

5 August 2025

NSW REVIEW OF CRIMINAL LAW PROTECTIONS FOR THE INCITEMENT OF HATRED

Submissions from

AUSTRALIAN MUSLIM ADVOCACY NETWORK

AUSTRALIAN FEDERATION OF ISLAMIC COUNCILS

AUSTRALIAN NATIONAL IMAMS COUNCIL

LEBANESE MUSLIM ASSOCIATION

MUSLIM LEGAL NETWORK NSW

MUSLIM VOTES MATTER

MUSLIM WOMEN ASSOCIATION

SHIA MUSLIM COUNCIL OF AUSTRALIA

THE MUSLIM VOTE

1. INTRODUCTION

The NSW Attorney General has appointed former NSW Supreme Court Justice, the Honourable John Sackar AM KC (the Reviewer), to review criminal law protections against hate speech for vulnerable communities (the **Review**).

2. PARTIES MAKING THE SUBMISSION

These submissions are made by:

- (a) The Australian Muslim Advocacy Network Ltd (AMAN) works to prevent the harms of systemic racism, online hatred and Islamophobia through policy engagement and law reform.
- (b) The Australian National Imams Council is an umbrella organisation consisting of over Muslim imams, clerics and Islamic scholars representing each Australian State and Territory. ANIC regularly facilitates collaborative initiatives with other community-based organisations.
- (c) The Australian Federation of Islamic Councils is the peak body for Australian Muslims representing State and Territory Islamic Councils and Societies.
- (d) Founded in 1962 by Lebanese migrants, the Lebanese Muslim Association (LMA) is Australia's oldest nonprofit Islamic organisation. With over 60 years of dedicated service, the LMA emerged from a deep commitment to address the diverse needs of the Muslim community. The organisation was established to offer essential social, religious, educational, and recreational support, creating a space where community members could find connection, guidance, and opportunities for growth—locally and globally.
- (e) Muslim Votes Matter (MVM) is a grassroots, non-partisan movement committed to increasing political engagement and representation within Australia's Muslim communities. Founded in response to growing concerns about the erosion of civil liberties, the rise of Islamophobia, and the political marginalisation of Muslim voices, MVM works to ensure that Muslim communities are not only heard, but have meaningful influence in the democratic process.

- (f) The Muslim Legal Network NSW is an Australian-based legal practitioner and law student association. It is a gateway for Australian Muslim law students and legal practitioners to both network with one another and engage with the wider legal community. We provide community legal education and participate in law reform and legal advocacy, as well as offering a Muslim perspective on civil liberties issues.
- (g) The Muslim Vote (TMV) is dedicated to empowering Australian Muslims in the electoral process. It provides essential information on voting, key election dates, and analysis of party policies impacting their communities. At its heart, TMV exists to mobilise and educate Muslims in Australia to become principled, strategic participants in the political process; not for the sake of power, but to fulfil our collective obligation to enjoin good, forbid injustice, and give voice to the voiceless.
- (h) Muslim Women Australia (MWA) is a representative body for Muslim women working to enrich humanity, advocating for the rights of all women, through authentic leadership based on our Islamic principles. MWA delivers an array of holistic, integrated, culturally and religiously appropriate intervention and support services while providing community development and capacity building initiatives. MWA has been supporting and advocating on behalf of all women, and Muslim women in particular, for over 40 years. At the heart of the MWA is a commitment to fairness, equality and justice in all our interactions and activities that support Muslim women.
- (i) Shia Muslim Council of Australia (SMCA) is an umbrella organisation bringing together 37 Shia Muslims communities from across Australia. They have a representative on the NSW Faith Affairs Council representing the Shia Muslim community. SMCA coordinates closely with other Muslim organisations to add weight to the common causes they advocate for. They also work with other faith communities in advocating for religious freedoms more generally.

