

L. B. NEWHAM

THE MANAGEMENT AND OPERATION OF THE RESPONSE BRANCH OF THE COUNCIL'S CRIME AND ANTI-SOCIAL BEHAVIOUR SERVICE

INTRODUCTION

The Council's Crime and Anti-social Behaviour Division is part of Operational Services, the Deputy Chief Executive's portfolio. The Division was formally launched in July 2004 but created at the end of the previous year as part of the Council's "Moving to Excellence" programme. This is an organisational change programme designed to enable the Council to move from "good" to "excellent" in the Comprehensive Performance Assessment process.

One element of the programme was to bring together services from different parts of the Council to sharpen the focus on priority areas. One such priority area is anti-social behaviour. However, Moving to Excellence is not just about greater joined up working within the Council, it also requires closer working with key partners such as, in the case of anti-social behaviour, the Metropolitan Police Service (MPS).

The idea behind the new division therefore was to pull together relevant Council services to focus on:

- tackling anti-social behaviour through effective prevention, diversion and enforcement;
- using the Council's enforcement powers to combat high impact and persistent perpetrators;
- addressing racial harassment and other forms of intimidation;
- increasing local people's willingness to address ASB;
- reducing the impact of nuisance;
- working with the MPS and influencing other agencies to contribute to reducing ASB;
- promoting good standards of behaviour through education and training.

The strategy was to respond to the concerns of Newham residents, not by usurping the functions of other agencies such as the Police, but by working in partnership and by using the Council's powers wherever possible, to achieve the overall aim of tackling anti-social behaviour. Enviro-crime is a classic example of an area where the Council can make a real difference to the quality of life of its residents by using its enforcement powers to deal with fly-tipping, noise nuisance, abandoned vehicles etc.

The activities of the Response Service need to be seen in this context. Undoubtedly, the Control Room, the Constabulary and the Community Wardens have a major contribution to play in achieving the Council's objective of tackling anti-social behaviour. The staff I met are enthusiastic about their work and committed to improving the quality of life for

Newham residents. However, a concern has arisen as to whether the Constabulary has evolved in quite the way that was originally envisaged when the Division was created or whether it has begun to take on more of a policing role than is appropriate.

THE SERVICE

The Crime and Anti-social Behaviour Division consists of the Response Service, the Investigations Service, the Community Safety Unit and Emergency Planning.

This investigation focused on the Response Service only. This involves the Control Room and Patrols. Patrols comprises the Constabulary and Community Wardens. The Community Constabulary consists of an Inspector, six Sergeants, 30 constables and one Security Officer. The Community Warden Service involves two Senior Wardens and 10 Wardens. The Control Room consists of six Senior Controllers, 23 Controllers and a Support Officer.

At the time of my investigation the management structure of the Service was:

Head of Service, Crime and ASB – John Page
Assistant Head of Service, Crime and ASB (Response) – Bob Lack
Patrol Services Manager – Dave Gosling
CCTV Service Unit Manager - Keith Baldock

THE INVESTIGATION

In April 2005, the Chief Executive received information from Cllr Mike Law which highlighted certain allegations about the operation and management of the Community Constabulary.

Later in April 2005, the Council received a complaint from a Constabulary officer, which cited a series of alleged incidents going back over the past six years.

In addition, in September 2004, eight of the Emergency Controllers had brought Employment Tribunal claims against the Council, the Deputy Chief Executive and Mr Page, alleging race discrimination. These are covered by a confidentiality agreement. It is my view that it would be in the interests of all the parties and other staff in the Service for this to be lifted.

In view of the commonality between the allegations highlighted by Cllr Law, those made by the Constabulary officer in his complaint and the issues raised in the Employment Tribunal claims, the Chief Executive commissioned an investigation into what had been alleged. Its terms of reference are set out in Appendix One.

I asked that all staff in the Response Service should be given a copy of the terms of reference, as well as a question and answer sheet that I had prepared. I held two meetings to introduce myself and answer questions. I invited all staff to contact me to arrange a time to meet me so they could contribute to the investigation.

In all, I interviewed 44 staff. I gave them the opportunity to give me any information they wanted as well as asking them a series of questions related to the issues raised in my brief.

I also interviewed the managers responsible for the service areas. I spent a shift on patrol with the Constabulary.

In addition, I have been in contact with Cllr Law, Chief Superintendent Michael Johnson, the Borough Commander from the Metropolitan Police Service (MPS), other Police Officers, the Independent Police Complaints Commission (IPCC), the Head of Legal Services (who is also the Council's Monitoring Officer) the Head of Human Resources, Human Resources staff supporting the Crime and ASB Division, Internal Audit, Unison and the Transport and General Workers Union and other Council services.

Aside from Cllr Law, who highlighted the original allegations, I have not met with any other elected Members. Members were offered the opportunity of contributing to the investigation but the issues I have been examining involve the management and operation of the Service and are thus the responsibility of officers.

I have also perused a considerable amount of paperwork; some supplied by staff and others and other documents which I requested from the Service. Unfortunately, despite a number of reminders, I did not receive some important information. I do not know whether this is because the information is not available or whether managers in the Service have simply failed to respond. However, it is now four months since my original request and it would not be appropriate to delay further in making my report.

The issues I have been asked to consider essentially fall into three areas – the operation of the service, its management and issues relating to individuals. This last area includes the matters raised in the complaint from the Constabulary officer.

I intend dealing first with the operation of the service then moving on to consider management issues. As much of the information I have had to consider involves the conduct or circumstances of individuals, Appendix Two deals with the complaint from the Constabulary officer and other issues concerning individuals.

Given the nature of the information it contains, I would not envisage this being made public. However, where I have drawn conclusions from matters dealt with in the Appendix, I have reflected those conclusions and any relevant recommendations in the main Report

THE OPERATION OF THE CONSTABULARY SERVICE

In this part, I will focus primarily on the Constabulary, although there are some aspects which also apply to the Control Room and, I suspect, the Community Warden Service. I will deal with the history and development of the Constabulary, the legal position, the work of the Constabulary, the framework in which it operates, uniform, vehicles, the views of the local Police and the perspective of the IPCC.

History and development of the Constabulary

The Council established the Parks Constabulary in 1998. The Leisure Services Committee received a report at its meeting on 28th January 1998 which outlined concerns over community safety in the Borough's parks. The existing services, the Park Rangers, Park Attendants and Newham Emergency Security Services (NESS), had not been able to deal with these issues effectively.

The Committee therefore decided to agree to the formation of a Parks Constabulary in NESS which was to operate under a service level agreement with Parks Services in the Leisure Department. The cost of the new service was estimated at £395,000 based on 14 full time equivalent staff.

The Committee also agreed that it would receive six monthly reports on, and an annual review of, the performance of the Parks Constabulary but I can find no record of this.

The Technical Services Committee, which was responsible for NESS, received a report from the Head of Public Works on 10th March 1998 which proposed a new structure for NESS. This consisted of the Emergency Control Centre, the Street Scene Enforcement Team, the Newham Parks Constabulary and Security Service and Emergency Planning.

NESS was headed by Mr Page and Mr Lack was his deputy. Mr Lack left the Council's service in 2002 but returned in 2004.

Thirteen Parks Constables were recruited together with a Senior Parks Constable. The service began to operate in October 1998. At that stage the job description was "Parks Constable / Security Officer" and was graded at Scale 5.

The "Job Purpose" was:

"To act as an attested Constable and enforce the bylaws and regulations relating to the use of open spaces in Newham.

"To provide a uniformed presence in the Borough's parks, patrolling on foot and responding to incidents in the designated areas.

“To provide an effective and efficient Security Service which will support the Authority in meeting the needs of residents and Departmental Clients in response to peace time emergency/civil defence requirements.

“To provide the aforementioned services to external client(s) as directed.”

The focus was very much on work relating to the parks and open spaces (including taking enforcement action) but also involved special checks and a security service for Council buildings and any external clients.

The job description was revised in 2002 but this seems simply to have brought it into line with a new Council template for job descriptions, rather than introducing new duties. The grade remained the same and the “Purpose of Job” was:

“To act as an attested Constable and enforce the byelaws and regulations relating to open spaces. To provide a uniformed presence in the Borough’s parks. Patrolling on foot and responding to incidents in the designated areas.

“To provide an effective and efficient Security Service which will support the Authority in meeting the needs of residents and Departmental Clients in response to peace time emergency/civil defence requirements. To provide the aforementioned services to external client(s) as directed.

“To assist in the delivery of the Community Safety Partnership Strategies providing “on street” activities as deemed necessary by NESS management, delivering Neighbourhood Warden Patrols as required by the Borough.”

The work of the Constabulary continued to focus on the parks and to include special checks and the security service for council properties.

Three “Sergeants” were appointed in 2001 as well as additional Constables. Four more Constables were recruited in 2002.

The next formal consideration of the service by Members was in 2002 following a Scrutiny review of the Parks Constabulary. This was reported to the Mayor in consultation with the Cabinet on 24th June 2002. The Review made a series of recommendations to the Cabinet. The Directors of Leisure and Environment also reported to the meeting recommending that the Mayor agree most of the recommendations of the review.

At the meeting, the Mayor agreed, in consultation with the Cabinet:

- (i) to note the findings of the Leisure and Environment Scrutiny Committee’s review of the Parks Constabulary presence in parks; and*
- (ii) the Environment Department’s response to the recommendations in the Leisure and Environment Scrutiny Committee’s review of the Parks Constabulary presence in parks.*

I asked for any papers relating to Member level decisions about the Constabulary. It does not appear that Members have taken any decisions about the service since 2002. A number of people have referred to “instructions” from the Mayor and other Members or “the Mayor wants X”. However, all decisions taken by the Mayor must be properly documented and comply with the relevant requirements in the Council’s Constitution. I have found no record of any decisions taken by the Mayor.

Senior officers must ensure that they are familiar with the Council’s Constitution and the procedures governing Member level decision making. It is their responsibility to ensure that the legal and other requirements are complied with and that decisions are taken properly.

In October 2003, the Mayor considered a briefing paper on Anti-social Behaviour at his briefing meeting. This is not a formal decision making forum. The paper suggested the creation of a new senior post to act as a single point of accountability for tackling ASB in the Council, including enforcement, and to lead on the partnership agenda for tackling crime and disorder.

As I have already outlined, as part of “Moving to Excellence” the Chief Executive created a new Crime and Anti Social Behaviour Service, headed by a new Head of Delivery. After an external advertisement, the Appointments Sub-committee appointed Mr Page to the new post in January 2004, although he only took the position up formally on 29th March 2004.

He led an exercise involving colleagues from across the Council to decide which services should be included in the new Division. In May 2004 he came to the view that the hub of the new service should be NESS, Street Scene Enforcement, Housing Enforcement and Respect. The Division was launched on 12th July 2004.

In mid-2003, before the new Division was created, management began to talk to the Trades Unions about the job description for the Constables. A new job description was agreed in July 2003. It was graded at Scale 6.

The “Purpose of Job” was slightly amended and in addition to the three items set out above, the third paragraph has the addition of:
“This will incorporate the use of criminal, environmental and local legislation to address incidents of anti-social behaviour and environmental nuisance to deliver a seamless public realm service.”

There was also a new fourth paragraph:
“Officers will also be required to perform these duties outside of Newham to support clients and the growing demands to provide such services on a regional basis.”

Although the bulk of the new job description is the same as the old one, there are a few significant differences. These are principally in the section on “Managing Services and Delivery” and denote a greater enforcement role such as:

“To undertake enforcement action in respect of the following matters whenever and wherever breaches of legislation / byelaws are observed:

- a) Vehicle repairs on the highway*
- b) Fly-tipping*
- c) Parking / driving on the footway*
- d) Overnight parking of heavy vehicles*
- e) Footway obstruction and encroachments*
- f) Dog fouling*
- g) Graffiti*
- h) Abandoned and untaxed vehicles*
- i) Unlicensed skips*
- j) Unlicensed street trading other similar environmental nuisances.”*

These items are in the previous job description but the action was simply “to note and report nuisances and/or hazards...including...” rather than taking enforcement action. In addition the job description included these duties:

“To secure evidence by seizing goods, obtaining witness statement (sic), taking photographs and by direct observation, collating all available evidence into a prosecution pack suitable for use by Legal Officers.

“To intervene where breaches of legislation / byelaws are observed giving advice, formal warnings, issuing fixed penalty notices or reporting for presentation as appropriate and in accordance with the requirement of the Enforcement Concordat and Human Rights legislation.

“To support the Crime and Disorder Strategy by liaising with, and working in partnership with local Police. Where safe to do so, and within your competence, to intervene where criminal activity is observed, preventing further offences, and in appropriate circumstances exercising common law powers of detention.

“To secure evidence where criminal activity is observed in a professional manner suitable for presentation to the Police, Crown Prosecution Service (CPS), and the Courts.

“Where common law powers of detention are exercised to deliver detained persons to the ‘Custody Officer’ at local police stations, transporting them in accordance with agreed procedures to present evidence to support their detention to the Custody Officer and to undertake further duties in relation to that detention as directed by the Custody Officer i.e taking statements, searching persons, taking samples, tape recorded interviews, preparing case papers to the CPS etc.”

I am told that all Constabulary staff accepted the new job description without demur. This is perhaps unsurprising given the increase in grade. However, from the records I have seen, it appears that little or no training was given to the staff in relation to the new duties until nearly a year later. I will return to this later but it is not clear to me that all staff understood exactly what would be expected of them when they agreed the new job description nor that they have really embraced the new elements of their job.

The title of the job was changed in April 2004 to Community Constable / Security Officer. As far as I can ascertain, nothing else changed at that point.

In the summer of 2005, 12 new constables were recruited. As a departure from the earlier recruitment exercises, these recruits had to pass the Police Initial Recruitment Test (PIRT). From the outset, the fact that they were expected to perform a second tier policing role would have been clear to them.

These officers are funded by the Neighbourhood Renewal Fund. The total expenditure for the Constabulary is £1,407,000 and I am informed that approximately 30% of this comes from Culture and Community and is payment for the service provided in the parks.

The legal position

I have had the advantage of considering, in addition to the source legislation, papers supplied to me by the Service namely:

- Counsel's advice obtained by Metropolitan Police Service in 1990 and 1991;
- Counsel's advice obtained by Royal Borough of Kensington and Chelsea in 1993;
- A paper relating to the Wandsworth Parks Police; and
- MPS Guidelines for OCU Commanders (1997).

I have also seen a copy of a letter from the Home Office dated 10th December 2002 dealing with the powers of borough park constables.

The Council's power to appoint parks constables derives from Article 18 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967

"A local authority may procure officers appointed by them for securing the observance of the provisions of all enactments relating to open spaces under their control or management and of byelaws and regulations made thereunder to be sworn in as constables for that purpose but any such officer shall not act as a constable unless in uniform or provided with a warrant."

