



Home Office

# Criteria for Designating Bodies in the Police Super-Complaints System Government Response

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# Introduction

This document is the Government response to the public consultation paper, '*Criteria for Designating Bodies in the Police Super-Complaints System*'.

It contains:

- the background to the consultation
- a summary of the responses received
- a detailed response to the specific questions raised in the consultation
- the next steps following this consultation

Further copies of this report and the consultation paper can be obtained by contacting the Home Office at the address below:

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This report is also available at [www.gov.uk](http://www.gov.uk).

Alternative format versions of this publication can be requested from [policesupercomplaints@homeoffice.gsi.gov.uk](mailto:policesupercomplaints@homeoffice.gsi.gov.uk)

## Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

# Background

On 16 October 2017, the Government launched a public consultation on '*Criteria for Designating Bodies in the Police Super-complaints System*', inviting comments from the public and key stakeholders on the proposed criteria organisations need to meet in order to be eligible to become a designated body in the new police super-complaints system.

The police super-complaints system, set out in the Policing and Crime Act 2017, will allow these designated bodies to raise issues on behalf of the public about patterns or trends in policing that are, or appear to be, significantly harming the interests of the public. Whilst there are existing super-complaints systems in the financial and commercial sectors to protect the interests of consumers, this will be the first to cover a public sector body.

## The Designation of Bodies Process

In order to identify the bodies best placed to work for the improvement of policing through a super-complaints system, the Government has proposed a 'designated body' system, similar to the model adopted in the super-complaints systems within the financial and commercial sectors. The Home Secretary (as the relevant Secretary of State in this case) will be responsible for designating bodies who can then submit super-complaints under s.29A of the Police Reform Act 2002.

All applications for designated body status will be judged against criteria which will be set out in secondary legislation. An organisation will need to meet all of the set criteria in order to become a designated body.

Organisations that meet the criteria will be designated in regulations made by the Secretary of State. A list of designated bodies will be published to provide transparency and enable individuals or bodies not designated to see which groups they would need to access to make a super-complaint. For example, a local charity may notice an issue with policing which, though not crossing force boundaries, causes significant harm to the public interest. They could refer to the published list of designated bodies to find a suitable organisation to take this forward as a super-complaint on their behalf.

The consultation paper seeking views on the proposed designated body criteria closed on 08 December 2017. This report sets out a summary of the responses and outlines the Government's next steps.

# Summary of Responses

A total of 27 responses to the consultation paper were received. A list of organisations that responded can be found in [Annex A](#).

A breakdown of respondents is set out in the table below.

Type of Organisation	Number of Respondents
Policing Partners	4
Police and Crime Commissioners / Office of the Police and Crime Commissioners	12
Charity	5
Police / Law Enforcement	1
Police Staff Association	1
Local Government	2
Member of the public	2

All responses have been carefully analysed to identify the level of support for the proposed designated body criteria, as well as to highlight any new ideas or issues which could assist with the development of the designation criteria. We want to ensure that the system is as accessible as possible to those who wish to improve the policing system in the public interest. The responses to this consultation have helped us to achieve the right balance between providing maximum access to the system, whilst ensuring that those designated are able to meet the responsibilities involved.

Broad support was received for each of the proposed criteria, along with positive comments about the new super-complaints system in general, however some issues were raised in relation to the potential exclusion of some organisations and the definitions of several of the terms. A summary of responses for each of the proposed criteria will be set out and addressed in the following section.

# Responses to Specific Questions

The following section summarises the responses received to each of the questions in the consultation paper. Please note that not all respondents responded to all of the questions, therefore the percentages included below are based on the total number of respondents for each particular question.

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

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

Overwhelming support was received for this criterion with 100% of respondents agreeing that all designated bodies should be in a position to represent the public and work towards the improvement of policing. Whilst this does not have to be an organisational priority as such, it is expected that this will be the motivation behind any super-complaint they may bring.