3. OVERVIEW

These submissions are made in relation to the Crimes Amendment (Inciting Racial Hatred) Act 2025, and in particular the insertion of section 93ZAA into the *Crimes Act 1900* (NSW), which criminalises intentional incitement of hatred by way of public act on the ground of race.

It is an extension of the existing section 93Z, except that it only extends the protection on the basis of race and not any other attribute which is otherwise protected by section 93Z.

The enactment, in its current form, gives rise to significant legal, ethical, and public interest concerns, particularly insofar as it fails to safeguard Muslim communities who are already subject to systemic disadvantage from disproportionate enforcement, reputational harm, and exclusion from the protective reach of the law.

These submissions are grounded in a synthesis of academic research, judicial authority, and the lived experiences of affected communities. The conclusions drawn reflect the urgent necessity for legislative reform which deters hate speech without compounding existing structural inequities, and which ensures that all persons enjoy the equal protection of the law.

The Muslim community is specifically vulnerable to disproportionate impacts on their fundamental freedoms as a result of s93ZAA:

- (a) **Systemic Policing Bias:** Communities of Muslim faith are already subjected to a demonstrable pattern of overpolicing and mischaracterisation, exacerbated by the persistent and institutional conflation of Islam with terrorism which are enshrined at both the State and Federal levels by the expansive statutory definition of a "terrorist act" that includes 'religious cause';
- (b) **Disproportionate Exposure to Counter-Terrorism Measures:** Such communities are the target of an ever-expanding corpus of counterterrorism and violent extremism legislation, disproportionately enforced via coordinated operations between State and Federal policing agencies;
- (c) **Conflation of Political Criticism with Hate Speech:** A legally erroneous, yet socially entrenched, conflation exists which is promoted within police culture and supported by certain political and media interests. Specifically, the conflation between legitimate political criticism of the State of Israel, its military actions, governmental policies or political ideology (Zionism), and antisemitism. This conflation poses a serious risk to the legitimate expression of political dissent, particularly where such expression is erroneously treated as racial vilification.

It is therefore submitted, as a matter of principle and legal policy, that the introduction of **section 93ZAA is not in the public interest**. Specifically:

- (a) **Absence of Effective Human Rights Safeguards:** While Article 4 of the International Convention on the Elimination of All Forms of Racial

Discrimination (ICERD) enjoins States Parties to criminally prohibit incitement to hatred, such obligations arise in the context of a comprehensive human rights framework, much of which remains unratified or unimplemented in Australia and New South Wales. Unlike in Victoria, the ACT and Queensland, New South Wales lacks a Human Rights Act applying to police. Moreover, there exists no meaningful mechanism for independent scrutiny of police conduct, and significant conduct undertaken by statutory authorities remains immune from scrutiny under the NSW Anti-Discrimination Act;

- (b) The legislation is likely to be deployed in a discriminatory manner, falling most heavily upon marginalised, racialised, and over-policed communities, particularly those engaged in protest movements critical of the State of Israel;
- (c) Given the sheer scale of hatred online against a variety of communities, the criminalisation of hatred will no doubt be rarely prosecuted except for where there is strong pressure, disadvantaging the most marginalised groups and creating perceptions of unfairness;
- (d) Those most egregiously responsible for inciting hatred—such as far-right organisations, influential media platforms, and political actors—are statistically unlikely to face prosecution due to their proximity to institutional power and their insulation via political or corporate privilege;
- (e) Existing Commonwealth legislation pertaining to advocacy, incitement, terrorism, and violent extremism already criminalises the relevant conduct, rendering this additional State offence arguably unnecessary;
- (f) The appropriate policy response lies, rather, in the strengthening of public interest broadcasting and online content regulation (for example, through amendments to the **Online Safety Act** and the **Broadcasting Services Act**), which may more effectively address persistent purveyors of dehumanising content without compromising freedom of expression;
- (g) Failures in the administration of hate crime justice within NSW are better addressed through procedural and institutional reform designed to build trust, discussed below.