Article 19 contained a power of arrest but this was replaced by Section 26 of the Police and Criminal Evidence Act (PACE) 1984, which allows a constable to arrest for an offence which is not an arrestable offence when the "general arrest conditions" are fulfilled. In summary, these are where the name of the person is unknown; there is doubt

over the address given; or an arrest is necessary to prevent injury or damage or to protect someone.

Parks constables are *constables* for this purpose when operating in the parks and open spaces. I understand that the power of detention under Article 19 still exists.

Article 6 contains the definition of “open space” which “includes any public park, heath, common, pleasure ground, garden, walk, ornamental enclosure or disused burial ground under the control and management of the local authority.”

The powers of parks constables derive from and are limited by the legislation under which they are appointed. Therefore parks constables may only make arrests when the general arrest conditions in S.25 PACE are fulfilled and then only in relation to offences against the park regulations and (in London) all enactments relating to open spaces. Even in the parks they cannot arrest for offences under other legislation such as the Theft Act or the Criminal Damage Act – other than as a private citizen.

This is the position of the MPS and is accepted by Kensington and Chelsea and, I believe, the Home Office. However, the paper concerning the Wandsworth Parks Police takes a slightly different line and argues that a constable under Article 18 has full constables’ powers to enforce the law within open spaces.

However, having considered the legislation and the arguments put forward, I think that the better view is that parks constables do not enjoy full police powers in the parks but are only able to enforce all enactments relating to open spaces under the local authority’s control or management and of byelaws and regulations

Newham has not taken any legal advice, either internally or externally from counsel, on the powers of its Constabulary. If the above interpretation of the law, which accords with that of the MPS, is problematic for the Council, I would suggest that it takes steps to obtain its own advice on the issue.

Thus far I have just dealt with the powers of the Constabulary in the parks. The officers have powers of arrest outside the parks and open spaces but these are powers which any member of the public can also rely upon. The so-called “any person” powers principally fall under s.24 (4) and (5) of the Police and Criminal Evidence Act 1984.

S.24 (4) “*Any person may arrest without warrant*

- a) *anyone who is in the act of committing an arrestable offence;*
- b) *anyone whom he has reasonable grounds for suspecting to be committing such an offence;”*

This is identical to that of a police officer. “Arrestable offence” is defined.

S. 24(5) *“Where an arrestable offence has been committed, any person may arrest without a warrant –*

a) anyone who is guilty of the offence;

b) anyone whom he has reasonable grounds for suspecting to be guilty of it.”

Whereas a police officer may arrest if the offence is about to be committed, the parks constable (or any other citizen) must wait until there is an actual attempt. If it turns out that an offence has not been committed, the arrest is unlawful.

There are also specific powers in a few other statutes which enable “any person” to make an arrest in certain circumstances.

In summary, the Parks Police / Community Constabulary have their own powers when in the parks and open space and enforcing legislation, regulations and byelaws. However, on the streets, they only have the same powers as other citizens, that is, the power to arrest for an arrestable offence in certain circumstances.

There are some other issues which have been raised in the course of my investigation and therefore require examination. These are: weapons, using the name “police” and blue lights.

Weapons

The issue of weapons has been raised in my investigation because of the desire of some members of the Constabulary to carry ASPs (Armament Systems and Procedures – extendable batons) and an allegation that officers have ASPs and that one officer threatened a member of the public with an ASP.

ASPs are offensive weapon under the Prevention of Crime Act 1953 since they are “articles made or adapted for causing injury”. It is an offence to have an offensive weapon whilst in a public place without lawful authority or reasonable excuse.

This means that a person carrying an ASP would have to show that s/he is carrying it with “lawful authority” or “reasonable excuse” in order to remain within the law.

There is some legal debate about Police Officers’ authority to carry weapons, whether this is under either the lawful authority or the reasonable excuse provision. It is thought that the MPS can rely on either provision but that outside London the Police may rely on “reasonable excuse” only.

However, it is clear that Parks Constables have no authority to carry weapons on the streets. I am told that at least one Council has decided to issue its constables with ASPs but this would be for use in the Parks only, presumably on the basis that parks and open spaces are not “public places” under the Act. Given the definition of “open space” set out above, I am not sure that this argument could be sustained. However, I understand that no

action has been taken against Parks Constables with ASPs and I am even told that, in Barking and Dagenham, the local Police have trained the Constabulary in their use.

There are two issues in relation to the Constabulary carrying ASPs. The first is would it be lawful? The second is, if lawful, is it something that the Council wishes them to do?

Management in the Crime and ASB Division has issued clear instructions that ASPs are not to be carried and that anyone seen carrying an ASP will be subject to disciplinary proceedings. The management view is that, even if it were lawful to carry an ASP, they would not be in favour of issuing them to Constabulary officers.

However, certain members of the Constabulary have difficulty in accepting this. I am told that they have even gone so far as to take their own legal advice. A number have told me that they need ASPs to help them deal with the situations that they encounter. However, it is of concern if they are put in situations where they believe they need to be armed.

I find it very strange that, despite the very clear attitude of the Service's managers, this issue should still remain live for debate. It might assist if the Council were to take a formal decision once and for all on this issue after having considered all the relevant factors, including, of course, the legal position.

The use of the word "police"

Parks Constables are not police officers. They are not part of a police force/service, as defined by legislation. It is an offence under s.90 Police Act 1996 to impersonate a police officer. *"Any person who with intent to deceive impersonates a member of the police force or special constable, or makes any statement or does any act calculated falsely to suggest that he is such a member or constable, shall be guilty of an offence."*

To found a successful prosecution, it would be necessary to prove the "intent to deceive" but nevertheless those responsible for Parks Constables need to be careful that their staff do not describe themselves as police or that any uniform they wear is not so similar to that of the Police to cause confusion in the minds of the public and risk the wearers contravening s.90.

Blue lights

Regulation 11(2) of the Road Vehicle Lighting Regulations 1989 provides that "No vehicle shall be fitted with a lamp which is capable of showing any light to the rear, other than (k) a blue light from a warning beacon or rear special warning lamp fitted to an emergency vehicle, or from any device fitted to a vehicle use for police purposes."

Regulation 16 of the Regulations provides that no vehicle, other than an emergency vehicle, shall be fitted with -

- a) a blue warning beacon or special warning lamp, or

- b) a device which resembles a blue warning beacon or a special warning lamp, whether the same is in order or not.

A “warning beacon” is “a lamp capable of emitting a flashing or rotating beam of light throughout 360 degrees in the horizontal plane.” Parks Constabulary vehicles are not included in the definition of an “emergency vehicle”.

The work of the Constabulary

In the past two years the role of the Constabulary has changed dramatically and they now spend much more time on the streets responding to ASB calls. The only powers they enjoy on the streets are those which they share with other members of the public. Despite their appearance, they do not enjoy police powers.

Their title has also changed from “Parks Constables” to “Community Constables”, although “community constable” has no real meaning in law, whereas “parks constable” is an established term which, as set out above, denotes a specific remit.

I have asked how much time the constables spend in the parks and some officers tell me that they are rarely if ever in the parks. Managers tell me that staff are posted to the parks each day but get diverted onto ASB calls.

I am also told that it is not infrequent for there to be problems in getting to the parks to lock them, again because of other pressures. This means that they remain open sometimes until early morning which, I imagine, may be a concern or nuisance to local people.

The Culture and Community department is still funding nearly a third of the cost of the service. Although I have not been able to analyse the time spent in any detail, I think that all involved would agree that Culture and Community is not receiving 30% of the service.

The Constables do not patrol the streets but drive around in vehicles responding to calls so they are not actually providing a visible presence on the streets. There are plans to introduce a mountain bike patrol but other staff will still use vehicles.

They are also responsible for special checks on Council property. I raise this because some officers have told me that these have increased and this appears to be a source of complaint. However, it is clear from the job description that special checks have always been part of their duties.

The service has taken on duties which were the responsibility of other Council Services. They seize goods from unlicensed street traders and respond to noise complaints.

Staff and managers talk about performing a second tier policing role and say that they respond to calls that the Police will not any longer respond to because of other pressures

and lack of resources. However, there must be a question mark over whether it is appropriate for a local authority to be running a second tier “police” service and for council officers to be so active in policing the streets of the borough. The Community Constables are, after all, just council officers. They are not trained Police Officers or even Police Community Support Officers (PCSOs).

I will deal with training in more detail later but their training consists of an initial three week course with refresher training on legislation and officer safety. The PCSOs in the ASB team had five weeks initial training as well as a probationary period, Police Officers have 12 weeks training followed by a probationary period on the borough.

It seems clear that the role of the Constabulary has evolved beyond what was envisaged when the Crime and ASB Service was established. The idea behind the new service was to enhance partnership working with the local Police and other agencies and for the Council more effectively to tackle issues that local people were concerned about – particularly environmental issues such as fly-tipping, abandoned vehicles, fly-posting and nuisance.

The thrust was not to have Council officers taking on a policing role tackling crime and disorder within the Borough. This is the job of the local Police.

The Constabulary seems to have moved into this “policing role” without considering the Council’s powers, the appropriateness of such a role and a number of other relevant factors. In short, it has drifted into a situation where there is a considerable amount of ambiguity over what the Constabulary is actually doing.

There are several other issues.

Firstly I have a concern that the service is not resourced adequately to discharge all the duties it has taken on. Managers are concerned about under-resourcing but they also attribute recent difficulties to the fact that they have been running two rosters for the Constabulary and levels of sickness. I will deal with these issues later in this report.

However, I am aware of at least one situation where only one Constabulary officer was on duty on a Saturday Bank Holiday night (one of the busiest nights of the year) and was assigned to noise work so there was no officer covering ASB. The fact that officers frequently get diverted from their work in the parks is another indication that resources are not adequate to meet the demand.

I fear that the publicity the Service has received and instigated may have created unrealistic expectations and resulted in a demand that cannot be met. I am aware of two recent initiatives - Pubwatch and Shopwatch. These are neighbourhood watch schemes for pubs and shops which are funded by the Home Office. Radios are issued to traders in Canning Town so they can talk to each other and there is a panic button to communicate with the Control Room.

Leaving aside whether it is appropriate for Council officers to respond to calls in the event of a problem, I would have to query whether the service is resourced to respond as quickly as might be expected.

The recent move to involve the Constabulary in noise calls has also not been without problems. Firstly the staff were not told of the new duty by managers until after they had started receiving calls. Therefore they had not been trained on how to respond.

A number of problems have been encountered. Some relate to resourcing. The Constabulary are too busy with other duties so are not picking the Environmental Health Officers up for some time. This means that the EHOs arrive late and do not meet their target response times. They also sometimes fail to arrive in time to witness the nuisance complained of.

Others relate to the conduct of the Constabulary officers. There have been reports of officers threatening to seize equipment, warning people and making judgements on noise levels. Constabulary officers have no powers to warn or seize equipment and are not qualified to make judgements on statutory noise nuisance.

When section 9 statements are requested by Environmental Health for prosecutions, they are not forthcoming. I understand that 23 are outstanding which will seriously affect the Council's ability to take the prosecutions within the statutory time limit. This undermines the Council's ability to tackle ASB.

There have also been several complaints from members of the public about the conduct of the Constabulary officers who have attended premises. I am aware of at least six in April when the new arrangements started. There have been about 15 other complaints which callers have not wanted to pursue formally. These problems did not occur when EHOs responded on their own.

It is not clear to me why the Constabulary are involved in noise calls. The system of trained EHOs responding works well in other authorities and it seems it would work better than the current arrangements at Newham, where EHOs are accompanied by Constabulary officers for whom they have no line management responsibility.

If the problems are not addressed, the Council will run the risk of not being able to take successful prosecutions for noise nuisance because the evidence will not have been collected properly. There are also likely to be further complaints

One manager suggested that any problems are due to the Control Room not following the correct procedure. He believes that it is useful to have a uniformed presence at calls. However, EHOs are trained to assess situations and are able to call for Police back-up if they feel they need it. Indeed, sometimes a uniformed presence can be counter-productive and have the effect of inflaming a situation.

There is also a certain amount of disquiet amongst Constabulary officers about the new duties they are expected to undertake. A number of the older (in service) officers are concerned about responding to ASB calls on the streets.

The concerns raised with me include:

- their health and safety;
- the lack of clarity around what they are expected to do;
- whether what they are being asked to do is legal;
- whether they are covered for injury by the Council's insurance; and
- whether they will be supported if "something goes wrong" e.g. a member of the public is injured or the Council is sued.

It does not seem to me that these concerns are unreasonable and I think staff are entitled to have a response on all these items and indeed on any other concerns they may have.

It is also fair to say that some members of staff simply do not want to take on street duties and would prefer to revert to the previous situation where they worked in the parks and provided a security service for council buildings.

Managers' response to this is that all staff signed up to the new job description in 2003 and that it was clear what would be expected of them and they should have "opted out" at that stage.

However, I do not think it is quite as simple as that. It is unrealistic to expect junior staff to examine their job descriptions in detail and I am not persuaded that, at the time the job description was changed, managers spent sufficient time explaining the new duties to staff and how this would affect their day to day work. Nor do I believe that the job description is specific enough with regard to work on the streets. There is ambiguity over what managers expect from staff.

Communication within Crime and ASB is an issue to which I will return later in this report but I think lack of communication was an issue here.

The situation is not assisted by the lack of clear documented framework in which the staff operate nor by the lack of training when the job description changed. The lack of a formal audit trail documenting the development of the service is also relevant. Where were staff to look to understand what was happening? What can managers pray in aid to demonstrate that it was clear to all staff what the new job would involve?

The Constabulary has evolved without the Council taking a formal view (at either Member or officer level) on what it wanted from the service. This would have involved proper consideration of the legal position, the resource implications and also formal consultation with the staff, affected service, the local Police and other partners.

However, it is not too late to take this more structured approach now and I would urge the Council to consider doing so.

The Council should review and determine the duties which it expects its Constabulary officers to carry out and, in particular, whether it is appropriate for them to be carrying out second tier policing duties on the streets of the borough.

Any review should include detailed examination of the legal position as well as consideration of all other relevant factors, including whether there are other means of securing effective policing of all parts of the borough.

The framework in which the Constabulary operates

Having interviewed 23 of the Constabulary staff and considered relevant documentation, I am concerned that there is a lack of clarity within the service about the powers of the Constabulary and how it is to operate. I am not suggesting that all staff are confused but that there is no common understanding and no document which will assist that understanding.

Managers have referred me to the job description and the Departmental Instruction Manual (DIMS). DIMs cover matters like:

- Booking on and off in full uniform;
- Following reasonable requests;
- Uniform;
- Vehicle care and vehicle logs;
- Daily postings;
- Maximum manning in vehicles;
- Compulsory wearing of ballistic vests;
- Blue lights on the prisoner vehicle;
- Recording arrests;
- Illegal fly-posting;
- Defacing Council property (by Constabulary staff);
- Stores orders; and
- Pocket books.

The DIMs are simply short instructions to staff, a series of “dos” and “don’ts”. Even where they relate to operational matters they do not deal with the procedure to be followed.

