining clear ethical standards and achieving the highest levels of integrity and professional standards of service delivery.

The Ethics, Integrity and Complaints Committee aim to:

- bridge the gap between academic debate on ethics and operational decision making.
- influence changes in force policy.
- enhance the debate and development of police policies and practices.
- anticipate and understand future ethical challenges that the service will face and to influence any response by the police.
- articulate and promote the influence of professional ethics in all aspects of policing.

The Ethics, Integrity and Complaints Committee is a non-executive Committee and has no executive powers, other than those specifically delegated within its Terms of Reference, a copy of which are attached at Appendix 'B' to this report.

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Members for both forums are recruited from the local community through a robust recruitment process. All members sign the Code of Conduct and complete a personal interests form which is published on the PCC's website.

2. WORKING ARRANGEMENTS

Where the terms of reference for both forums identifies an overlap a protocol is required to identify which aspects of the subject matter will be addressed by which forum. One area identified is in relation to whistleblowing and compliance with fraud and corruption regulations. In such cases a clear demarcation of responsibilities is required to avoid duplication and/or conflict between the work of both groups. As such the approach to be taken is outlined below.

2.1 Whistleblowing

2.1 JARAP Responsibilities

The adequacy of arrangements for ensuring compliance with relevant regulatory, legal and code of conduct requirements and fraud and corruption as set out in Secretary of State Directives and other relevant bodies or professional standards.

2.2 EICC Responsibilities

Review the arrangements in place for "Whistleblowing".

2.3 Approach

The JARAP will receive reports into the national regulatory requirements for fraud and corruption and the arrangements in place within the Force to meet these requirements. This will include the arrangements put into place for whistleblowing by force officers and staff and how such arrangements are publicised throughout the Force. The JARAP will recommend any changes to the arrangements if they feel they do not meet with regulatory, legal or Code of Conduct requirements.

The EICC will undertake to review the arrangements put into place and will advise on their practical application. This will include receiving reports on the process for whistleblowing, data on the usage of the system, the type of reports received and outcomes. The Committee will advise on any areas where they feel the practical application of the process is inadequate or where they feel assurances cannot be achieved.

3. Future Areas Identified

3.1 The Chair of the Ethics, Integrity and Complaints Committee will meet on an annual basis with the lead member for Ethics on the JARAP to discuss the work of both forums. These discussions will focus on forward work plans and areas for consideration and will identify any areas where the work of either forum will overlap with each other. Where this is identified a working arrangement for how the topic matter will be addressed by each forum will be included in this working protocol.

3.2 As for all other strategic meetings held by the PCC or the Chief Constable, on

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occasion the JARAP will have the opportunity to refer any matter to the Ethics, Integrity and Complaints Committee where it feels that the advice of the Committee on ethical matters or where examination of any area of business is required to gain the necessary assurances that the highest levels of integrity are applied. Reciprocal arrangements will also be in place for the Ethics, Integrity and Complaints Committee.

- 3.3 Where made, the EICC and JARAP will consider referrals and include such items in their annual plan where appropriate.