4. RECOMMENDATIONS

- (a) Section 93ZAA be repealed and instead, consideration be given to

- (i) The establishment of localised **Hate Crime Scrutiny Panels**, improving on those in operation within the United Kingdom, which enable community-police dialogue and insight;
 - (ii) The introduction of statutory **aggravating factors** for hate-based motivations, following the model implemented in Queensland, to permit charges to properly reflect the nature of the offending conduct at the outset.
 - (iii) The introduction of a **Human Rights Act**.
- (b) In the event the Government is minded to proceed with the legislative scheme notwithstanding the foregoing objections, the following amendments are respectfully proposed:
- (i) That **section 93ZAA be amended to include religion** as a protected attribute, thereby affording equal protection to those subject to hate speech on the basis of their faith;
 - (ii) That an additional link to **threatening physical harm**, similar to section 52A of the Queensland Criminal Code 1899, be considered;
 - (iii) That **explicit exemptions be introduced** for conduct constituting legitimate protest, human rights advocacy, or public interest commentary, in order to safeguard freedom of expression and assembly consistent with the ICCPR;
 - (iv) That **prosecution under the provision requires the consent of the Director of Public Prosecutions (DPP)**, so as to allow for the application of contextual and public interest considerations, including power dynamics and the protection of minority rights and democratic participation.

5. TERMS OF REFERENCE

The Reviewer is asked to review and report on the criminal law protections against the incitement of hatred following the introduction of the Crimes Amendment (Inciting Racial Hatred) Act 2025 (Inciting Racial Hatred Act). In particular, the Review should consider:

- the sufficiency of criminal law protections against hatred for vulnerable groups in the NSW community, including any improvements that could be made
- the interaction between these protections and existing rights and freedoms, including the implied freedom of political communication and freedom of religion
- any other matters related to criminal law reform that the Government could consider to enhance social cohesion.

6. THE RELEVANT LAW

93ZAA Offence of publicly inciting hatred on ground of race

(1) A person commits an offence if—

(a) the person, by a public act, intentionally incites hatred towards another person or a group of persons on the ground of race, and

(b) the public act would cause a reasonable person who was the target of the incitement of hatred, or a reasonable person who was a member of a group of persons that was the target of the incitement of hatred, to—

- (i) fear harassment, intimidation or violence, or
- (ii) fear for the reasonable person's safety.

Maximum penalty—

(a) for an individual—100 penalty units or imprisonment for 2 years, or both, or

(b) for a corporation—500 penalty units.

(2) Subsection (1) does not apply to an act that consists only of directly quoting from or otherwise referencing a religious text for the purpose of religious teaching or discussion.

(3) In determining whether an alleged offender has committed an offence against

this section, it is irrelevant—

(a) whether the alleged offender's assumptions or beliefs about the race of

another person or a member of a group of persons were correct or

incorrect when the offence is alleged to have been committed, or

(b) whether or not, in response to the alleged offender's public act, any

person formed a state of mind or carried out an act of hatred.

(4) A prosecution for an offence against this section may be commenced only

by—

(a) the Director of Public Prosecutions, or

(b) a police officer.

(5) In this section—

public act has the same meaning as in section 93Z.

race has the same meaning as in section 93Z.

7. DISCUSSION

Prevalence of anti-Muslim sentiment and hate incidents

Numerous studies and reports, including submissions to government inquiries and research by community organisations, document a persistent pattern of anti-Muslim sentiment manifesting in public abuse, vilification, online harassment, and sometimes, violence. The Islamophobia Register Australia ('the Register') in its 5th Islamophobia in Australia research report released in March this year found that in the period between 1 January 2023 and November 30 2024 there had been a significant spike in incidents of Islamophobia in Australia, with a 250% increase in reported online incidents and a 150% increase in in-person incidents, averaging nearly one Islamophobic online or in-person incident every day of the 700 day reporting period.¹ The Register also found that women, particularly those visibly identifying as Muslim, were disproportionately targeted, accounting for 75% of all