They do not deal with situations staff are likely to encounter in their work and how they should deal with them. The risk assessments prepared for health and safety purposes deal with more of the situations staff will face (although I am not sure they are comprehensive) but they do not provide guidance on what staff should do in a given situation.

The Code of Practice issued by the Health and Safety Unit provides more guidance but the issues covered are random and the Code is far from comprehensive.

Staff are required to sign to confirm that they have read and understood each DIM. This has been a source of conflict as staff are sometimes reluctant to sign and have said that they will only sign if they agree with the instruction. This can then lead to escalation if the manager is not able to deal with the situation.

Clearly this is not acceptable, if management issues an instruction, it should not be a matter of debate. Provided it is clear and reasonable, it should be complied with. I see no need for staff to have to sign to say they have read and understood the instructions. If they are clear and properly communicated that should be sufficient.

I therefore favour the development of a full manual dealing with the situations staff will face and setting out how they should respond and the conduct expected of them. This should be developed in consultation with staff and then issued. It should then form the basis of staff training and staff should be managed by reference to the standards it sets and the instructions it contains.

The current ambiguity does not assist effective performance management.

The confusion about how staff should operate is underlined by correspondence I have seen within the Constabulary. I was given a copy of a memo to all Constabulary staff from a manager which instructed them that, when they took names and addresses from people, they should complete an "Encounter Slip" and that a joint protocol had been agreed with Scotland Yard that the Constabulary could use all MPS documents that relate to the recording of evidence.

I checked this with the Borough Commander. His response was that, although a protocol had been agreed some years ago between Hampstead Heath (Parks) police and the MPS to the effect that the Parks Police could use MPS forms to avoid duplication, the Council had not ever signed the protocol so the Community Constabulary should not be using MPS forms. Mr Johnson went on to say that he would not favour this approach. It is surprising that no-one thought to check this before issuing instructions to all staff.

I think the same issue of lack of a clear framework is also true of the Control Room. Constabulary staff have said that they do not feel that all Controllers are clear on how to handle calls and when to refer them to the Constabulary and when to the Police. They feel that they do not always get all the available information and that sometimes this puts them at risk.

On the other hand, Control Room staff feel confident in their ability to decide what to do with calls and seldom refer to the Police Officer who is on duty there. They rely on the judgment of individual Controllers and DIMs. Again these do not seem to me to represent the detailed procedure manual that I think is needed.

Having determined what duties the Constabulary should carry out, steps should be taken to document these in detail so that it is clear what is expected of individual officers and how they should handle specific situations. This manual will need to be kept under regular review.

The same approach should be taken to the duties of Control Room staff who should work to a manual which specifies how they are to handle calls on given situations, the information they need from callers, what action to take on calls, when to seek assistance from the Police and when to refer to the Constabulary. Consideration should also be given as to whether a procedure manual might also be appropriate for the Community Warden Service.

Uniforms

When the Constabulary was first created, the uniform worn by its staff was navy blue but differed from Police uniform in that the shirts were blue (rather than white) and the checks on the cap band were red and black.

However, this has now changed and it is fair to say that it is difficult to discern any visible difference between the Constabulary and MPS Officers.

This is further complicated by the fact that the Council has been using Hertfordshire Constabulary as its uniform supplier. Certain items of uniform arrive emblazoned with the word "Police" and the instructions are that this must be covered or removed. This is not always done or is sometimes done imperfectly with the result that Constabulary staff appear on the street sporting the word "police". I do not believe that any action has been taken against anyone for not complying with this instruction.

I gather that the Council has now changed its supplier to avoid this problem. However, the wider problem is likely to remain; that is, that Constabulary officers are almost indistinguishable from Police officers.

Indeed, when I went out with the Constabulary, the officers I accompanied were mistaken for Police officers and I am not aware that they did anything to disabuse those making the mistake.

I consider that the uniform currently worn by the Constabulary is such that it closely resembles that of the Police and therefore brings its wearers into danger of contravening s.90 of the Police Act 1996 – impersonating a police officer.

To quote the barrister who advised the MPS on the powers on the constitution of parks constabularies:

“The public needs to know that any person who gives the appearance of and purports to exercise the powers of a police officer is properly trained, is of good character, is subject to inspection and discipline, and that if his conduct is improper someone of substance may be sued.”

The Council should review the uniform worn by the Constabulary with a view to making it clearly differentiable from that of MPS officers.

Vehicles and blue lights

The lack of a clear distinction between the Constabulary and the MPS also applies to the vehicles used. The Constabulary vehicles are marked in a similar way to Police vehicles. It would not be easy for the untrained eye to differentiate between them.

Yet they are not “emergency vehicles”. The van the Constabulary use, which is known by them as the “prisoner van”, also has blue lights.

One manager told me that the rationale for fitting the van with blue lights was so the lights could be used if the van were static at an incident. Instructions have been issued that the lights not to be used when the vehicle is in motion, other than in the parks.

Another told me that the lights had been fitted to the “prisoner vehicle” on a trial basis, although he felt that they could be justified on other vehicles. I am not sure how this is consistent with provisions of the Road Vehicle Lighting Regulations, referred to above.

Perhaps inevitably, there is rumour of the blue lights being used when the vehicle is in motion on the roads. Also, perhaps, inevitably there is an absence of any detail so no action can be taken against anyone who might be responsible for this. However, I wonder how realistic it is to expect the Constabulary officers to be disciplined enough not to use the blue lights.

In light of other decisions on the role and operation of the Constabulary and the legislative provisions, the Council should review the marking of Council vehicles used by the Constabulary and consider whether it is appropriate for any vehicles to be fitted with blue lights.

Titles / ranks

In 2001, the management structure of the Constabulary service was changed. Previously, the Constables were supervised by a Senior Parks Constable. There was concern over whether one person was able to supervise the staff involved and so, after the Senior Parks Constable left in June 2000, it was decided to create and recruit to three senior posts. It was also decided to call these posts “Sergeants”.

In 2004, it was decided to create a more senior post to manage the “Sergeants” and this post was designated as “Inspector”. The post holders wear Sergeants’ stripes and Inspectors’ “pips” as if they held the relevant rank in the Police Service. The Sergeants are also called “P.S.” and the Constables “P.C.”, again titles which imply a police rank.

The selection process for both sergeants and inspectors in the police service is extremely rigorous. It involves studying for and passing a national examination which is marked by a fully accredited Examination Board. Candidates also have to complete two years operational duty before they are eligible to sit the examination. The examination is in two parts - a written paper and then a series of practical exercises which test the competencies required. There are provisos about having to pass both elements in a given time. Having obtained a pass in the examination, candidates for promotion have to pass at interview before a panel of trained senior officers.

In contrast, the selection process in the Constabulary has typically involved an internal competition with selection being only by an interview involving six questions.

I do not consider that it is appropriate to confer a police rank such as sergeant on a council officer. It seems to me that it simply serves to enhance the potential for confusing members of the Constabulary with police officers. However, if these titles are to be retained I think it is essential that a more rigorous selection process should be followed.

The Council should review the use of police titles/ranks for these more senior posts and consider titles which do not imply that the post holders are serving police officers but confirm their status as council officers.

The views of the Police

The Council suggested in my terms of reference that I might need to liaise with the Borough Commander, C S Michael Johnson of the MPS.

I met him with the Chief Executive and he raised some concerns about how the Constabulary is operating. There had been an arrest under S.12 Licensing Act 1872 (drunk in charge of a carriage) and Mr Johnson said that, although S.12 arrest was lawful, the MPS would not encourage their PCSOs to operate at this level.

He considers there is confusion now the Constabulary is operating outside the parks both in terms of their powers and how they look. He said that even he had, on first sight, mistaken a member of the Constabulary for one of his officers. He pointed out that it is much clearer what PCSOs can and cannot do as their powers are set out in statute.

Subsequently, he wrote to me setting out the issues which concern him. He considers that there is confusion over the role of the Constabulary and MPS Officers. He believes that the uniforms and vehicles are too similar. He also has concerns about how the service is managed and regulated.

His preference would be to expand the partnership work between the Council and the Police and to use the available funding to extend the safer communities initiative to the whole of the borough. He estimated that this would provide two Police Officers and three PCSOs for each ward. Their services would be ring fenced to the borough and a service level agreement could be developed to set out what the Council expected from the Police. The Constabulary could become a warden scheme for the parks with the uniform being changed to reflect their role.

He also considers that the role and composition of the joint ASB team should be reviewed and consideration given to reducing the Constabulary and increasing the number of the Police Community Support Officers.

Clearly the Council should take the views of the local Police into account in any review of the duties it expects the Constabulary to undertake.

The perspective of the Independent Police Complaints Commission (IPCC)

The IPCC was created by the Police Reform Act 2002 and came into existence on 1st April 2004. The IPCC is guardian of the police complaints system as a whole and has a range of new, stronger powers to change the way complaints against the police are handled in England and Wales. It can choose to manage or supervise the police investigation into a case and can independently investigate the most serious cases.

Despite the fact that the Constabulary is carrying out a secondary policing role – both inside and outside the parks and open spaces, it is not subject to the IPCC's jurisdiction.

If it is to come within that jurisdiction, the Council must enter into an agreement with the IPCC under section 26 of the Act. The IPCC's preference is for all non-Home Office forces to sign up to the Police Reform Act.

The IPCC was not aware of the fact that Newham Parks Constables were undertaking street duties and is keen to explore its possible implications for accountability and public confidence in policing.

The IPCC referred me to the 2003 Home Office consultation paper, *Policing: Building safer communities together*: which states "we also want to look at whether more should be done to rationalise the current number of small, specialist police forces which still exist in a number of areas of the country.

The IPCC's concerns about accountability and public confidence apply whether or not the Council decides that the Constabulary should continue to operate outside the parks and open spaces. It is possible for complaints about conduct to arise from events both inside an outside the parks.

There is also the potential for both Constabulary staff and Police Officers to be involved in the same incident which might lead to a complaint. In such a case, currently the conduct of the Police Officers would be subject to IPCC scrutiny but the Constabulary would only be subject to the Council's complaints and disciplinary procedures.

The Council should consider entering into the necessary agreement with the IPCC under s.26 of the Police Reform Act 1996 to give the IPCC jurisdiction in complaints received in relation to the conduct of Constabulary officers.

Specific allegations

My terms of reference outline allegations about officers abusing or exceeding the powers of the Constabulary. These are extremely serious matters and, if proven, would constitute gross misconduct.

I have not been able to reach a conclusion on the true situation with regard to all of them. The difficulty is that, with regard to a number of the allegations, I have been given no concrete information in terms of dates, times places etc. There appears to be a culture in the Constabulary that, although rumours circulate about abuse of powers and misconduct, ultimately staff close ranks and are not prepared to come forward with hard evidence sufficient to found management action.

One manager told me that he suspected that some of the allegations might have foundation but that he was unable to take any action without detailed information. He

also assured me that he would take disciplinary action if he had sufficient information to found such action.

Some staff have expressed a lack of confidence in management taking action where allegations concern certain “favoured” individuals. They fear that they will be penalised themselves if they come forward with information. I will deal with this in more detail later in this report but it is a sad reflection on the Service and its management that staff do not feel able to trust their managers to deal appropriately with allegations of misconduct.

Given the new climate which I would hope would exist if the recommendations in this report are accepted, I would urge any member of staff who has detailed information – names, times, places etc - to come forward so that the issue can be taken up. It is very corrosive for allegations to continue to circulate and for management not to be able to lay them to rest one way or the other.

If staff are concerned about their own position, they should consider using the Council’s whistle-blowing procedure which will allow them to report an allegation or incident in confidence and ensure that they are protected. However, it is vital that any information passed on in this way is sufficiently detailed to enable action to be taken.

Unlawful stop and search operations

Constabulary officers do not have the power to stop and search members of the public. Police officers can rely on S.1 PACE 1984.

I have heard anecdotal evidence of stop and search operations – including that some Police Officers have concerns about vehicles being stopped - and also of a stop and search book where the names of those stopped are recorded. Management told me that no stop and search book has ever existed. Some staff told me that it has “disappeared”.

Stopping and searching individuals without lawful authority is a serious breach of human rights and something that the Council would not only not condone but also which would result in disciplinary action against those concerned. However, in the absence of specific details, although it is possible that staff are stopping and searching people in breach of the law, there is no information on which to pursue disciplinary action.

If my earlier recommendation on a comprehensive procedure manual is accepted, this should assist in providing clarity over actions which staff should and should not take and the standards expected of them. However, all staff should be in no doubt that stopping and searching members of the public is not within their remit.

In addition, compliance also requires a culture of staff reporting breach of procedures in detail and management taking action. Managers need to deal with the lack of staff confidence in their willingness to take action in relation to reports of misconduct.

Officers taking the names and addresses of persons stopped without lawful authority

When I put this question to Constabulary officers I frequently received the answer that anyone can ask anyone for their name but that the person asked does not have to give it. I find this rather disingenuous. There is a world of difference between a member of the public asking someone for their name and a similar request from someone dressed in a uniform closely resembling that of a police officer.

I am concerned that those asked for their names are unlikely to know that they do not have to give them and they will not, in any event be told that it will go on the ASB database and may, Data Protection Act registration permitting, in due course be shared with other agencies. This is a civil liberties issue and it is for this reason that “stop and search by the Police and the recording of data is such a sensitive issue.

If the practice of asking for names and addresses is to continue, the Council should prepare a leaflet in all the community languages explaining that there is no obligation to give any details and explaining what will happen to any information which is given. A copy of the information taken should also be given to the individual. Advice also needs to be taken on the Data Protection Act aspects of this practice.

Officers carrying illegal and potentially lethal weapons while on duty (ASPs)

An officer threatening a member of the public with an ASP

I have dealt with the carrying of ASPs above. I have heard that a number of officers have ASPs, although I have not heard that they carry them whilst at work

I have heard the names of two officers in connection with this allegation but I have not heard from anyone who saw the incident simply people who have heard a rumour.

Again I would urge anyone with details to come forward. It is accepted by everyone I spoke to that management has given clear and firm instructions about the carrying and use of ASPs and would take action against anyone who has not observed those instructions.

An officer (un-named) handcuffing a person in Stratford because the officer was not happy with the way the person spoke to him

This is another allegation where the name of a member of staff has been mentioned to me but only as a rumour. I have received no detailed evidence.

An officer pursuing a vehicle outside the boundaries of L B Newham

This incident appears to be an occasion when two officers followed a vehicle whose driver was suspected of driving whilst under the influence of alcohol. They contacted the MPS on their radio and were told that the Police were on their way. Later on, when the Police had not arrived, they telephoned 999 and were asked to follow the vehicle. Eventually, in Essex the driver went through a red light. The officers were able to flag down an Essex Police Panda car and they (Essex Police) arrested the driver.

It seems very odd that the MPS should ask the officers to follow the car. As one manager said to me *“it is a breach of what we might expect”*. This may be because they misheard “Parks Police”. The officer told me that, when he looked at the CAD it said “Herts” Constabulary.