The aim of this criterion is to prevent bodies who are opposed to policing in general, bodies with limited public interaction and bodies which represent a vested interest from becoming super-complainants. It is not, however, intended to exclude bodies that are critical of the police or those who may have historically had a challenging relationship with the police. The intention is for designated bodies to be able to capture and bring forward legitimate concerns on behalf of the public for the purpose of improving policing and assisting those adversely affected.

Some respondents requested clarification of the terms 'public interest' and 'vested interest' to ensure that these would not exclude organisations who focus on and work with specific communities, such as religious groups, those with disabilities and LGBT communities. To clarify, this criterion refers to organisations that represent specific groups, as well as the public as a whole. The Government acknowledges that minority groups may have legitimate concerns to raise and it is important that these are captured by the organisations that support them.

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

Respondents were also overwhelmingly in favour of this criterion, with 95% agreeing that designated bodies should be expected to act with integrity. This will ensure that designated bodies are motivated solely by the interests of any group affected by an issue and a genuine want to improve the situation, rather than politically-motivated interests or to gain publicity. This criterion will prevent unduly biased organisations from using the system inappropriately.

The Government acknowledges that this criterion requires a more detailed definition and, following feedback from a key stakeholder, it proposes to amend the wording to include an expectation to “act independently”. Although this wording was already provided in the explanation, including this in the criterion itself will provide further clarification of what is expected of a designated body.

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

This criterion received strong support with 90% of respondents agreeing that designated bodies should be able to demonstrate considerable experience and competence in representing the public interest in a reliable and effective way.

It is important that designated bodies are trusted by the public and well-positioned to fulfil their responsibilities within the super-complaints system. As some respondents have suggested, designated bodies should have experience in reaching out to and representing as many different communities as possible, especially those who have historically had low confidence in the police and have felt discouraged from bringing complaints in the past.

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

Respondents were overwhelmingly in favour of this criterion with 86% agreeing that designated bodies must be in a position to produce a reasoned, fully-evidenced super-complaint. This, again, is crucial in ensuring public confidence in the new system and in the designated bodies to raise their concerns. For the system to be effective, it is essential that all designated bodies are trusted by the community to highlight their concerns appropriately.

Some respondents expressed concerns that this criterion may exclude smaller organisations and charities which rely solely on volunteers. The Government is seeking to strike the right balance between providing maximum access to the system, whilst ensuring that those designated are able to fulfil the responsibilities involved.

It is essential that designated bodies have the capability and resource to bring forward super-complaints, which may involve extensive research and analysis, on behalf of the public and non-designated bodies. Smaller organisations will be able to work with designated bodies to ensure their concerns are appropriately handled.

Organisations will not receive any funding associated with becoming a designated body. This is in line with existing super-complaints systems operating in different sectors.

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

This was one of the strongest supported criteria, with 95% of respondents agreeing that all designated bodies should adhere to data protection legislation.

These organisations may need to be trusted with sensitive information provided by members of the public and smaller bodies for which they are an umbrella organisation, and it is crucial that these bodies are able to share their information and concerns with confidence. Without this assurance, there may be a reluctance to come forward with their concerns in which case the system would be unable to effectively fulfil its purpose.

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**6. That they agree to follow guidance issued by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) on the making of super-complaints.**

The vast majority of respondents agree with this criterion, however a slightly larger percentage of respondents than in the other questions were not in favour of this becoming a set criterion (18%). Most respondents did not expand on their thoughts or concerns with this criterion, however one respondent suggested it was not relevant to the designation of bodies.

The aim of this criterion is to ensure that prior agreement is obtained from participating bodies that they will use the system in the correct manner and follow the guidance which will be issued by HMICFRS. This is crucial in ensuring that designated bodies, the public and those who have an interest in the system, understand the process, their

responsibilities and know what they can expect from the system. It will also enable the system to operate efficiently.

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

Whilst the majority of respondents were in favour of this criterion (66%), a significant percentage of respondents disagreed (28%) and it was clear that further explanation of this criterion was needed. Opinion was divided as several respondents expressed concern that this criterion may exclude local organisations with legitimate concerns to raise.

The primary purpose of this super-complaints system is to capture systemic issues which may be occurring across a number of police forces – issues which in the past may not have been captured within the existing complaints systems. It is therefore important that designated bodies have a geographical footprint which allows them to recognise and highlight these issues.