¹ Carland, S. Alziyadat, N., Vergani, M. & O'Brien. K. (2025) Islamophobia in Australia Report V, Sydney: Islamophobia Register Australia p20.

victims.² Such hatred undermines individuals' sense of safety, belonging, and full participation in society, and perpetuates systemic barriers to employment, education, and civic engagement. In fact, the psychological impact of all the incidents reported from men, women, and children is profound and long-lasting, with 92% of victims reporting ongoing effects on their mental wellbeing and daily activities, including anxiety, depression, and social isolation.³ Critically, it is well-documented that Islamophobia is underreported and so this report likely captures only a fraction of total Islamophobic incidents in Australia, suggesting the experience and impact of Islamophobia on Muslim Australians is far more pernicious than documented in the report.

Intractability of anti-Muslim sentiment due to official conflation with terrorism

No amount of anti-racism education, personal relationships with Muslims or education on Islam conducted within the police force is likely to be effective while terrorism concerns remain elevated in the media.⁴

Risk to political speech of s 93ZAA

It is respectfully submitted that the operation of section 93ZAA of the *Crimes Act 1900 (NSW)* gives rise to significant concerns regarding its potential application in circumstances involving political speech, particularly where such speech criticises the conduct of the State of Israel or of individuals who identify with or defend Zionist ideology.

By way of illustration, it is conceivable that an individual in New South Wales could face prosecution under s 93ZAA for:

- (a) Publicly condemning Israeli nationals or supporters of the Israeli government's policies, including those who express support for the ongoing military operations in Gaza and the deprivation of basic humanitarian aid to the Palestinian people — even where such condemnation is accompanied by empirical evidence, such as polling data reflecting majority public support for those policies within Israel; and
- (b) Criticising individuals who identify as Zionists on the basis that they deny or minimise the extent of suffering experienced by Palestinians, or who defend Israeli government actions in terms that may reasonably be construed as exclusionary, racially discriminatory, or supportive of policies amounting to ethnic cleansing or genocide.

In either case, the individuals or group said to be the target of such speech — and thereby purportedly the subject of protection under the provision — might include, in the first

² Ibid, p38.

³ Ibid, p74.

⁴ Vergani, M., Mansouri, F., & Orellana, L. (2022). Terrorism concern and persistence of negative attitudes towards Islam and Muslims. *Journal of Community & Applied Social Psychology*, 32(6), 1029–1046. <https://doi.org/10.1002/casp.2633>

instance, persons of Israeli descent residing in New South Wales, and in the second, persons of Jewish background who assert that Zionism is inextricable from Jewish identity, rather than a political ideology subject to scrutiny and criticism.

Unlike section 18C of the *Racial Discrimination Act 1975 (Cth)* which is tempered by the free speech protections provided under s 18D, section 93ZAA contains no equivalent provision safeguarding political, academic, journalistic or public interest expression, save for a narrow religious exemption. This asymmetry creates a prosecutorial risk wherein the criminal law may be deployed to silence otherwise lawful and legitimate political discourse, particularly where it engages with matters of international concern or state conduct.

While it may be the current prosecutorial practice to interpret the term "race" in a manner that excludes political ideologies such as Zionism, there is no statutory guarantee that this interpretive position will prevail in the future. Absent such a guarantee, there exists the real possibility that political criticism of Israeli state conduct — especially when framed in moral or ideological terms — may be re-characterised as incitement to hatred against an national origin, racial or religious group.⁵

The "harm-based" threshold for offence under s 93ZAA is particularly fraught in the present context, as pro-Palestinian or anti-Zionist speech is frequently and forcefully alleged to be antisemitic by political and communal actors, regardless of intent or context. This conflation risks both legal overreach and unjustified censorship.