Again, I consider that my recommendation of a procedure manual would have assisted in this situation since it would have been clear what officers should do.

There is some suggestion that the Constabulary officer driving received a “ticket” for speeding on the A406 and that the Council paid it. The officer I spoke to was evasive when I asked him this. Management told me that if officers get a ticket, *“it is down to them”*. Other staff have told me of fines being paid by the Council. If this is the case, it would be inconsistent with what management told me and also, in my view, inappropriate, since speeding is a criminal offence.

An officer harassing his ex-partner whilst on duty and in uniform and co-opting other officers into this harassment

This incident was considered by the MPS. An individual was arrested by a Constabulary officer who was on patrol with the person’s ex partner. The arrest was under s.12 Licensing Act 1872 – drunk in charge of a carriage. He was taken to Forest Gate Police Station where the Custody Officer took over the process His breath test showed that he was three times over the legal limit and he was disqualified from driving for four years.

All the evidence was reviewed by the CPS and of course the Magistrates and, following receipt of Cllr Law’s letter, in addition to reviewing the case, the Police contacted the person and he confirmed that he did not want to complain.

Clearly the officer was in a difficult situation and it would be helpful to have guidelines for situations where the Constabulary find themselves having to deal professionally with people they know well. These would be included in the procedure manual.

Summary

It is important to see the work Constabulary in the context of the Council’s efforts to address one of its key priorities and one of the greatest concerns of its residents – tackling anti-social behaviour. The holistic approach envisaged by “Moving to Excellence” will enhance the Council’s ability to respond effectively. Constabulary staff, together with their colleagues in other parts of the Council, have an important role to play in achieving the Council’s objectives. However, this does not involve their taking on a policing role.

Two of the factors which led to my being asked to conduct this investigation were concern over the role of Constabulary officers in the street and allegations of officers abusing their powers.

I have found no concrete evidence of officers abusing their powers, although there is anecdotal evidence. When some incidents are examined more closely there is an explanation or alternative construction of what occurred which means the incident is not as portrayed in my brief.

However, my work has revealed that the Constabulary has evolved without scrutiny and taken on a quasi policing role without the Council having taken formal decisions about its direction and how it should operate and without any input from the Council's Legal Service. It has also revealed a level of ambiguity within the service about the new duties and disquiet amongst some officers.

The Council needs to address these issues by reviewing the Service and determining what it wants from the Constabulary for the future. This will bring a welcome clarity to all involved.

However, whatever the outcome of that review, there is a need for the Service to have effective managers and sound management systems and processes in which everyone can have confidence. This is the next area I wish to examine.

THE MANAGEMENT OF THE SERVICE

Introduction

A number of allegations have been made about the management of both the Constabulary and the Control Room. They include favouritism, bullying and intimidation, racism, inconsistent treatment and failure to comply with Council procedures, in particular equal opportunities. This part of my report examines these issues in detail.

It is important to see the allegations in context. Over the past 18 months, the Service has been experiencing major change and this inevitably places a strain on all those involved with managers feeling the pressure to deliver and staff perhaps not fully understanding what is expected of them

Managing change requires the ability to lead and motivate staff. It also requires a structured approach and strong management systems and processes particularly in relation to communication. Communication will make or break a change programme. Crime and ASB, and its predecessor service NESS, do not appear to have had strong management systems and processes nor has there been good communication. Senior managers have not engaged staff in the process and have not put the necessary effort into communicating with them and involving them in the change process. This has undoubtedly had a detrimental effect.

This is borne out by staff's view of the atmosphere in which they have to work. I asked all the staff I met how they would describe the atmosphere in the Service and this was the one thing on which they all agreed. No-one had a positive word to say. Expressions

included “*awful*”, “*very divided*”, “*poor morale*”, “*low morale*”, “*depressing*”, “*scared*”, “*terrible*”, “*unworkable*”, “*horrendous*”, “*morale at rock bottom*”, “*so much tension*”, “*no body trusts each other*”.” Some staff are worried about “*getting quoted*” and being drawn in to disputes simply because they were present.

Whilst this was more of an issue amongst Constabulary staff than Control Room staff, it is clear that staff are not generally happy in their working environment at the moment. This low morale is a major issue which must be addressed if the Service is to move forward.

Different staff had different perceptions of the reasons for the poor atmosphere and cited cliques, a group of people who are disruptive, a divide and rule management culture and the new roster. Even those who were supportive of management were not positive about the atmosphere, communication or the management of key initiatives.

This lack of confidence in management is extremely serious and must be tackled as a matter of urgency. If it is not, the effects on the Service will be even more damaging. However, there is some cause for optimism. Most staff told me how much they enjoyed their jobs. They want things to improve so that they can get on with their work without the distraction of the corrosive environment in which they are working.

In my view, there are a number of “trigger issues” which have led to the current situation.

These include:

- the introduction of a new roster for some Constabulary staff in August 2004 and the fact that staff worked on two different rosters between August 2004 and July 2005;
- the recruitment process for the three sergeants who were appointed in January 2005;
- the recruitment of 12 new constables who have a different perspective on the job from other staff and were recruited using a police based process;
- the new duties for the Constabulary and how they were introduced;
- the eight Employment Tribunal claims by Control Room staff; and
- the failure to progress the re-grading of Control Room staff.

Each of these issues on its own would be likely to have an effect on the service but the combination is even more significant. This has been exacerbated by the lack of formal management systems, poor communication, a predisposition in the Constabulary for staff to form factions with little or no respect for colleagues, a history of unresolved issues in the Constabulary and management which does not enjoy credibility with a number of staff.

When I asked managers why they thought the situation had reached this pass, they had a variety of explanations:

- a campaign by one of the Unions;
- “*having to use a big stick*” to correct practices which had got lax;

- a group of people in the Constabulary who do not want to be managed;
- a minority of obstructive staff who do not agree with the wider role of the Constabulary;
- the frustration of candidates who were not appointed as sergeants; and
- pressure being applied by management to make the service deliver in more than parks.

It is noteworthy that managers seem unable to recognise the impact of some of the trigger issues outlined above or to accept that they must have had a role to play in the current state of the service. They told me that they could not manage at the moment because of this investigation but did not appreciate that they must have played a part in getting to a situation where such an investigation was commissioned.

If managers are to be part of the solution and manage the Service out of the nadir in which it is languishing, they need to accept responsibility for their contribution to reaching this point.

Before I consider some of the detailed allegations on how people are managed, I want to examine two of the “trigger issues” in a little more detail as they provide useful background. They are the roster and the Control Room re-grading. Both are good examples of the way management issues are handled in the Service.

The roster

A decision was taken to put the new intake of Constables on a new roster, different from that of other staff, in August 2004. This has exacerbated divisions in the service which were already present.

It came about because managers considered that the roster which staff were working to would not serve the needs of the new Crime and ASB Division since it did not provide sufficient cover in the evenings and at weekends, when complaints of anti-social behaviour were more likely.

Work commenced on changing the roster in 2003 but the position seems to be that managers did not pursue the changes very vigorously. The issue became more pressing in 2004 as the Division moved towards its launch since management considered that they could not meet demands with the old roster.

Managers therefore devised a roster which they believed would enable a better response on anti-social behaviour calls and decided to start the new staff off on the new roster and to “re-invigorate” negotiations with the existing constabulary.

One manager described managing the two rosters as a “*nightmare*” as it involved a constant battle to get cover. Often there were 11 people on duty in the morning, a quieter period, and three to four in the evening, when things were busier. This view was echoed by some of the supervisors who told me that it was impossible to manage with two rosters

This was entirely foreseeable and it is therefore surprising that management decided to introduce the two roster system. I was told that there was a “*naïve assumption that everyone would move on to the new roster soon*”. Eight staff did volunteer to move to the old roster but two or three of them later moved back.

Management told me that if they had put the new intake on the old roster, they would have been “*disregarding instructions to have the division operating*”. They believed that they could not have delivered the ASB service as they would not have had personnel at the salient times.

“Old” roster

Early 7-3
Mid 12-8
Late 3-11
Night 10-6

“New” roster

Early 6-2
Mid 2-10
Late 6-2
Night 10-6

6-7am not covered.

Finally after nearly a year, a further roster has been agreed. I am told that this has been agreed by everyone, although at least five of the staff on the old roster are on sick leave.

Roster in force since 4th July

Early 6-2
Mid 2-10
Late 4-12 or option to work 6 -2
Night 10-6

There is little difference between this and the “new roster” which begs the question, why, if things had been managed differently and more discussions held at an earlier stage, could it not have been agreed a year earlier and saved a lot of pain and anguish for the Service?

One manager told me that the new arrangement was only finally agreed because management threatened to take away paid meal breaks. I am surprised that staff are paid for meal breaks and that, if they are, it would be possible to withdraw this unilaterally.

Aside from the managerial difficulties of running a service with two sets of working arrangements, the two roster system has had other detrimental effects on the Service.

- staff on the old roster have been left outside the service without any management support - “*adrift*” as one supervisor put it;
- they believe that they have been victimised and not received training and opportunities to undertake overtime;

- morale is poor in the service and this applies to staff who worked on both rosters;
- several staff on the old roster are on sick leave with stress and anxiety;
- there has been little mixing between the new staff and some of the “older” staff which is likely to have increased the divisions;
- the Constabulary has not been able to respond effectively to duties such as noise calls because of lack of personnel;
- staff on the new roster have told me that the service is a “*laughing stock*” in the wider Parks Constabulary community; and
- staff on the new roster were annoyed that they were not involved in discussions about resolving the situation and agreeing a further roster.

Whilst I understand the reason for introducing the two roster system, I consider that it was an error of judgement which has exacerbated the problems in the Service. I am not alone in this view. One of the supervisors told me that “*the roster was dealt with very badly*” and the staff I spoke to were very critical of the way it had been handled. The whole process took two years and there was little engagement with the affected staff.

Managers will have to work very hard in the coming months to deal with some of the problems it has caused, particularly the divisions, if this issue is not to be yet another long-running problem. They need to put effort in to gaining credibility and teambuilding initiatives should be pursued.

Control Room re-grading

The issue that has caused discontent in the Control Room is the lack of progress on the re-grading of Controllers. Staff have been arguing for a re-grading for some time but do not feel that management is pursuing it vigorously. One member of staff who was generally supportive of management told me that “*There is buck passing but no progress.*” He told me that the lack of action and information has led to his not feeling valued or respected.

One manager told me that the Controllers have always believed that they were underpaid. Initially Controllers were recruited on Scale 5 but this required a security or police background and some good candidates were excluded. A decision was made to take people on at Scale 4 and assess them within a year or 18 months up to Scale 5. The aim of the re-grading was to get a job description at Scale 6 to which staff will progress by assessment. Since, some staff are already on Scale 6 as they have an acting responsibility when a supervisor is absent, it is difficult to understand why achieving this should have proved so difficult.

The creation of the Crime and ASB division presented an opportunity to pursue the issue of re-grading and a new job description for the Controllers. Whilst one manager told me that he helped staff with advice on how they should put the arguments for the re-grading and he also accepted that he had delayed drafting the new job description. I was told that this is now with HR. However, I was told by another manager that he had submitted a revised JD but it came back with the same grade.

When I raised the issue of lack of information and the fact that staff do not know what is going on, managers told me that the issues had been discussed with Unions and, if they are not feeding back to staff, that is the Unions fault.

Not all staff will be in a union and the responsible managers did not seem to appreciate that this is an issue where managers should be talking directly to their staff and that, not doing so, causes frustration and poor morale.

In any event, the Union representatives did not appear to be any more aware of what is going on than other staff.

The detrimental effect that this lack of progress and, more importantly, lack of information is having cannot be overstated. As a general rule, staff in the Control Room seem less discontented than staff in the Constabulary, but they feel let down by their managers' handling of this issue.

If managers are not to lose the good will that exists they need to address this issue as a matter of priority and not pass the buck to the HR service or the Trades Unions. If HR is delaying the process or not assisting it, they need to tackle this head on and keep staff informed of developments.

Staff need to know that their managers are actively pursuing the re-grading. Alternatively if the re-grading is not feasible, they need to be told this sooner rather than later. Managers need to talk directly to their staff.

Human Resources

A number of the issues that I will be considering in this part of the report are human resources' issues. Senior managers were very critical of the support that they receive from Human Resources. They told me that they find the service unresponsive and consider that HR does not help them to achieve what they need to achieve.

Examples that were cited to me include the delays in the re-evaluation of the new job description for Control Room staff and the fact that it took eight months to recruit to two senior posts. HR advice was also cited as the basis for some of the decisions I am critical of in this report – internal recruitment and the employment of senior staff on a consultancy basis via an agency are but two examples.

Other managers were also critical of the HR support they receive as well as the Council's procedures. Two issues are the sickness procedure and a perceived lack of support corporately for training in a 24 hour environment with corporate courses only fixed for certain days.

If the latter is the case, it is clearly a problem but managers need to be as creative as possible in meeting their staff's training needs. I understand from the Council's Head of HR that they could negotiate with Central Training to arrange courses specifically for Crime and ASB staff on days and at times which meet the needs of the service and its staff.

I think it is fair to say that the Service has not always been well served by the support it has received from its HR advisors. Sometimes the advice has led to problems such as the direct appointment which resulted in the Employment Tribunal claims. However, I think that it is also likely that managers have used Human Resources and the Council's procedures as excuses for courses of action they have taken or for not pursuing issues.

There is scope for the HR Service to take a more robust line with managers in the Service. There are a number of situations in which HR could have taken a harder, more directive line with managers in Crime and ASB to ensure that practice in the Division conformed to best practice.

For example, HR should have dealt with the practice of appointing staff on two year temporary contracts, given firmer advice on the Recruitment and Selection Procedure and not sanctioned the contents of a letter management sent to all staff following the suspension of a member of staff. The HR Service needs to have a regulatory role as well as one which facilitates legitimate management objectives.

I am optimistic that the centralisation of the Council's HR service will address some of these issues and raise the profile of HR. HR staff must be the guardian of the relevant law and Council procedures and ensure that managers act in accordance with the legal and Council requirements.

Recruitment

A number of issues have been raised with me with regard to the Service's recruitment and selection of staff. These are that:

- staff are appointed on temporary contracts and kept on such contracts even when they have acquired employment rights because of their length of service;
- the Service does not adhere to the transparent application of the Council's Equal Opportunities Policy in relation to recruitment and promotion;
- certain officers were allowed to leave the service for considerable periods of time and were allowed to return without interview; and
- some officers in the service secured their employment on the basis of their relationships with management and others in the ASB Unit who were in a position to influence their selection.

My consideration of recruitment has revealed practice which falls far short of best practice.

Temporary contracts

A number of staff have been appointed on temporary contracts. This is despite the fact that since October 2002, when Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 came into force, the position of temporary staff is no different from that of staff on “permanent” contracts. . However, the staff concerned do not know this and many have told me that the fact they are on temporary contracts has stopped them from challenging or criticising management as they are frightened that their contracts will be terminated. The suggestion is that temporary contracts are used to keep staff in line.