To clarify, whilst the bodies would not need to have offices or staff in more than one police force area, they would be expected to provide examples of how their work has an impact in more than one area. This will ensure that widespread issues are captured and that a range of groups and communities across different regions are represented.

The Government acknowledges that smaller, local bodies often have close relationships with the communities they serve and are well-positioned to receive and understand the concerns and issues they face. For this reason, one of the criteria proposed would allow these organisations to contact a designated body who would be able to submit a super-complaint on their behalf (criterion nine).

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

This criterion received strong support with 87% of respondents agreeing that police staff associations or trade unions should not become designated bodies. A minority (8%) were of the opinion that they should.

The police super-complaints system is intended to provide a voice for organisations and charities to raise concerns on behalf of the public about systemic issues in policing. The Government believes that it is important that any body designated to submit a super-complaint is fully independent of those working in policing. There are

existing routes for police staff associations and trade unions to raise concerns which may come to their attention.

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

The majority of respondents were very supportive of this criterion with 90% in favour of designated bodies acting as conduits for smaller organisations. This will ensure maximum access to the super-complaints system. It will also allow for similar issues which have been highlighted by separate bodies to be collated into one super-complaint if appropriate, ensuring that these systemic issues and their wide-reaching effect on the public are recognised and brought to attention. This would not necessarily involve the bodies working together on their super-complaints, unless they wish to, but in some circumstances it may be appropriate for HMICFRS to address them simultaneously.

To clarify a concern raised by one respondent, designated bodies will not need to be constituted as an existing umbrella body as part of their normal work, but they will have to demonstrate they are willing and able to fulfil this role within the super-complaints system. A list of designated bodies will be published online to ensure the public and non-designated bodies know who they can contact.

Concerns were also expressed in relation to the willingness of designated bodies to fulfil this role and what would happen if they refused to bring a super-complaint on behalf of a smaller organisation. The Government intends to set out in guidance that designated bodies will be expected to provide a valid, written reason for not taking forward a super-complaint. Failure to do so may result in removal of designation status.

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

85% of respondents were confident that this set of proposed criteria is fair.

A minority have raised concerns in relation to the possible exclusion of smaller, local level organisations which may not have the resource to put together a reasoned super-complaint.

This new system is not seeking to duplicate the existing system for making an individual complaint against an officer or force. Rather, it aims to provide an avenue to raise a concern about a systemic issue in policing which is evident across forces. This might include raising a concern about how police across a number of force areas consistently respond to or handle a particular type of crime.

For this reason, it is essential that all designated bodies are far-reaching and accessible to communities in as many different regions as possible. They will also be able to identify similar issues which, although may at first appear to be localised, are actually taking place across a number of police forces.

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

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

This question generated a mixed response with 38% believing that the criteria would not exclude bodies which could bring legitimate super-complaints and 33% believing that they would. 29% were unsure.

Concerns expressed largely focused on the reasons set out above in relation to local organisations without a regional footprint or the resource to put together a reasoned super-complaint. A minority believed that police staff associations, and other bodies with a policing membership, should be able to become designated.

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

Many respondents suggested that Citizens Advice Bureau and national victim's charities, such as Victim Support, would make good super-complainants, due to their wide and varied contact with police, their independence, accessibility and experience.

It was generally recognised that good super-complainants would be organisations that have a wide geographical remit, work across a wide range of policing and criminal justice areas, are easily accessible, supporting large communities and are experienced in advocacy work. It was also suggested that it would be beneficial for

super-complainants to have an understanding of the structure and landscape of policing to enable them to have a thorough understanding of the issues.

Charities promoting equality and supporting specific communities across the UK, including Galop, The Community Security Trust and NSPCC, were also suggested as good super-complainants.

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

A wide range of comments and views were expressed in this section. Those which relate to the specific criteria have been included in the summary of responses above.

Many respondents also expressed views and concerns regarding the wider super-complaints system and how it will operate in practice, with some commenting that the current lack of detail made it more difficult to answer the consultation questions.