Should the adoption and institutionalisation of the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism persist in its current unqualified form, despite the implied judicial criticism in *Wertheim v Haddad*⁶, or similarly, should Australia replicate developments in the United Kingdom by proscribing Palestinian advocacy organisations as terrorist entities, it is not outside the realm of reasonable possibility that law enforcement may consider the *mens rea* component of s 93ZAA to be satisfied in such cases.

Irrespective of the actual rate of prosecution, the mere existence of these investigatory and prosecutorial powers, coupled with the influence exerted by political actors, media interests, and well-resourced advocacy organisations, is likely to exert a substantial chilling effect on

⁵ Exposing Anti-Palestinian and Anti-Muslim Racism, Report by AMAN and APAN, containing evidence from a mainstream Australian Facebook group where Free Palestine and anti-war crime commentary is routinely characterised as Antisemitic and anti-Jew hatred by community members who then use this framing to make complaints to police, local councils, universities, businesses and other institutions.

⁶ *Wertheim v Haddad* [2025] FCA 720

public discourse, particularly speech critical of the policies or actions of the State of Israel or Zionist ideology.

In summary, the absence of a clear public interest exemption within s 93ZAA, together with the malleability of key terms such as “race” and “hatred” in the criminal context, creates an uncertain legal landscape wherein political expression, especially that aligned with Palestinian advocacy or anti-Zionist sentiment, may be subject to criminal sanction. Such a state of affairs is incompatible with the principles of free expression in a democratic society governed by the rule of law.

As the Review’s consultation paper notes,

the new legislation in Victoria requires the DPP, in deciding whether the offence is to be prosecuted, to consider all circumstances (including the social, cultural and historical circumstances) surrounding the relevant conduct. This is intended to ensure power dynamics and context are taken into account.

That protection doesn’t exist in the NSW law, as police can bring a prosecution without the consent of the Crown.

Serious vilification thresholds

Serious or criminal vilification in states outside Victoria and WA was not canvassed in the consultation paper produced for this review. The Queensland criminal standard (Criminal Code 1899 section 52A *Offence of serious racial, religious, sexuality or gender identity vilification*), for example, ties together hatred with threat of physical harm or inciting others to threaten physical harm, towards the people or property of the people of a protected group. This is a more appropriate standard for coverage in criminal law.

Given the sheer scale of hatred online against a variety of communities, the criminalisation of hatred will no doubt be **rarely prosecuted except for where there is strong pressure, disadvantaging the most marginalised groups.**

8. ALTERNATIVES

Statutory aggravation for hatred

- (a) The evident deficit in public confidence regarding the policing and prosecution of hate-motivated offences is more appropriately addressed by the introduction of a statutory aggravating factor for offences motivated by hatred or prejudice toward a person on the basis of a protected attribute — expressly excluding political opinion as protected attributes to safeguard against the weaponisation of such laws against protest.

- (b) Recent legislative reform in Queensland, which introduced such statutory aggravations, offers a useful model. However, any adoption of this framework in New South Wales ought to be broader in scope, extending to a wider range of indictable and summary offences. It should also be drafted in such a manner as to ensure consistency and coherence with existing civil vilification regimes.
- (c) Crucially, such a framework must include safeguards to make plain that criticism of political ideologies, including but not limited to Zionism, or the exercise of advocacy in support of human rights or international law — such as support for Palestinian self-determination — does not, of itself, constitute an attack upon a protected attribute.
- (d) The Consultation Paper published as part of this Review refers to a number of existing criminal offences that may, in practice, be characterised as hate crimes only at the sentencing stage, and only at the discretion of the presiding judge. These offences include:
 - (i) Stalking or intimidating another person, with intent to cause them physical or mental harm.
 - (ii) Conducting yourself in an offence manner, or using offensive language, in, near or within hearing from a public place or school.
 - (iii) Common assault, although not occasioning actual bodily harm.
 - (iv) Assault occasioning actual bodily harm.
 - (v) Intentionally or recklessly destroying or damaging property that belongs to another person.
 - (vi) Threatening to destroy or damage the property of another person with intent to cause a person to fear the threat would be carried out.
 - (vii) Intentionally or recklessly sending or delivering, or directly or indirectly causing to be received, any document that threatens to kill or inflict bodily harm on any person, with knowledge of the contents
 - (viii) Using or threatening unlawful violence towards another person using more than just words, where that conduct would cause a reasonable person present to fear for their personal safety (affray).