I am told that some three year “temporary” contracts were even “extended” last summer. An attempt was made to blame HR for this practice but I do not think this can be sustained. It was clearly a management initiative. One manager commented that it “*lowers the quality of candidates*” which is likely to be the case as staff are unlikely to leave a permanent position elsewhere to take up a temporary contact.

I also understand that, although six permanent employees have left the Constabulary in recent years, their posts have not been filled, despite a number of staff having been employed on temporary contracts in this time. It is not clear what reason there could be for this other than to maximise the use of temporary contracts and thus job insecurity.

I can see no reason for using temporary contacts other than to foster a sense of job insecurity amongst the affected staff. This is inappropriate.

The practice of using temporary contracts should cease other than where positions are truly temporary and will last for less than 12 months.

Training

Managers are allowed to participate in recruitment without any training. Other managers attended courses some years ago.

It is therefore unclear how senior managers in the Division are ensuring that “*all staff involved in recruitment and selection are familiar with anti-discrimination legislation and comply with the Council’s Equal Opportunities Employment Policy*”. This is an obligation on them in the Council’s policy.

The conduct of recruitment and selection

Internal processes are almost always used as opposed to external advertisement. I asked for details of all recruitment exercises carried out since April 2002, including details of

the posts, whether the process was internal or external, the number of applicants, the number shortlisted and the outcomes including gender and ethnicity.

This is an area where I did not receive all the information I had requested. I was supplied with papers about recruitment exercises but they did not show the date of the recruitment, many did not have post titles and most importantly, they did not indicate whether the exercise was external or just internal.

My own research has only revealed two external recruitment processes in recent years – the intake of Constables in 2004 and senior appointments in 2005.

In addition, managers in Crime and ASB have confirmed that internal processes are most frequently used. One manager told me that the Council's Recruitment Process means that he has to use internal advertisement. His understanding is that Stage 1 is redeployment, Stage 2 is internal only and only later can he advertise externally.

In fact the situation is not quite as bald as that. The Council's Recruitment and Selection Process states that the "Standard" which managers must ensure is:

"All vacancies are advertised externally and internally except in as provided in the redeployment policy."

The Redeployment Policy Requirements are:

1. *"All posts must go on the Redeployment Register and go through the matching process at least once before they are advertised unless*
 - they are graded PO5 or above*
 - they are temporary (i.e. less than two years duration)*
 - they need special skills normally found in just one Department.*

2. *"All posts must stay on the Redeployment Register for 3 months before they can be advertised unless*
 - the Department decides (after 1 unsuccessful trawl through the matching process) to put the job out 'Council-wide' i.e. to advertise it internally ahead of external advertisement or*
 - the Department is granted exemption from the 'Council-wide' process i.e. a redeployment panel agrees that it can be simultaneously advertised internally and externally."*

In fact, it is clear that the Service has made use of at least one of these exemptions by recruiting Constables on two year fixed term contracts. This strategy could have been devised specifically to avoid the posts going onto the redeployment list. I see no reason why a case could not have been made about "*special skills*" in relation to the posts or why an exemption could not have been sought. This happens elsewhere in the Council all the time.

I appreciate the need for the Council to ensure that it can discharge its obligation to seek alternative employment for employees who are displaced by Council reorganisations. However, I can equally appreciate the need of operational managers to get suitably qualified staff in to fill vacancies as quickly as possible. Three months seems a rather long time to have to wait before advertisement. It will inevitably affect service delivery and, in my experience, is not the norm in other authorities.

It is also, in my experience, unusual to have a requirement for internal advertisement of posts in advance of external advertisement. Local authorities are under a duty to appoint on merit and are also committed to equality of opportunity and ensuring that their workforce reflects the composition of the community it serves.

All of this is much more difficult to achieve if the pool of potential applicants is restricted to existing staff. It is therefore more usual for posts to be advertised externally unless a reorganisation means that existing staff have contractual claims on the posts. This does not preclude the appointment of an internal candidate but s/he will have been appointed after an external competition and it will have been demonstrated that s/he is truly the “best person for the job”. Internal appointees will therefore have greater credibility.

The Council should consider amending its Recruitment and Selection Procedure to enable posts to be filled quickly whilst also ensuring compliance with the relevant legal requirements on suitable alternative employment, appointing staff on merit and equal opportunities. This will normally be by external advertisement.

I believe that it is incorrect for managers in the Response Service to say that they have no choice but to go internally. I suspect it has suited some managers to promote from existing personnel but this strategy has caused problems both in terms of staff perceptions of favouritism, breach of equal opportunities and unfair process and also in the lack of an injection of new skills and experience into the Service. It has also affected the credibility of those appointed and their ability to manage staff. In short, it has not helped either the culture or relationships.

Allegations of unfairness seem to have been a feature of promotion decisions for some years. I am told that there were allegations of unfairness in 2001 in advance of the (internal) Sergeants’ recruitment at that time. As a result, a union representative sat in on the interviews. Complaints have been raised about the recent appointments of an Inspector and three Sergeants.

In addition, there have been a number of allegations of “favoured” staff having been given the questions in advance of the interview. I will deal with this in more detail in the Appendix to this report

Given the history of such concerns, it is surprising that no action has been taken in recent years to deal with possible perceptions of unfairness and favouritism.

I am also surprised by the comparative lack of rigour in the process. It is the norm to use an interview only and for this merely to consist of six questions. Having seen some of the questions, I do not consider that they are taxing enough to justify promotion. Contrast this with the process Police Officers have to go through to progress to Inspector and Sergeant, which I have described earlier. Those who are successful under the Police process are, as a result, credible to the officers they are responsible for.

Indeed, even in the local authority context, Council staff would expect more than an internal process and six questions in order to be promoted to an SO grade.

The other issue which has been raised with me is that records are not taken into account and that this has resulted in candidates being appointed who have less good records than the unsuccessful candidates. This is a source of discontent amongst staff.

Although one manager told me that internal promotion is decided on performance, other managers said that they had been told by HR that records could not be taken into account. I cannot find this in the procedure and I would have thought that the one benefit of an internal process, where all candidates are known, is that records are available for all applicants and can and should be taken into account.

Certainly references can and should be taken up. I do not see how the best people will be appointed if records are ignored. It is ridiculous to appoint someone who is known to have a poor record simply because s/he happens to perform well at interview. This seems to be the implication of what I have been told.

Finally on the process issues, it is to be regretted that the unsuccessful candidates for the Sergeants' posts were not told on a face to face basis that they had been unsuccessful and given the opportunity of one to one meeting with one of the managers on the panel to obtain full feedback on their performance.

Candidates were not told very promptly and then only on the phone, even if they were at work. The only offer of feedback was through the HR representative which is not appropriate. Managers must take responsibility for their decisions and help staff to learn from the experience so they can have a better chance in a future competitive process.

Those who spoke to the HR representative to obtain feedback raised serious criticisms of the process – that it was predetermined, that there should have been an independent element, that conduct and capacity should have informed the decisions on the shortlist, the issue of ASB training and the lack of representation of ethnic minority staff at managerial levels.

These concerns were passed on to management in the Service but do not appear to have been addressed.

There have also been occasions in the past when no formal process was used. These include the appointment of a previous member of staff which led to the eight Employment Tribunal Claims from Control Room staff and the re-appointment of two members of staff after they had left the Council's service.

I am told that these appointments were made under a provision in the Council's scheme of delegation which allowed "direct appointments" – that is appointments of staff without any recruitment process. I am surprised that such a provision should have existed as I cannot see how it is either consistent with the Council's duty under S. 7 of the Local Government Act 1989, to appoint on merit, or with its Equal Opportunities Policy.

It seems unlikely that just anyone would have been able to return in this way. Presumably only those former staff favoured by management would be welcome.

I am told that the practice has now ceased and that, when it did exist, it was only used by some parts of the Council. The relevant provision in the Departmental Scheme of Delegation gave authority for:

"Exceptions to normal recruitment processes - e.g. direct appointment to permanent or temporary posts without competition."

It seems likely that this provision was not devised to cover the situations for which it was used in Crime and ASB. It seems more likely to me that it was designed to cover the situation where a member of staff has been on a temporary contract for some time and managers wanted to make him /her permanent or for moving staff around the Department.

Even where external processes are used, it is comparatively rare for candidates to be appointed who are not known to the Service. Often those appointed have worked for the Council's contractor or have friends or family in the Service.

For example, in 2002, four new Constables were appointed. One had been visiting from another Parks Constabulary, another worked for the Council's Security Contractor and had been encouraged to apply by a manager in NESS, one was the partner of a serving Constable and the fourth was a friend of a serving constable.

In the last in-take, at least four of the 12 appointees were known in some way. One is related to a senior manager, two are related to existing members of staff and the fourth worked for the Division in another capacity.

This does not mean that these processes were necessarily biased or unfair. However, I believe that it may indicate a reluctance to throw the recruitment net as widely as possible, attract the biggest field of candidates and appoint candidates without some connection with the Service. In any event, I consider that the number of family relationships in the service presents problems and is something that needs to be addressed. I will return to this issue.

The Crime and ASB Service should use the external recruitment process only unless a suitable candidate is identified via the Council's Redeployment list.

Managers should receive training / further training on the recruitment process and best practice in recruitment and this should include the whole process from drawing up the job description to giving feedback to candidates. Only staff who have received the requisite training should participate in recruitment and selection.

Managers should consider the use of suitable selection tests in addition to the selection interview when recruiting staff. Interviews should be more rigorous and include more than the six questions currently used.

The Council should consider how managers in Crime and ASB can best be supported in future recruitment exercises to ensure that the process is perceived to be transparent and fair and in accordance with best practice.

The final allegation concerns individuals securing their employment on the basis of relationships with management and others. The direct appointments referred to above would fall into this category as the staff were known to management. So too do certain consultancy appointments which I will deal with in Appendix Two to this report together with other allegations relating to recruitment.

To return to the allegations outlined above:

Staff are appointed on temporary contracts and kept on such contracts even when they have acquired employment rights because of their length of service.

This is the practice in the service.

The Service does not adhere to the transparent application of the Council's equal opportunities policy in relation to recruitment and promotion.

I have commented extensively on how the Council's Recruitment and Selection policy is implemented in the Division. This clearly has the effect of reducing the fields of candidates and is therefore not in strict compliance with the Equal Opportunities Policy. The previous practice of direct appointment is also not in accordance with equal opportunities nor is the way the Service obtained the services of certain consultants.

Certain officers were allowed to leave the service for considerable periods of time and were allowed to return without interview.

The practice of making direct appointments has led to some staff being taken back without a formal recruitment process. In addition, former members of staff were appointed as consultants without a competitive process.

Some officers in the service secured their employment on the basis of their relationships with management and others in the ASB Unit who were in a position to influence their selection.

This is clearly what happened with the former member of staff who returned to the Service. The proliferation of family relationships could also give rise to that perception, although there is no concrete evidence of appointments being secured on the basis of family connections.

Acting positions

Another matter that was raised with me concerns the appointment of staff to acting positions. The allegation concerns individuals so I have dealt with it in greater detail in Appendix Two. However, it points to a lack of formal systems and therefore I wish to make a recommendation in the Report itself.

The Service should introduce proper documented systems for appointing officers to “acting” positions (even on a very temporary basis) and ensure that they are operated with transparency and that the criteria are understood by all affected.

Communication

Almost everyone I spoke to was critical of communication within the service. Most staff said they relied on the grapevine to find out what was going on.

Staff typically receive the information they need to have to do their jobs by email and sometimes not at all. The new noise duties are a classic example. Officers were being sent on calls without having been told that there was a new duty and trained on how to deal with these calls.

This can happen in the Control Room as well where calls can come in because a new leaflet has been issued containing the Control Room telephone number and staff have not been told what to do with them. Alternatively a procedure may have changed and they have not been made aware of the new procedure.

Email is not only impersonal but it is also not usually the best way to communicate with staff who work are not office based. Even the Control Room staff tell me that they often do not have time to check their emails before starting work. This is a greater problem for the Constabulary and Wardens whose work is not in Council offices.

Staff meetings are infrequent and usually held only to discuss a particular issue rather than regular run of the mill matters. Staff have told me that the meetings are one way rather than an exchange of views and they are not encouraged to express their opinions.

Team meetings or briefings are also not held and there are no calendared one to one meetings between supervisors and staff.

In addition, although there are regular meetings with the Trades Unions, they are critical of the dialogue they have with management and the level of consultation and engagement. They say that their emails go unanswered. The meetings agreed as part of the settlement of the Employment Tribunal claims have not taken place. However, managers seem to think that, if they discuss things with the Trades Unions, that obviates the need to talk directly with their staff.

Staff raised with me the issue of lack of discussion on the roster and of information on the progress of the Control Room re-grading. I raised this issue with managers and was told that they had been talking to the Unions. Managers cannot abnegate their responsibility for talking to their staff, even if the conversations may sometimes be difficult.

Effective communication requires proper systems and action to ensure that they are implemented. It is a key part of all managers' jobs and one against which their performance should be judged. The fact seems to be that communication has not had the attention it should have had particularly in the context of the change programme that the Division has been undergoing

Action needs to be taken to remedy this situation and systems evolved to ensure proper communication up, down and across the Division. Initiatives will need to include:

- monthly team meetings;
- briefings at the beginning of each shift;
- regular staff meetings;
- newsletters;
- monthly one to one meetings between supervisors and staff; and
- a recognition that communication is a two way process. Staff must be encouraged express their ideas and views and mechanisms must be identified for feeding back on issues raised by staff.

It should also be made clear that these meetings are not optional (for managers or staff) and all staff who are on shift are expected to attend. Consideration also needs to be given as to whether some of the meetings need to be held more than once in order to ensure that all staff are covered.

The Division should introduce comprehensive systems to communicate with staff as well as mechanisms for ensuring that they are being implemented. Implementation should be a performance measure for all managers / supervisors.

In passing, I would like to note that an investigation in 2001 into allegations of racism in the Constabulary recommended that:

“There should be monthly / bi-monthly meetings between groups of staff and their line managers so that better team building can be achieved and to bring out into the open any interpersonal problems before they become a festering problem.”

If management had implemented this recommendation and given proper attention to communication, I suspect the atmosphere in the Constabulary would be more positive than it is currently and also that those staff who have raised issues with me relating to the management of the Control Room would have less cause to complain.

It is likely that the same is true of the next topic I will consider.

Performance management

I asked for a copy of the Service Plan 2004/5, performance targets for the Service and sample of targets for individual officers and performance data for past 2 years.

I was told me that there had been no 2004/5 Service Plan and that *“in effect the service areas have continued with their 2003/4 service plan as a base and we have made adjustments along the way to accommodate the changing agenda”*. This means that at a period of great change the Service was, in essence, operating without a route map.

I was also told me that performance targets/measures for the whole of the Crime & ASB Service were being developed. I did not receive sample targets for individuals and was told that performance data for the last two years was not available.

