

**POLICE AND CRIME
COMMISSIONER FOR
LEICESTERSHIRE**

**ETHICS, INTEGRITY AND
COMPLAINTS COMMITTEE**

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A

Report of	OFFICE OF POLICE AND CRIME COMMISSIONER
Subject	BI ANNUAL REPORT ON THE WORK OF THE COMMITTEE
Date	FRIDAY 24 JUNE 2016 – 2:00 p.m.
Author	ANGELA PERRY, HEAD OF GOVERNANCE AND ASSURANCE

Purpose of Report

1. The purpose of this report is for members' comments on the bi-annual work of the Committee.

Recommendation

2. It is recommended that members provide their comments on the work of the Committee to date.

Background

3. The terms of reference for the Committee includes a biannual report to be produced on the Committee's work and setting out its findings. The biannual report will feed into the annual report to be produced in December 2016 setting out the full year's work. The annual report will be presented to the Police and Crime Panel at the end of the year.
4. Members of the Committee were recruited during 2015 from a recruitment campaign held in local media and the Police and Crime Commissioner's website. Following two days of interviews five members were chosen to form the Committee
5. Following the first meeting of the Committee a further recruitment campaign was undertaken to extend the membership to seven members and to expand representation amongst members. Details of members are attached at Appendix 'A' to this report.
6. The Committee meet in public on a quarterly basis. This bi-annual report covers the period from 25 September 2015 to 18 March 2016.

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Work to date

7. 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 for the coming 12 months. 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.
8. The Committee also agreed a Communications Plan to advertise the work of the Committee and to inform the public of the outcomes of discussions.

Work Undertaken to Date

9. The following issues have been discussed and considered by the Committee at their meetings held on 4 December 2015 and 18 March 2016:-

- 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 a joint service and some concerns were expressed about potential conflicts of interest however reassurance from an ethical perspective was provided. The Committee advised that a new incoming Police and Crime Commissioner consider the communications and engagement arrangement currently in place between the Office of Police and Crime Commissioner and the Office of Chief Constable.

- 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. These were 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 who reside in rural areas and to increase confidence in the police in these communities.

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

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

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- 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.

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 Code of Ethics and in particular how it has 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 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

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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 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 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.

Outcome

Future workplan amended to include members viewing of video recording footage in near future.

- Fox Hunting

The Committee considered 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 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

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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.

Discussion and Outcome

Consideration of 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.

Where the Committee stood in relation to any officer who may be hunting with a hunt 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.

The stance 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 affects public perception needed to be considered very carefully.

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Ethical Dilemmas

10. To date the Committee has considered five ethical dilemmas as follows:-

Dilemma 1

The extent of private life considerations to police officers where misconduct occurs whilst off duty and not identifying themselves as police officers, and whether the rank or status of an officer should have any bearing on a case.

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 matter was referred to a misconduct meeting (where the sanctions go from management action through to final written warning), however the officer retired from the Force beforehand. It was noted that only in cases of alleged gross misconduct were officers not permitted to retire or resign.

Dilemma 2

Organisational tolerance for homophobic words and whether the defence offered about being unwell at the time had any bearing on the case.

The Committee took the view that although welfare issues would need to be considered, this type of 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

It was noted that incidents involving racism or homophobia, which are similar in terms of impact, the organisation 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 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.

Dilemma 3

An officer entered into an extramarital affair with another serving officer and when the relationship deteriorated he sent abusive and offensive messages

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to the partner of that officer. He then forced his way into her house and assaulted her relatives. The police were called, the officer was arrested and admitted the offences. There was no criminal prosecution as the family did not wish to proceed but he was issued with a caution. The Committee was asked to consider whether or not the matter of a police caution in the above circumstances amounts to misconduct, Gross Misconduct or neither.

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

This matter was dealt with as discreditable conduct under Gross Misconduct proceedings. The officer was placed on restricted duties during the investigation. The officer was given a final written warning.

Dilemma 4

A police officer took part in a football match arranged by the police service with a view to furthering police community relations with specific groups and the local team comprised of members from the lesbian, gay, bisexual and transgender (LGBT) community. At the end of the match a member of the opposition team reported that a police officer made a homophobic comment. The Committee was asked to consider whether or not, if proved, the conduct would amount to Gross Misconduct, misconduct or neither.

The opinion of the Committee was that 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'. It was noted that the initial assessing officer had to make a decision based upon limited information.

Outcome

There was no case to answer as there was not enough evidence from the investigation to show that it had happened. It was brought to the meeting to specifically highlight the difficulties in making decision based upon limited information. It was initially assessed as possible Gross Misconduct and as such other factors came into play, such as referral to IPCC and removing the officer from duty. He added that the IPCC decided it was for the force to investigate.

A discussion took place around the ethical position in relation to availability of previous disciplinary or criminal history when making decisions in disciplinary/misconduct cases.