- (ix) Where 12 or more people are present together and use or threaten unlawful violence for a common purpose, and their conduct would cause a reasonable person present to fear for their personal safety (riot).
- (e) This ad hoc approach, relying on judicial discretion in the absence of a statutory aggravation, creates both legal uncertainty and perceived inconsistency in the treatment of hate-motivated conduct. A clear legislative aggravating factor would promote transparency, consistency, and community confidence in the criminal justice system without resorting to the overreach and vagueness inherent in provisions such as s 93ZAA which do not rely on any existing criminal foundation.
- (f) A determination of hate motivation at the sentencing stage is, in many instances, procedurally and practically insufficient. This is for several reasons:
 - (i) First, where police officers fail to characterise the incident as a potential hate crime at the investigative stage, this omission often results in diminished community trust, particularly among affected minority communities; and
 - (ii) Second, in the absence of such early characterisation, investigating officers may not collect the requisite evidentiary material necessary to establish, to the satisfaction of the sentencing court, that the offence was in fact motivated by hatred or prejudice toward a protected attribute.⁷
- (g) For these reasons, it is desirable that law enforcement be empowered, through an appropriately framed legislative provision, to identify and charge an offence as hate-motivated from the outset of proceedings, not only at the sentencing stage. Such a mechanism would facilitate the targeted collection of relevant evidence and ensure that the aggravating element is properly ventilated at trial

⁷ Cat Woods, *Campaign against race hate crimes should go much further*, NSW Law Society Journal Online, 8 February 2023

<<https://lsj.com.au/articles/campaign-against-race-hate-crimes-should-go-further/>>

or sentencing, as the case may be. It acknowledges the social and emotional harm caused by the racial or religious hostility.⁸

Hate Crime Scrutiny Panels

- (h) Hate Crime Scrutiny Panels (HCSP) are a type of Community Scrutiny Panel (CSP) in which volunteer community members meet to review police data and body-worn camera footage of relevant police and public interactions (College of Policing (UK) 2020). HCSPs review the progression of hate crime cases.
- (i) Detailed information about these panels is contained in **ANNEXURE A**. It is noted that there are lessons to be learned from the UK model that could be applied here.

Human Rights Act

- (j) New South Wales remains the only Australian jurisdiction of substantial size without a statutory human rights framework. The introduction of human rights legislation, akin to that already enacted in the Australian Capital Territory, Victoria, and most recently Queensland, is urgently required.
- (k) Such legislation would serve as a foundational safeguard for the protection of core civil liberties, including freedom of expression, freedom of assembly and association, and the right to access and use public space — all of which are increasingly constrained by the operation of criminal and public order laws, often to the disproportionate detriment of marginalised communities.
- (l) Further, in the context of the current review of the *Anti-Discrimination Act 1977 (NSW)*, it is submitted that the exemption for conduct carried out under statutory authority should be either repealed or, at the very least, significantly narrowed. Specifically, it should not operate so as to shield conduct by police or other state actors that constitutes bullying, harassment, or discriminatory treatment on the basis of a protected attribute.
- (m) The continued existence of this exemption, without adequate safeguards, risks enabling impunity for conduct that would otherwise fall afoul of community standards and anti-discrimination principles, thereby undermining both the

⁸ Gail Mason, *Penalty Enhancement Laws: A model for regulating hate crime in Australia*, University of Western Australia Law Review 48.2 (2021): 470
<<https://classic.austlii.edu.au/au/journals/UWALawRw/2021/5.html>>

integrity of the legislative scheme and public confidence in the administration of justice.