Subsequently the Deputy Chief Executive sent me the Service Plan for 2005/6 and some performance data for recent months.

I think it likely that Service Plans, appraisals etc are not regarded as useful performance management tools but rather as corporate requirements which must be complied with and which hinder, rather than aid, effective service delivery. As a result, a “tick box” attitude prevails.

Appraisal is poorly implemented. Many staff reported having only had one or two appraisals in the past 5 years or so and six month review meetings do not appear to be held. There are no one to one meetings and so no ongoing performance management.

Only one member of staff could tell me of targets they had been set and these were not what I would term performance targets – “*maintain current standards, keep up to date and attend relevant courses.*” The appraisals I have seen have been of poor quality and there is no training needs analysis within the process.

Appraisal meetings do not seem to be used to good effect to reflect on past performance, discuss issues and set the agenda for the coming year. Several staff told me that they had not actually had an appraisal meeting but that their completed appraisal had simply been emailed to them by their manager with a request to sign it.

Appraisal was considered in the 2001 investigation. Despite this, the lack of implementation of the appraisal process does not appear to have been addressed in the intervening period. Management accepted that quality was an issue and that “discipline” was needed in the processes. Delays in producing the service plan, ASB strategy and Crime and Disorder Reduction strategy were cited as contributory factors.

However, I would assume that these delays were all matters which managers in the Service could have influenced and, in any event, they should not have halted the appraisal process completely, nor should they affect the quality of the process or the other performance management systems that should be in place. It is the responsibility of senior managers to ensure effective performance management in the Service and also compliance with Council systems and processes.

The Service should institute a comprehensive performance management system, perhaps along the lines of Investors in People, which will link the work and targets of individual members of staff with service and corporate objectives. Staff should be involved in developing the Service Plan for their area. Regular monitoring of performance is also vital.

Training

The Constabulary

Training is another important issue. A properly managed service will have systems in place to ensure that staff receive the training they need to do their jobs and to progress. Systems will be open and transparent so as to avoid suggestions of favouritism. Again the absence of systems reflects badly on the Crime and ASB Division.

The issues raised include:

- that staff receive insufficient training to take on new duties and most officers have not had any refresher training for a length of time far in excess of six months;

- favouritism - it was alleged that staff on the old roster were denied the same amount of training and how staff are selected for training was also an issue in the Employment Tribunal Claims brought by the eight Control Room Staff;
- the quality of training for the Constabulary;
- the comparative lack of training for Control Room staff; and
- the lack of management training.

There is no training needs analysis for individual members of staff and thus no structured approach to identifying the training that individuals need to meet their targets and contribute to achieving the strategic objectives of the Service. This means that more often than not the basis for different staff being sent on different courses is unclear. In turn this leads to allegations of favouritism.

Training does not appear to be monitored. Managers do not appear to have carried out a comparative exercise analysing the training received by each individual over the past few years.

The Constabulary has an initial training programme of three weeks. It is perhaps worth noting that this is less than that received by PCSOs – five weeks, yet PCSOs are not expected (or indeed) allowed to arrest people.

The three week course covers a range of issues including the role of the constable, the criminal justice system, powers of arrest, various criminal offences, evidence, human rights, diversity, taking statements.

Staff are also trained on officer safety and are meant to receive refresher training on the law and officer safety. The three week training course has not been extended since the Service has taken on new duties and more work on the streets.

To examine the allegations of favouritism, I asked for training records for the past three years and analysed the data.

The records for the Constabulary revealed that training has increased in the last year. The average days per member of staff in 2002/3 was 3.7 days. This fell to 1.08 in 2003/4 but increased to 5.25 days in 2004/5.

Although some Constabulary staff had received more courses than others and these were the more “favoured” members of staff who were later promoted, in general, in the past year, all staff received a fair amount of training – unless they were on sick leave – and it was fairly typical for most staff to receive a package involving Fleet Awareness, Emergency Planning, Surveillance, First Aid, ASB Way Forward, SPA Refresher (Domestic Violence), Officer Safety – terrorism and handcuffs.

The evidence for favouritism in the allocation of training is not completely one way but it is extremely worrying that training fell to such a low level in 2002/3 and 2003/4. This seems to support the allegation that staff do not receive the training they need to do their

job and may explain the assertion that staff have not had refresher training for over six months.

It is also clear that training was not provided in 2003 to support the new duties introduced into the job descriptions and there is also evidence that training has not been provided to enable staff to discharge newer duties such as noise calls.

This then begs the question about whether the initial training received in the three week period is sufficient for staff to then go onto the street and do what is expected. Given the absence of other management systems which might support them, it seems unlikely that the initial course is sufficient to equip them with what they need.

The issue of quality has also been raised. Since 2000, one company has been the principal supplier of training to the Constabulary. Several staff, at different levels, have raised issues about the quality of the training provided including the lack of handouts and feedback as well as the content of some sessions.

Internal Audit has recommended that the Division should tender its training arrangements. This will have the advantage of introducing the discipline within the service of specifying the content of the training that is required and the desired outcomes. This should deal with any quality issues, which may exist, as well as demonstrating value for money.

The Control Room

Training is also an issue for the Control Room. Staff who came to see me raised concerns about training. There does not seem to be a structured approach to training and a number of staff have attended only one or two courses over the past five years, whereas others had been sent on many courses.

I did not carry out the same analysis as there were not extensive allegations of favouritism. The most serious allegation is that training is not provided and this is borne out by the evidence. The only allegation of favouritism was that a member of staff who is regarded by some colleagues as “favoured” received preferential treatment.

I am informed that this is not the case and that the member of staff was identified for the training in question by another Council department. However, where there is no structured approach to identifying and meeting training needs and no clear rules around family and other relationships, the Service will inevitably be open to such allegations.

Training was also one of the issues in the recent Employment Tribunal Claims brought by eight Control Room Staff. The background to this was that for some years management had identified a need for a crime analyst within NESS. They identified a training course but there was a waiting list. They did not join the waiting list because there was some uncertainty around the future of NESS at that point.

Two years ago they were offered two cancellations out of the blue and accepted them. Management then had to select staff to go on the courses. They “*wanted people who they thought could do the job and, because they would be working with police data in a police station, they needed to be sure that they would clear any vetting.*”

The responsible manager, who is no longer with the Council, made “*a pragmatic decision*” to send two members of staff without offering the course more widely. It was accepted that although this was “*pragmatic*”, it was “*not necessarily fair*”. However, it is true to say that no-one complained at the time.

Subsequently one of these staff left to work for the Police. In 2004, the MPS and the Division identified the need for four crime analysts. There was one in the Community Safety Unit already and the Police had one. The second member of staff who had been on the course was seconded to the role and a manager suggested to the MPS that they could second the first member of staff to the other post. This was not possible but I was told that this person “*got to know about it and let it be known that [they] would like to come back.*” The other version of this is that the member of staff has said that they were “*head-hunted*”. It seems likely that someone from management approached the former member of staff.

I was told that HR advised that this person could simply be appointed to the post - a direct appointment, without any recruitment process. I have dealt with the issue of direct appointments above but at the time this was in accordance with the scheme of delegation.

Once the member of staff took up the post, Unison queried what had gone on and subsequently eight Unison members issued Employment Tribunal Claims for race discrimination. As I have already made clear these are covered by a confidentiality agreement and I consider that it would be in everyone’s interests for this to be lifted.

Although the confidentiality agreement means that I am unable to say as much as I would like about the claims, in my view they were a direct result of the fact that the Division had no structured approach to training, and also that it adopted a suspect recruitment practice. What greater argument can there be for proper management systems and processes which are adhered to? I am, however, not sure that the relevant managers have learnt the appropriate lessons from this experience.

Managers

The problems revealed by this investigation imply a lack of management competence or capacity. The Service places little emphasis on management training or support to managers. It appears that they are not given the training they need to do their jobs.

Recently appointed supervisors in the Constabulary and Control Room have not been subject to a structured programme to induct them into their new roles. They are expected to take on new responsibilities, such as appraisal, without training. I am aware that at

least one person has put himself on an appraisal course off his own bat and this is commendable. However, it should not be a matter for the individual.

Several managers have not had training on the Council's procedures. A mentoring arrangement has been introduced for the new Sergeants – I presume as a response to recent problems – but I gather this is internal.

There is a desperate need to raise the management skills in the Division. Training is not the only way of doing this, coaching arrangements might also assist as well as line-management support. Thought needs to be given to the issue of management development for all managers in the service (from the most senior to front line supervisors) if the Service is to manage its way out of its current difficulties.

Staff responsibilities

Finally, managers have complained that staff fail to take responsibility for their own training. This is also unacceptable. Staff cannot complain about lack of training if they are not prepared to turn up when it is scheduled. Managers told me that this is an issue and that they have arranged courses which staff do not attend. However, no management action is taken when staff fail to attend.

Managers must discharge their responsibilities for their staff's training but this is not a one way street and staff must take responsibility for their own development as well. If training is agreed as part of the appraisal process and arranged with proper notice, action should be taken against anyone who fails to turn up.

One manager told me that he has told staff to identify appropriate training and that he would try to facilitate it. He said that few have taken advantage of this offer and that those who do are then said by others to "get all the training".

Getting staff to identify their own training is an abdication of management responsibility. A proper training needs analysis process is needed where managers and staff meet on a one to one basis and agree a training plan. Both will then own the plan and should work to ensure it is implemented.

Managers should institute a process of training needs analysis which will result in a training plan for each member of staff to ensure that staff have the skills needed to achieve service and corporate objectives. These should be monitored through regular one to one sessions with managers. Managers should also consider training in the workplace as well as sending staff on courses.

Staff should take responsibility for the implementation of their own training plans.

Managers should ensure that the training provided to staff is monitored for quality and value for money and that feedback is sought from staff attending training courses.

Seniors managers should identify suitable management development programme for managers and supervisors in the Divisions

Managing People

Management style

A number of staff spoke about the management style in the Division and characterised it as “*bullying*” with managers using “*bully boy tactics*”, shouting and swearing at staff and discouraging them from expressing their views.

It is fair to point out that this perception is not universal but several staff cited incidents of when they had been sworn at by a manager and Cllr Law highlighted examples he had been given of staff being told, if they questioned any operational instructions that were given to them, that there was little point in complaining and that they should not think of taking complaints to councillors as they had “*...all the councillors in their pockets*” and that there was nothing they could do about the situation as “*orders had come direct from the Chief Executive and the Mayor.*”

Cllr Law had also been told that members of staff who questioned management were threatened with the loss of their job. I was also told that managers had told staff that if they did not like something they would get other staff and that they had been threatened with a “*90 day notice*” if they did not agree the new roster.

A number of staff told me that they were frightened of management finding out that they had come to talk to me as they feared that action would be taken against them once the investigation was over.

Some also pointed to the fact that they were on temporary contracts and that this inhibited them from expressing their views and challenging management. I have already commented on the use of temporary contracts.

The fact that staff felt that they had to go to an elected Member to get their concerns taken seriously is a sad reflection on how they perceive the management of the Service. The Council has a revised Whistle Blowing procedure which enables concerns to be raised with senior staff outside a Service, such as the Monitoring Officer, the Chief

Finance Officer and the Chief Internal Auditor. It would be helpful if this was further publicised so that all staff were made aware of how they can raise issues about the management and operation of the Service in which they work in confidence

The Council should publicise its revised Whistle Blowing procedure amongst all staff so that they are aware of the procedure for raising concerns and issues with senior managers.

Managers denied that they swear at members of staff and also denied the remarks attributed to them. They told me that solicit staff views and that they are approachable.

The key point is that a significant number of staff perceive management as being bullying and unapproachable. Although it is impossible for me to reach a firm conclusion on whether particular remarks were or were not made, I think it is quite possible that managers may have made the remarks attributed to them but that they possibly meant them in a light-hearted way. However, the problem with this sort of banter, which has bedevilled the Service in the past, is that it is not always taken by those who hear it in the spirit the person making the remark intended.

It is conceivable that managers do not appreciate the impression they give to staff. On the other hand it is equally possible that they are aware of the impression they give and have decided to use it as a management tool.

Either way such a management style is inappropriate and not one the Council would, I am sure, wish to encourage. It is clear that the remarks set out above are not appropriate in the workplace and staff and managers have the right to be treated with respect by colleagues. Both should be alert to what they are saying to colleagues and how this might be perceived.

I note that the issue of banter was considered in the 2001 investigation which I have already referred to. It is clear that banter is still an issue in the Service. The report recommended that *“All staff should be warned that they must behave appropriately and professionally to colleagues, staff and members of the public at all times.”*

It also recommended that *“staff should be made aware that mutual respect between staff who work together has to be earned, and inappropriate and over critical remarks are just as bad as skiving off or not supporting colleagues. They are equally damaging to team working.”*

I have certainly detected a lack of respect between managers and staff and also between colleagues. This is a problem. I have also heard many examples of obscene language and this trend also requires action. The perception of the prevailing management style also needs to be addressed

All managers and staff should be reminded of the standards of behaviour and mutual respect which the Council expects from all its staff. Swearing and shouting at colleagues is not acceptable nor is threatening behaviour.

Favouritism

Many of the allegations made both to me and highlighted by Cllr Law concerned favouritism. There is a strong perception amongst a number of staff that certain officers are favoured and are part of a group who are allowed to do as they please. Allegations against them are not investigated and they are given benefits / privileges such as leave, overtime, training, special duties and promotion.

The perception of favouritism is not assisted by the many family and other relationships which exist in the service. It is inevitable that there will be occasions when people who work together will form close personal relationships. This is not necessarily a problem providing that both parties are alive to the perception of others and that action is taken to ensure that there can be no suggestion of special treatment or favouritism.

However, it is more common in the Crime and ASB Division for family members or partners to obtain jobs with the Service when one member of the family or a partner is already employed in it. This has given rise to the perception that they may have secured their employment because of the relationship with the existing member of staff.

This is a problem in itself but it becomes more serious where there is a line management relationship as well as another relationship. There are suggestions from Control Room staff that a member of staff who is related to a manager is given more training and also that some requests for leave are considered more favourably whereas requests from others are turned down.

In addition, I also perceive the potential for problems if Constabulary staff who are partners are rostered to patrol together. I do not believe that this is appropriate since it exposes the Council. If the staff involved encounter a problem while they are on patrol, there will be no “independent” account of what has occurred. This could also cause difficulties if legal proceedings are taken.

It is in everyone’s interests for there to be clear rules which apply to personal relationships at work. Rules should provide protection against the perception of bias as well as actual favouritism. My discussions with relevant managers in Crime and ASB lead me to conclude that some of the subtleties governing perception are not fully understood. Such rules or guidelines should be corporate rather than devised locally and should take into account the Human Rights Act implications.

The Council should develop a policy governing personal relationships in the workplace and this should specifically cover line management situations as well as situations where staff may work together on a daily basis.

Not all the allegations relate to family relationships. Many staff have told me that a certain group of officers have been allowed to do as they pleased. I will deal with this in more detail later in this report but there is evidence that disciplinary action has not been taken against some officers, when action is taken against others for relatively trivial issues.