Dilemma 5

Sergeant A is a police officer who joined the Force in 2000 and has completed fifteen years of service 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

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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.

Sergeant A was arrested, interviewed and totally denied the offences. The Sergeant was released on police bail while further enquiries were undertaken by the Child Abuse Investigation Unit.

Consideration was given with how to deal with the officer while the criminal enquiry continued and prior to any decision from the Crown Prosecution Service. In particular, consideration was given to the whether there was 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 Committee were asked to consider when to 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 needed 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 were in agreement that suspension from duty would protect both parties and the reputational impact on the service.

Complaints and Misconduct

11. The Terms of Reference for the Committee include 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.

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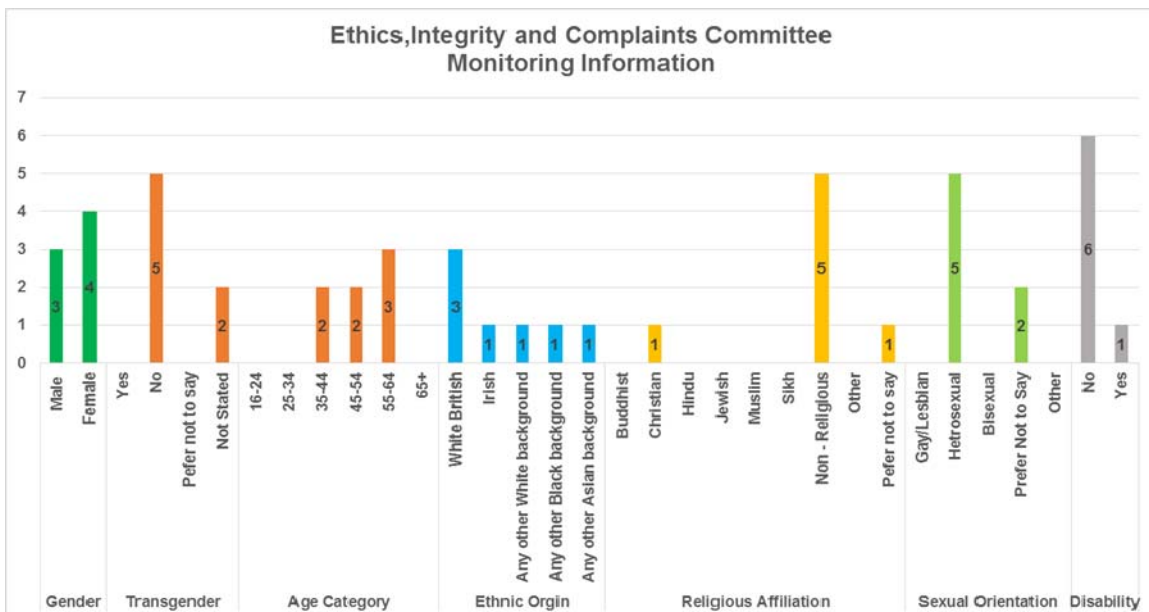
12. The Committee considered complaints and misconduct at their December meeting. During discussed it was suggested that police officers may require additional training on resolving complaints, as it was a sophisticated and complex skill. It was agreed with the Force that training should be revisited to promote a more flexible approach and ensure that officers had confidence to resolve complaints.

Dip Sampling of Complaint Files

13. On 19 February 2016 members of the Committee undertook their first dip-sampling of complaint files and examination of the Independent Police Complaints Commissioner non-referral register.
14. As a result of 35 files dip-sampled 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 and further details will be provided in the annual report of the Committee.
15. 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.
16. In respect of the examination of the Independent Police Complaints Commission Non-referral Log it was reported that of the seven non-referrals made the member examining the log reported that he was satisfied that all cases were dealt with appropriately and that none were within the referral criteria.

Equality and Diversity

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



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Appendices

Appendix 'A' – Members of the Committee.

Background Papers

Members reports from dip sampling.

Person to Contact

Angela Perry, Head of Governance and Assurance, (0116) 2298980

Email: angela.perry@leics.pcc.pnn.gov.uk

Members of the Ethics, Integrity and Complaints Committee

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 LL.M. 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.

Karen Chouhan

Photo to be supplied shortly

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. Karen 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. Karen's background is in Further and Higher Education and she is a qualified teacher.

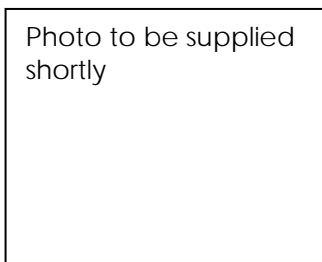
She was previously a senior lecturer at De Montfort University for 12 years where she managed the MA in Community Education. She has also built a body of expertise and practice in youth work, community development and equalities and human rights work and has managed a national equality charity. In 2005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

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.

Linda James



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

Linda 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 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.

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.

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.

Professor 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, 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.