Recognising the need for Commonwealth leadership

- (n) It is further submitted that the State of New South Wales should exercise restraint in enacting criminal legislation that purports to address matters more appropriately dealt with at the Commonwealth level. In particular, the proliferation of hatred and vilification online and through mass media channels is a matter best addressed through targeted, effective, and proportionate amendments to Commonwealth legislation, specifically the *Online Safety Act 2021 (Cth)* and the *Broadcasting Services Act 1992 (Cth)*.
- (o) The addition of further state-based criminal offences in this domain risks compounding the legal and social burdens borne by marginalised communities, while failing to address the structural and commercial drivers of hate-based discourse. Rather than expanding the reach of criminal law, responsibility ought to rest with social media platforms, traditional media outlets, and other powerful entities that profit from the dissemination and amplification of hateful content.

ANNEXURE A

Hate Crime Scrutiny Panel information

This document was compiled in June 2024 by UTS Juris Doctor student [REDACTED]. It also outlines information about Hate Crime Scrutiny Panels (HCSPs), a type of Community Scrutiny Panel (CSP) active in England and Wales, including how they function, best practices, and critiques.

The terms 'panel' and 'CSP' are used interchangeably throughout.

Professor Nicole Asquith is acknowledged for her assistance with this research.

Background on the Hate Crime Scrutiny Panel model and how it operates in the UK

The following sections draw upon available information regarding specific HCSPs and CSPs in general. CSPs scrutinise different topics (such as Stop and Search and Use of Force, as well as Hate Crimes), though most aspects of their function are not distinct.

1. LEGISLATIVE BASIS FOR THE CSP MODEL

UK legislation does not specifically require CSPs. However, police forces⁹ are subject to various requirements to consult with the communities which they police.

Section 96 of the *Police Act 1996* (UK) requires local policing bodies to obtain the views of the community on policing. Local policing bodies include Police and Crime Commissioners (PCCs).¹⁰ CSPs are often used to fulfil this requirement.¹¹

Section 34 of the *Police Reform and Social Responsibility Act 2011* (UK) (PRSRA) imposes duties on Chief Officers (being the most senior officer in a police force) to obtain the views of local people on crime and disorder, and to provide information about neighbourhood policing. Section 34(3) of PRSRA requires Chief Officers to arrange regular meetings between police officers and community members. Section 36 of PRSRA requires Chief Officers to give required material to the elected local policing body, which may be published.

Additionally, the PACE Code A¹² mandates that police forces must, in consultation with PCCs, make arrangements for stop and search records to be scrutinised by members of the community. This does not apply to hate crime incidents.

CSPs have no legal jurisdiction, and their findings cannot change the outcome of a police decision.¹³ No evidence was found that CSPs can compel police forces to take or desist from particular action or to provide information.

⁹ Referred to as 'forces' and 'police forces' interchangeably throughout. England and Wales, throughout which CSPs are used, are divided into 45 territorial police forces.

¹⁰ *Police Act 1996* (UK) s 101(1).

¹¹ College of Policing (UK), *Transparent* (Web Page, 30 July 2020) <<https://www.college.police.uk/app/stop-and-search/transparent>>.

¹² Home Office (UK), *Draft Community Scrutiny Framework: National Guidance for Community Scrutiny Panels* (Draft Framework No 1.0, 31 August 2023) 9.

¹³ *Ibid* 33.

2. THE FUNCTIONING OF CSPs

Police forces across England and Wales have separate CSPs, some of which provide terms of reference and information on how they function. CSPs processes are not standardised, and vary between policing territories.¹⁴ The Home Office (UK) in August 2023 published 'Draft Community Scrutiny Framework: National Guidance for Community Scrutiny Panels',¹⁵ which recommends national guidance standards for effective CSPs.¹⁶ While it is not clear the extent to which this Draft Framework has been implemented, it may be useful as indication of better practices and principles.