The case for the existence of a culture of favouritism is assisted by the lack of management systems and processes. Where there are no objective criteria, there is inevitably a risk of allegations of favouritism.

Promotion is an area where I have already commented that the processes followed by management almost inevitably result in a perception of favouritism, leading one officer to comment that it is *“jobs for the boys. If you are in favour of management they will bend over backwards to protect you”*.

The failure to have proper systems in place for the use of vehicles also leaves the Service open to allegations of favouritism. I will comment further on the use of vehicles later in this report but it is clear that only certain members of staff have been allowed to use Council vehicles and this inevitably begs the question what criteria were used to decide to agree this use.

Unfair allocation of overtime is another issue which has been raised in relation to the Constabulary. Again there does not appear to be a fully transparent system which is understood by all staff. This means that the risk of allegations of unfairness is higher.

I have analysed the overtime records for the last three years and, as a general rule, there is no indication that staff who not are said to be part of “the in crowd” receive less overtime. Indeed several of them score quite highly. However, it does seem to be the case that, after the new roster was introduced in August 2004, staff on the old roster did not receive as much overtime as they had done before nor as their colleagues on the new roster.

This may not necessarily have been a deliberate tactic. It could simply be a result of their having been out on a limb and not included in the management structure during that period. However, it is an unfortunate result and one that again argues for a proper system with managers monitoring the allocation of overtime and ensuring fair allocation. This seems to work in the Control Room although one manager told me that staff in the Control Room were not eager to do overtime in any event.

Staff were also concerned about how management fill the post of ASB Assessor. Hitherto it has not been an established post and management has just filled it by putting someone into it. The criticism from staff is that they do not have the opportunity of applying for the role and that it is given to staff as a special favour or “sweetener”.

I was told that management is to decide whether to make a permanent appointment or fill the post by a series of fixed term secondments from the Constabulary. Whatever the decision, it is important that an open and transparent process is followed.

There is also concern in the Control Room about the allocation of leave and that some requests are regarded more favourably than others. Staff told me that their requests had been refused because of lack of cover but that other requests had been agreed when the same cover issues also applied. They believe that this is because these requests came from more “favoured” staff. Clearly it is important that there is a procedure for leave which is transparent and adhered to in all circumstances. This sort of differential treatment is unacceptable,

There are other allegations about staff over-running their annual leave entitlement and I deal with this in more detail in Appendix Two to this Report. However, I wish to highlight the issue here.

Management should develop a clear and transparent policy for the allocation of overtime and monitor the allocation of overtime to ensure equality of opportunity for all staff.

The ASB visitor’s post should either be advertised externally or alternatively offered to the whole service as a secondment opportunity. Formal appointment processes should be used to fill it.

The Division should remind all managers of their responsibilities in relation to leave and introduce proper, documented policies and systems for the granting of leave which will ensure equality of opportunity and that staff do not over-run. This should be monitored. If over-runs occur, they should be dealt with in accordance with Council procedure.

It might be possible to write these criticisms off as comments from a few disaffected staff who have axes to grind. This is certainly the view of management and of some members of staff. However, there is evidence to suggest that some officers have been treated more favourably than others and the absence of proper procedures makes it difficult to counter the assertion that favouritism is at work.

In addition, there is also a strong feeling from some black and Asian staff that they have been treated less favourably because of their race and that the “favouritism” is in fact racism.

Racism

The first issue I want to deal with under this heading is the Employment Tribunal claims in the Control Room. I have already commented on the handling of events which led to the claims and I consider that poor management practice and systems were at fault.

The claims were for race discrimination yet the white members of staff in the Control Room were as disadvantaged by the decisions taken. The white members of staff had no equivalent means of redress and so were not able to bring claims in the Employment Tribunal. However, I would not criticise those who brought the claims for using the means at their disposal to highlight the issues. Correspondence through the Union was not leading to any resolution.

One member of staff, who brought a claim, has told me that he did not consider that he was racially discriminated against and that he did not appreciate what he was doing when he signed the Originating Application.

Although I have been very critical about the management action which led up to the Employment Tribunal claims, I do not think that this was race discrimination.

There are, however, other allegations which are not so easy to dismiss. These are that black and minority ethnic officers in the Constabulary are targeted and bullied by white members of staff and that this goes unchecked. It is also said that black and minority ethnic staff are also more under the spotlight and their performance is monitored more closely with other staff being asked to comment on them.

Conversely black and minority ethnic staff feel that the good work they do is not recognised and that their contribution to the Service is overlooked.

There have also been allegations of racist language being used with no action taken against the officer concerned and racist graffiti on a request for overtime.

As with some of the allegations about abuse of powers, getting concrete evidence of what is alleged sufficient to found any management action is difficult. Some of the incidents clearly go back several years and were dealt with at the time, albeit not to the satisfaction of the complainant.

Other incidents were not taken up at the time and are not substantiated. Some staff have told me that they did not think it was worth complaining as they did not believe any action would be taken. However, it is clear that a number of black and Asian staff in the Constabulary feel that they have been treated differently from their white counterparts

and bullied by some white colleagues. The allegation is that one Asian officer is targeted for a period and then the staff involved move on to another. White officers have also commented on this.

One white member of staff told me that he had not reported an incident of racist language as he felt his word was insufficient for a disciplinary.

However, the most widespread criticism is about lack of progression. Aside from two Senior Emergency Controllers there are no black or minority ethnic staff in supervisory or managerial positions.

Some of the staff I spoke to do not seem to have a realistic attitude to promotion and appear to believe that simply having been employed by the Service for a long time should be enough to secure advancement. They need to understand that other qualities are required when selecting a manager or supervisor.

However, as I have already commented, I do not think the process managers follow in recruiting to senior positions helps to dispel any allegations of favouritism or racism. I am also surprised that managers have not perceived the issue of under-representation of black and minority ethnic staff in supervisory positions as more of a problem, in the light of the Council's values and the diversity of the Borough, and taken concrete action to address it.

I was told that the one action that they had taken was to encourage a particular Asian officer to apply for the sergeants' post earlier this year but that he withdrew. Having spoken to this member of staff, it is clear that he did not feel he had been "encouraged" to apply and he withdrew because he felt that there was no point in going forward as ethnic minority officers do not get promoted and the result was a foregone conclusion.

In any event, having a quiet word with one Asian member of staff is not going to address the under-representation of black and minority ethnic staff at managerial levels nor is it consistent with equality of opportunity.

It is not just black and minority ethnic staff who have said that they think they are discriminated against. Some of their white colleagues have also made the same points about the lack of ethnic minority managers and how ethnic minority staff are managed.

As one white officer commented *"If they are not good enough, why have they not been trained and developed. I have been a tutor constable and if I am assigned a black or Asian officer, I am always asked "what are they like". This does not happen with white constables."*

I have, however, also heard from black and Asian staff who say that they have no experience of racism and managers who deny that race is a factor in decision making.

One ethnic minority member of staff commented that it was “*hard to say if it is about favouritism or racism*”. Others do not seem to have that difficulty and are confident about their assessment of the prevailing culture. Whether or not race discrimination can actually be proved is only part of the issue. The perception of a significant number of black and ethnic minority staff must also be taken into account.

It is comparatively rare for people, particularly in the public sector, to use overtly racist language or take action which is obviously racially motivated. Racism is now more subtle. It is also the case that we are all more comfortable with people we perceive as being similar to us and less comfortable with difference.

Such “comfort zones” are an issue in all workplaces and it seems likely that some of the issues in Crime and ASB and the allegations of factions and cliques are to do with like-minded people getting together and managers feeling better disposed towards staff they have more in common with. This is why managers need to be aware of this tendency in themselves and others.

In addition, it is important that the issue of race does not eclipse all other sorts of difference. Managers and staff need to be sensitive to all issues of diversity. One member of staff told me that he considers that he is a victim of homophobia and, if true, this is as unacceptable as the racist conduct complained of.

Managers must ensure that all staff are aware of diversity issues and how they impact on the Service. In particular managers must ensure that they consider the equalities implications of all managerial decisions they make whether in terms of training, recruitment, disciplinary or any other managerial issues.

Managers should consider whether it would be appropriate to use the training provisions in the Race Relations Act to develop black and minority ethnic staff to attempt to address the imbalance in the Service. The similar provisions in the Sex Discrimination Act could also be used.

The Division should issue clear guidance to all staff on the conduct expected in dealings with colleagues and ensure that such guidelines are adhered to.

Disciplinaries

One of the allegations of racism concerns the operation of the Council’s disciplinary processes and that the procedure is not adhered to when any action is taken against a

black or Asian officer. There are also other allegations of lack of consistency in their application.

In order to attempt to determine the allegations I asked the Crime and ASB Division for a summary of action against staff in the Response Service under the Conduct and Capability Procedure from 2002 – 2005 including the name, gender and ethnicity of the members of staff, a brief statement of the allegation, the name of the investigating officer / manager (gender and ethnicity), details of action taken, the outcome, the date of initial allegation / complaint, and the date of final determination. I was told that this information would be supplied by Human Resources but, despite reminders to management of the Service, some four months later I have received nothing.

It is therefore difficult to comment fully without the benefit of detailed information. However, I have read a number of disciplinary papers and also spoken to many staff. I am concerned that there is a disproportionate use of suspension as I have only heard of black and minority ethnic officers being suspended.

However, I have also seen evidence of an Asian member of staff being treated more leniently than it appeared was warranted. I am aware of a investigation concerning the alleged action of an Asian officer where the investigating officer did not recommend a disciplinary hearing because he was looking for proof “beyond reasonable doubt” which is a higher standard than required.

I have also found inconsistent application of disciplinary procedures. On one occasion, management failed to investigate an allegation of assault by one officer on another despite a weight of available evidence. On another occasion a member of staff seems to have evaded disciplinary action for throwing his warrant card at a manager and then going absent without leave. Both of these officers are perceived to be “favoured”.

On the other hand, one of the new sergeants has taken three sets of disciplinary action up to Stage 1 in his first three months as a sergeant. Different managers have different styles and this is to be expected up to a point. However, it becomes a problem when there is inconsistent management within a service. Staff need to understand what is expected of them and to be managed according to the same standards.

One manager admitted *“I don’t think the right action is taken. You have got X (a supervisor) dishing out standards letters and another at the other end of the spectrum.”* He thinks greater people management skills are needed and I agree.

The Division should ensure that all supervisors are properly trained on the Council’s Conduct and Capability Procedure and that no manager takes any action unless s/he has received that training.

Managers should also receive support and coaching on how to deal with staff and how to manage without immediate recourse to formal procedures.

The Crime and ASB management team should monitor the application of the Council's Conduct and Capability Process to ensure consistency in its application and this should include the ethnicity of those against whom action is taken.

Grievances

As for disciplinaries, I also asked the Crime and ASB Service for summary information for 2002-2005 on grievances from staff in the Response Service including the name of the complainant (gender and ethnicity), the name of person complained about (gender and ethnicity), the action taken, the outcome, the date of complaint and the date of final determination.

Again I was told that this would come from Human Resources and, despite reminders, I have received nothing.

I have received some information from the staff and managers I met and I am concerned about the delays that seem to occur in grievance investigations. The allegation is that grievances against "favoured" members of staff are not pursued and there seems to be some evidence of this with staff having to involve Human Resources and escalate to get the issue dealt with.

I am also concerned that there seems to be a culture of staff instituting grievances against one another on any pretext and particularly as a counter to disciplinary action. I have also heard of a supervisor instituting a grievance against a Trade Union representative for having represented a union member at an informal meeting to discuss the grievance and disciplinary processes. This is an insane situation.

It is fair to say that counter grievances seem to be taken where the need for disciplinary action is not immediately obvious and things quickly escalate. In such a situation, more senior managers need to intervene to try to find a resolution and, if necessary to impose one.

This is particularly important because some staff are very worried that they may get caught in the cross fire. Indeed, staff have got caught in the cross fire and have not enjoyed the experience. This is a factor which has contributed to the poor atmosphere that currently prevailing in the Constabulary.

A culture of disciplinary and grievance is very debilitating. Reaching a situation where either procedure has to be invoked is in some sense a failure of management. Having both at the same time means there is something very wrong.

I understand that the Deputy Chief Executive is now leading an initiative to deal with all outstanding grievances. This is to be welcomed. It seems to me that the Division has been struggling with this situation for some time and that managers have been floundering and do not know what to do. Such scrutiny might ensure that problems are tackled and progressed more rapidly.

Sickness

The level of sickness in the Constabulary is of concern. In recent months at least four staff (out of 36) have been on sick leave for extended periods for anxiety and stress. This is a worrying trend and is a further comment on the Division and the atmosphere which prevails.

Some staff are concerned about consistency in the application of the Sickness Procedure but I think the reality is that sickness is not managed very energetically. Managers have admitted that there is poor management of sickness in terms of stages. When staff are off for extended periods, although the procedure may be followed and interviews held, other contact is not maintained and there are no plans for reintegration including risk assessments.

It is particularly important that contact is maintained with staff on long term sick leave as it will be difficult in any event to reintegrate them and this will be made worse if they have been left out of the loop for an extended period

Consideration needs to be given to trying to get the staff who are currently on sick leave back into the workplace.

Managers are very critical of the Council's procedure in an environment where staff work on shifts over a 24 hour period.

“There is a problem in managing sickness when people are working shifts. I used to get it in the neck from Personnel. Say x is off sick for 6 days and that is a trigger level. He may not be due back for 4 days and then he may be on nights. Then he does 2 weeks on nights and then takes AL for two weeks. You may not be able to see him for 4/5 weeks. A Stage 1 interview is not serious. It will get done whenever.”

“The policy has changed and staff are now entitled to a Union rep at Stage 1. It is difficult to get people together. If the person is on a night shift when return to work, cannot get a union rep for night shift meeting. You have to give 7 days notice. If the person wants a specific union rep, you have to wait for them. If they go sick again, they would need a stage 2 and would not yet have had the Stage 1.”

I have some sympathy with these concerns but there is a tendency amongst managers in Crime and ASB to adopt a “counsel of despair” and claim that it is just too difficult to tackle an issue or problem. The reality is that managing sickness is part of their job and needs to be pursued with appropriate vigour.

The management of resources

Procurement

There were several allegations about procurement matters. These related to:

- abuse of tendering procedures;
- the recruitment of some consultants;
- Allegations concerning the contractual arrangements for training; and
- Relations with another contractor.

I will deal with the details of last three issues in Appendix Two to this report.

Procurement is a high risk activity for local authorities. Council officers often have large sums of tax-payers’ money under their control and it is important that expenditure is and is seen to be value for money and that there can be no perception of corruption.

Therefore all local authorities (and indeed other public bodies) have tight rules governing procurement which are designed to ensure value for money and to avoid any implication of impropriety.