The Home Office continues to work closely with HMICFRS, the Independent Office for Police Conduct and the College of Policing to develop the procedures and processes for dealing with super-complaints. All of the comments received in the consultation responses will be carefully considered throughout this process.

Many respondents commented that public confidence in the system is paramount and that this could be achieved by ensuring timely and efficient communication, managing expectations from the outset and providing clear definitions on the terms used within the criteria and guidance.

Home Office guidance will be issued to those who wish to become designated bodies, which will expand upon the definitions of terms used, setting out clear examples and the type of evidence organisations should provide. HMICFRS will also issue guidance in due course to provide designated bodies with more information on how the system will operate and what is expected of them.

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# Conclusion and Next Steps

The designated body criteria are crucial to ensuring the effectiveness of the new police super-complaints system. We need to strike the right balance between providing maximum access to the system for key groups, charities and the public, whilst ensuring that those designated are able to meet the responsibilities involved. Adopting a designated body model provides a measure of control to ensure bodies unsuitable, politically motivated, unduly biased or openly hostile are not able to become super-complainants.

All of the responses to this consultation have been carefully considered and the views expressed have been taken into account. They lend strong support to the introduction of the proposed criteria and have highlighted areas about the wider system which require further clarification. These will be addressed in due course.

The Government therefore intends to legislate for the following designated body criteria, which will be set out in secondary legislation and open to parliamentary scrutiny:

<b>Designated Body Criteria</b>
1. That the body is competent in, and has considerable experience of, representing the interests of the public.
2. That the body would represent the interests of the public effectively in its role as a designated body and, in particular, would work to improve policing.
3. That the composition of the body and the arrangements for its governance and accountability are such that it can be relied upon to act independently and with integrity in its role as a designated body.
4. That the body has the capability necessary to carry out its role as a designated body effectively.
5. That the body has made arrangements for the appropriate storage and handling of data that it may obtain in its role as a designated body.
6. That the body can be relied upon to have regard to any guidance about the making of complaints under section 29A(1) of the 2002 Act which is given to designated bodies by Her Majesty's Chief Inspector of Constabulary .
7. That the body's activities include activities in, or in relation to, more than one police area.
8. That the body is not: (a) a trade union, or (b) an association (other than a trade union) which represents the interests of members of police forces.
9. That the body would: (a) collaborate effectively with bodies which are not designated bodies but which are, or may be, aware of matters which could form the basis of a complaint under section 29A(1) of the 2002 Act, and (b) where appropriate, make a complaint under that section on the basis of matters raised with it by such bodies.

## Next Steps

The Home Office will continue to work closely with HMICFRS, the Independent Office for Police Conduct and the College of Policing to develop the procedures and processes for the new super-complaints system, which we expect to become operational later in 2018.

Further guidance will be issued by the Home Office with the application form, which will include more detail on the criteria and how organisations wishing to become designated should demonstrate their ability to meet them.

# Consultation Principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

# Annex A – List of Respondents

Organisations who responded to the public consultation include:

- Faith Matters
- Galop
- StopWatch
- Suzy Lamplugh Trust
- The Race Equality Centre
- Association of Police and Crime Commissioners
- Association of Policing and Crime Chief Executives
- Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services
- Independent Office for Police Conduct
- Metropolitan Police Service
- Police and Crime Commissioner for Avon & Somerset
- Office of the Police and Crime Commissioner for Bedfordshire
- Police and Crime Commissioner for Cleveland
- Police and Crime Commissioner for Dorset
- Police and Crime Commissioner for Essex
- Greater Manchester Combined Authority
- Office of the Police and Crime Commissioner for Hampshire
- The Mayor's Office for Policing and Crime
- Office of the Police and Crime Commissioner for Norfolk
- Police and Crime Commissioner for North Wales
- Office of the Police and Crime Commissioner for Sussex
- Office of the Police and Crime Commissioner for Swindon & Wiltshire

- Office of the Police and Crime Commissioner for Warwickshire
- Police and Crime Commissioner for West Yorkshire
- Police Federation of England and Wales



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