

**WRITTEN EVIDENCE FROM DR JENNIFER HOUGH AND DAVID MARSHALL
(CJB0004)**

Imposing a duty on to the College of Policing to introduce a code of practice about ethical policing, which must include a duty on chief officers to take actions to secure that their officers act ethically and, in particular, “in an open a transparent way” (clause 73).

Question to answer: The Bill would require the College of Policing to introduce a code of practice on ethical policing, which must include a “duty of candour”. What impact would this have on the protection of human rights, particularly the investigative obligations under Article 2 ECHR (the right to life)?

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We are sending this evidence as we believe we are in a unique position of being able to draw on academic and policing experience specifically within the PEQF to identify how initial police training can have a positive impact on ethical policing. This should be considered as part of the call for evidence regarding Clause 73 as this is an important point for the future of ethical policing and the investigative obligations under Article 2 ECHR.

Policing as a concept is arguably more under the microscope now than it ever has been before. International incidents which led to protests across the globe not only influenced similar actions at home but opened a critical debate about policing powers and legitimacy. There have been calls by some for greater powers to be given to police forces while simultaneously others have suggested that we defund and deconstruct them altogether. In the context of extensive media coverage of officers behaving inappropriately or even criminally and Baroness Casey’s Review (2023) ensuring greater emphasis on acting ethically is paramount.

Transparency and accountability should be key priorities for a police force to operate effectively in a democratic arena. Including a mechanism in law which outlines the duties of the College of Policing to require that officers are operating in “an open a transparent way” (clause 73) ensures that there is a further legislative duty which upholds the original Peelian Principles, the founding philosophy of modern policing (Shannon, 2022). Indeed, principle 2 states that the police should:

recognise always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour, and on their ability to secure and maintain public respect [principle 2] (2012)

In order for the police to maintain public trust and confidence, particularly in the current socio-political climate, there should be additional layers of responsibility regarding ethical practices in particular.

On a basic level, Clause 73 can only be a positive directive as it reduces the potential for misinterpretation. Arguably, the police are more legally aware generally than the public whom they serve, so it is imperative that they communicate clearly and effectively. Moreover, placing a legislative duty on the College of Policing ensures that they work closely with forces across the country in this manner, thus facilitating greater conformity and cohesion. More police forces than at any point in history now find themselves being placed into 'special measures' by the policing inspectorate. This suggests systemic failures in many of our police forces including poor standards in even the most basic areas of policing such as the investigation of crime. This in itself does nothing for public confidence in policing, and presents even more of a case for robust and consistent standards of education.

On a more nuanced level, improving transparency and accountability means ensuring officers have access to a wider curriculum, experience, and critical influence than what has been offered in previous internal police training programmes. For instance, the change to police training initiated in 2018 – the Policing Education Qualifications Framework [PEQF] – aimed at professionalising the police service in line with other public sectors such as nursing and social work. By working with Higher Education Providers, the College of Policing utilised external academic experts to facilitate officers earning a university degree which recognised the level they were working at (UK quals – level 6) and provided more emphasis on critical thinking skills and areas such as Evidence Based Policing.

Giving way to pressure placed on her by a handful of Police and Crime Commissioners, the previous Home Secretary has sought to dismantle this while still in its embryonic stages, diluting the external influences by removing the Higher Education aspect under the guise of widening participation. This will only serve to create further division resulting in a two-tier system of officers who have gained qualifications through their training with an emphasis on critical thinking and those who have not. Having the space to work outside of the confinements of internal police training will increase ethical behaviour if officers have the space to become self-actualising individuals within the role in a space safe for critical debate.

This approach also serves to challenge potential preconceived notions of policing by new officers and ensure greater reflexivity in their practice. It is imperative then that the PEQF should not become a casualty of politics directing policing, but be revised to ensure officers are ready for a complex role with such high levels of accountability. Indeed, becoming a police officer should involve a more immediate emphasis on critical thinking skills, moving beyond a 'this is the way it has always been done' rote-learning style of training to an evidenced-based, analytical approach at degree level.

Whilst the College of Policing recently published a new statutory code of ethics, it could be argued that this does not go nearly far enough to outline ethical considerations in respect of police training and educational standards. Indeed, the section of the revised Code of Ethics which relates to professional development (College of Policing, 2003) is comparatively brief indeed. It does not highlight the ethical requirements of ensuring that education qualifications relating to the police profession are of a consistently high standard, acknowledging the changing nature and complexity of policing. As a result, we would argue that by failing to include such a critical element effectively leaves the door open for further unnecessary political interference in police officer educational, training and accreditation standards as recent experience demonstrates.

Therefore, the inclusion of Clause 73 can be viewed as an additional layer of protection to ensure a definitive focus on ethical policing. Given the emphasis on candour within this clause, this part of the Criminal Justice Bill 2023 would be beneficial to investigative obligations under Article 2 ECHR by means of scrutiny, transparency, and accountability for those involved.

References

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