Newham’s rules are contained in its Procurement Code of Practice. All officers who commission contracts for goods and services are required to use the Code and the principles set out within it. It contains both mandatory requirements and good practice advice. Where the Code states that an action is required, this is mandatory. Where an approach is suggested as a matter of good practice, officers are expected to follow the advice unless there is good reason to depart from it.

In the light of the allegations, I asked the Council’s Internal Audit service to conduct an audit of procurement within the Crime and ASB Division looking at the following aspects:

- Procurement Strategy;
- Scheme of Delegation;
- Declarations of Interest;
- Authorisation and approval procedures;
- Compliance with Procurement Code of Practice including tendering arrangements;
- Risk management procedures for equipment including personal use of vehicles by staff;
- Inventories/Registers of equipment, including disposal of assets;
- Security marking.

The audit did not find any evidence of criminal activity but highlighted an “*almost complete lack of a control framework and a failure to always comply with the Procurement Code of Practice and Financial Regulations.*” This situation, coupled with a perception that contractors may be used because they are known to the managers in the Division, is exposing both the Council and the officers involved to allegations of corruption.

The main conclusions of the audit were:

- *The procurement process in the Division does not operate in accordance with the requirements of the Procurement Code of Practice and Financial Regulations. Examples of this are as follows:*
 - *There is no scheme of delegation.*
 - *Orders are raised when invoices are received.*
 - *The tendering process is not always used when it should be.*
 - *When a tendering process has been applied, the successful tenderer(s) are not always used.*
- *As a result of and in addition to this there is almost a complete absence of controls in the procurement process.*
- *The use of specific contractors has been on the basis of ‘custom and practice’. For example, significant expenditure has been committed to officer training, using one specific vendor, on a non-tender basis because this company had historically provided a proven service.*
- *Full risk assessments have not yet been completed in the Division.*
- *It appears that little consideration was given to the administrative implications of establishing (and operationally running) a Divisional Unit employing approximately 90 staff. This was of particular concern as the Division could be reasonably expected to commit relatively significant expenditure to the procurement of services and/or goods and materials during any year and would need to have adequate processes and controls in place to deal with this.*

The rationale put to Internal Audit for the informal approach to the procurement process was that, when the Division was established, the imperative was to be operational for August 2004 because of the expected rise in anti-social behaviour in the school summer holidays. This meant that there was neither the time nor the staff in place to ensure compliance with the Council’s procurement process.

Management accepts the need to put in place everything that Internal Audit have recommended as a matter of urgency but queried whether raised the necessary resources

were available. I was told that, although parts of the Crime and ASB service came from other parts of the Council, they came without support services. The support services available in Environmental Management Services went to Public Realm as part of the restructuring. I was also told that “custom and practice” arrangements had been inherited and that, because of pressure to deliver on anti-social behaviour, this had been the Service’s priority rather than regularising contractual arrangements..

These may be reasons for non-compliance with the Council’s rules but they do not excuse the failure. These rules exist to preserve the Council and its officers from any imputation of impropriety. Failure to comply is a serious matter as it puts the Council at risk.

Despite a year having passed from the creation of the Division, management has not addressed the need to put in place proper processes to cover procurement. In any event, some of the arrangements which have concerned Internal Audit are not inherited but arrangements that managers put in place in their previous roles.

In addition, the lack of controls and the failure to comply with the relevant rules are exacerbated by the scale of payments to some contractors and possible relationships between staff and contractors. The audit found that *“there is potential for impropriety in this area and the Council being exposed to allegations which are tantamount to corruption.”*

Declaration of interests is extremely important in order to preserve the integrity of the Council’s and its officers. Having looked at the Declaration of Interest form, I think there is case for amending it to make it absolutely clear what sort of interests must be declared.

As a side issue, a number of people have suggested to me that managers in the Division and contractors are Freemasons. The suggestion being that favours are being done for fellow Masons. I have no way of proving or disproving this and it may be a red herring. However, allegations of this sort can be very damaging.

Currently it is not entirely clear whether officers have to declare that they are Freemasons. Guidance from the Standards Board is that membership of the Freemasons is a declarable interest so far as elected Members are concerned. I can see no reason for any difference between Members and officers in this regard. In fact, given that more decisions are made by officers than Members, there is an argument that it is more important for officers to make this declaration.

The Deputy Chief Executive should ensure that the Management Action Plan agreed following the Audit Report is implemented as quickly as possible and consider whether to invite Internal Audit to repeat their review in 12 months time to ensure the integrity of the systems put in place. The individuals with interests because of relationships with prospective tenderers should not play any part in the tendering exercises.

The Council should consider whether the Internal Audit Report and the failure to comply with the Council's Procurement Code of Practice and Financial Regulations warrant action under the Council's Conduct and Capability Procedure.

The Council should consider revising its officer declaration of interest form to make it clear exactly what interests should be recorded and these should include membership of the Freemasons.

Vehicles

There were several allegations about the use of Council vehicles. It was alleged that senior managers habitually use Council vehicles to travel to and from their homes instead of using their own vehicles.

It was also alleged that a manager had allowed a member of staff to use a Council vehicle to drive to and from his home when his own car was off the road and that the same manager had given another member of staff permission to use a Council van to move home

The Council does not have a policy about the using Council vehicles for personal use, although I would have thought it was obvious that such use should not occur. I was initially concerned that such use would not be covered by the Council's insurance policy but the Insurance section has now confirmed that the policy covers use for "social domestic and pleasure purposes".

The Internal Audit review revealed that staff who work out of hours seem to be able to take vehicles home and use the vehicles to come back in. They were told that this would require specific authority.

Some managers admitted to using Council vehicles but others said they did not. I was told that the management view was that a vehicle could be used by a member of staff provided that a manager had authorised its use.

One manager confirmed that a car had been lent to a member of staff to travel to and from his home. There is also evidence that the van was lent to the other member of staff to move house.

I do not regard this approach to the use of Council vehicles as acceptable. These are vehicles funded by taxpayers' money and it is not appropriate to allow them to be used for "social, domestic and pleasure purposes".

It is clearly open to abuse and likely to give rise to the sort of allegations of favouritism that I have been considering. It seems unlikely that all staff will be afforded equal access to vehicles and so their use is likely to be confined to those staff who are “in” with managers. Indeed it has been suggested to me that vehicles are loaned to “favoured” officers or alternatively as a “sweetener”.

If there were to be equal access, it might affect operational effectiveness as vehicles would be being used for personal purposes and not available for work. In addition, why should staff in Crime and ASB be treated more favourably than staff in other Council services without access to vehicles?

The final issue relates to fines. Council vehicles may incur parking fines and there is an allegation that a member of the Constabulary received a fine for speeding on the A406. I have been told that the Council policy is not to pay fines, although I have also heard that fines have been paid.

I think it is inappropriate for the Council to meet fines incurred by its staff since they will have been incurred for breaking the law. However, whatever the policy, again this should be clearly stated in the interests of transparency and clarity.

The Council should formulate a policy to govern the use of its vehicles which should specifically regulate if and when they can be used for non Council business use (including trips to and from the homes of members of staff) and also the level of authority needed to sanction that use. The policy on payment of fines should also be expressly stated.

CONCLUSION

This has been a major exercise and involved looking at a wide range of issues concerning the operation and management of the Response Service, from the work undertaken by the staff, to the management systems and procedures used in the Service, the culture and the views of staff. I would like to stress, however, that the focus of the investigation was only part of the Crime and ASB Division and only a small part of the Council’s overall services.

The Division has only been operating for a year but the Services I have been reviewing have been under the same management for many years. They have changed substantially since they were first created some years ago. In particular the Constabulary has moved from being a Parks Service to one that now operates predominantly outside the parks on the street of the Borough.

It is clear that it has evolved in a way that was not envisaged by the Moving to Excellence programme and the decision to establish a new Crime and ASB Service. The

political thrust behind the new Division was to provide a focus within the Council for tackling ASB and the issues that affect the quality of life of local residents. It required a proactive approach but the Constabulary has begun to function more like a private police force than a council service.

This is neither appropriate nor what was intended. The time is now ripe for reviewing its operation and this should be done in liaison with the local police. I have made a series of recommendations which I hope will help this process.

This will be a relatively straightforward process .However, it will not be as easy to deal with some of the other issues my work has exposed.

My consideration of the management of the service has uncovered an almost total absence of management systems and procedures. Although I have made recommendations to address some of the problems I have discovered, it will not necessarily be easy to make the changes that are needed. Much work is required.

The Internal Audit report has revealed that the Service does not have a control framework and is not complying with the Council's Procurement Code of Practice and Financial Regulations. It also concluded that the Council and officers are also vulnerable to allegations of corruption because of perceptions that contractors are used because they are known to the managers in the Division and a failure to declare interests.

This is extremely serious and must be addressed as a matter of urgency. It is of concern that there appears to be no real recognition of the importance of complying with Council procedures in this area nor of the damage which perception can cause to both to individuals and the organisation.

This disregard for Council procedures is also a feature of the handling of people management issues. Human Resources procedures are not adhered to yet prayed in aid when managers wish to justify a specific course of action.

Recruitment practice is poor with most recruitment being by internal processes. The Council's Equal Opportunities Policy is not complied with.

Action taken under the Conduct and Capability Procedure is inconsistent with action being taken against some individuals for trivial matters and other serious issues not being dealt with. Grievances are not progressed with any diligence.

There is also a lack of basic management systems which are seen to operate in a transparent and fair way. Overtime, leave, training etc are all operated in such a way as to enhance the potential for allegations of favouritism.

Communication with staff is poor and sometimes non-existent and performance management is either non-existent or a "tick box" exercise.

In short, managers seem to operate outside the Council and have pay little regard to Council procedures and systems. Many staff told me that senior managers treat the Service as if it were a private company which they own and the staff as their own employees, paid for out of their profits. This is borne out by some of the comments to staff, the failure to comply with Council procedures, the use of Council staff to carry out inappropriate duties, as well as by the assumption that Council vehicles are available for personal use at the whim of relatively junior managers

It is therefore unsurprising that staff morale is so low. Staff have complained of a bullying culture and there are also allegations of favouritism and racism. Staff are afraid of some managers and have no confidence that they will tackle issues. Indeed they are afraid of being targeted themselves if they go to managers with issues of concern.

These perceptions are important. Even if they are not shared by all staff, it is of concern that some staff should feel this way and it needs to be taken very seriously. It also impacts on the credibility of management as a whole.

Whilst it is possible that an analysis of another Council Service might reveal similar problems, I doubt that it would reveal the breadth of issues my work has uncovered. Communication or performance management might be poor or patchy in some areas but I seriously doubt that the combination found in Crime and ASB exists in other parts of the Council.

The issues revealed by my work point to deficiencies in the way the Service has been managed over the past few years. It is clear that managers not managing. They are not carrying out basic managerial tasks nor operating basic managerial systems.

Leaving aside the potentially more serious allegations, it seems as if there is, in general, a lack of managerial competence. This is particularly evident when it comes to dealing with members of staff whom managers perceive as “*difficult*” or “*resistant to management*”. It seems that managers lack the requisite skills. They are uncertain of how to respond and either shout, default into formal procedures or do nothing. In some cases, they would admit that they are walking on egg shells.

In addition, senior managers do not appear to accept responsibility for any of the problems that currently bedevil the Service. There is a tendency to blame others and pass the buck. Several managers told me that they were unable to manage because of this investigation, whereas in fact they seem to have had difficulty in managing in any event. Alternatively Human Resources is blamed for a particular issue or problem, or one of the other Council services or a Council procedure.

Managing the Service out of the situation it is in at the moment is a major task. It will require a high level of managerial skills but also an appreciation of the fact that these issues need addressing urgently. The Council will wish to be certain that those responsible for the Service will move rapidly to address the problems identified by this report and deliver the improvements that are needed.

Despite the scale of the task, there are grounds for optimism. As I have already said, the staff I met were all very committed to the work that they do and to working for the Council. They want the problems highlighted in this report to be resolved and the Service to move forward. Most of all they want the atmosphere to improve and to be able to get on and do the job they are employed to do without distraction.

As one member of staff said to me "*the Service has lost its way*". It is important for all concerned – the staff, managers, the Council and local communities - that it gets back on track as soon as possible

APPENDIX ONE – TERMS OF REFERENCE

INVESTIGATION INTO ALLEGATIONS RELATING TO THE MANAGEMENT OF THE RESPONSE BRANCH OF NEWHAM COUNCIL'S CRIME AND ANTI-SOCIAL BEHAVIOUR SERVICE, ITS WORKING PRACTICES AND ACTIONS BY SOME OF ITS OFFICERS

BRIEF TO INDEPENDENT INVESTIGATOR

1. To investigate the allegations highlighted by Cllr Mike Law into the management of the Council's Community Constabulary; specifically the following allegations contained in his correspondence with one of the Assistant Commissioners of Police for the Metropolis and Helen Sidwell, Head of Legal Services:

Allegations relating to the management of the service

- Corruption
- Poor management of the service
- Favouritism towards certain officers
- Racism against Asian officers
- Bullying and intimidation of officers
- Abuse of Council tendering procedures
- Unauthorised use of Council vehicles sanctioned by middle management

Allegations relating to human resource matters

- Inconsistent application of disciplinary procedures
- Failure to investigate an assault by one officer on another
- The operation of the Council's grievance procedure
- Failure to adhere to transparent application of the Council's equal opportunities policy in relation to recruitment and promotion
- Insufficient training of officers to take on new duties

Allegations relating to officers abusing or exceeding the powers of the Constabulary

- Unlawful stop and search operations
- Officers taking the names and addresses of persons stopped without lawful authority
- Officers carrying illegal and potentially lethal weapons while on duty (ASPs)
- An officer threatening a member of the public with an ASP
- An officer (un-named) handcuffing a person in Stratford because the officer was not happy with the way the person spoke to him
- An officer pursuing a vehicle outside the boundaries of L B Newham

An officer harassing his ex-partner whilst on duty and in uniform and co-opting other officers into this harassment

- 2. To investigate the complaints from [a Constabulary officer] attached to the letter from his Trades Union dated 21st April 2005.**
- 3. To provide a report to the Chief Executive and make recommendations, where appropriate.**

The Council envisages that the investigation may need to extend beyond the specific allegations made by Cllr Law and [the Constabulary officer. Specifically, the investigator may wish to consider:

- other issues relating to the management of the Crime and ASB service, if they appear relevant; and
- the legal powers of the Community Constabulary and whether the operation of the service is consistent with these powers.

There may also be other issues which emerge during the investigation and which the investigator considers require further examination.

The Council will provide a list of witnesses to be interviewed in the first instance and the investigator will form a view on other witnesses she may wish to interview as well as any files or other documentation she wishes to examine.

The Council also considers that the investigator may need to liaise with Chief Superintendent Mike Johnson, Borough Commander, the Council's Internal Audit Service, Susan McNally, Head of Human Resources and Helen Sidwell, as the Council's Monitoring Officer.

The investigation is to be conducted as expeditiously as possible and the investigator will keep the Chief Executive informed of progress and the likely time-scale for receipt of her report.