Therefore, the following section answers questions by drawing from selected available information from various CSPs, and the Draft Framework.

3. LEVEL OR TYPE OF COMMAND IN WHICH CSPs FUNCTION

Each CSP functions separately within a specific territorial police force.¹⁷ The term Constabulary is also used in place of 'police force'.

4. WHO PANELS INCLUDE

CSPs typically include volunteers from the community. Existing panels might include a combination of individuals with specific expertise such as data analysts¹⁸ and criminologists, members of communities affected by Hate Crimes such as the LGBTIQ+ community, or members of the wider community.¹⁹

West Yorkshire: HCSP and CSP Terms of Reference specify that CSPs should include individuals or groups that are representative of the communities served, inclusive but not

¹⁴ His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), the College of Policing and the Independent Office for Police Conduct (IOPC), *Report on the Criminal Justice Alliance's super-complaint* (Report, 15 December 2023), 137.

¹⁵ Home Office (n 6).

¹⁶ Home Office (n 6) section 'Foreword'.

¹⁷ HMICFRS, the College of Policing, and IOPC (n 8) 138.

¹⁸ Office of the Bedfordshire Police & Crime Commissioner, 'Bedfordshire Stop and Search and Use of Force Scrutiny Panel Terms of Reference' (12 February 2024) 5.

¹⁹ West Yorkshire Police, *Scrutiny Panel Volunteers* (Web Page 2024) <<https://www.westyorkshire.police.uk/about-us/our-standards/scrutiny-panels/scrutiny-panel-volunteers>>.

limited to people of differing ages, sexes, sexual orientations, religious and ethnic backgrounds, and disabilities.²⁰ CSPs should include an annually elected independent Chairperson and Deputy Chairperson, Police Senior Leadership Team member, independent members of the community, and specialists and police representatives as required. Membership and roles should be reviewed at least annually.²¹

Cambridgeshire and Peterborough: CSPs include people of various racial minority groups, individuals with previous CSP experience, a criminology student.

Gloucestershire: Members will be drawn from local community groups and other interested individuals in Gloucestershire. Members can be 16 years and older.²²

Draft Framework: sets out principle that CSPs should be:

- 'representative of their local community and their interests;
- inclusive and diverse;'
- include arrangements to ensure full participation and contribution from people of all backgrounds, including young people with protected characteristics.²³

5. Do PANELS TEND TO COMBINE REPRESENTATIVES FROM DIFFERENT COMMUNITIES AFFECTED BY HATE CRIME?

Forces are obligated per s 149 of the *Equality Act 2010* under the public sector equality duty to 'have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people.'²⁴ This may require forces to target recruitment of panel members from under-represented groups, consider changes to meeting times, formats and locations to help individuals attend, and to ensure that the results of other community engagement activities inform the work of CSPs.

²⁰ West Yorkshire Police, *Scrutiny Panel - Terms of Reference* (Web Page 2024) <<https://www.westyorkshire.police.uk/about-us/our-standards/scrutiny-panels/scrutiny-panels-terms-of-reference>> [3.1].

²¹ Ibid [3.11].

²² Gloucestershire Constabulary, 'Terms of Reference' (2024) 1.

²³ Home Office (n 6) 11.

²⁴ Summary copied from <https://www.college.police.uk/app/stop-and-search/transparent>

It is unclear if CSPs tend to meet this requirement, though available information indicates this is an intention. Some panels specifically include members of the LGBTQIA+ community.²⁵ Some panels actively recruit young people.²⁶ Some panels ask if applicants have worked with marginalised groups.²⁷ **Bedfordshire** CSPs intends to have CSP membership which reflects the 'the diversity of the community', comprising people who live, work or study in Bedfordshire, and 'representing the diversity of the county'.²⁸

CSPs across policing territories vary widely in how representative they are of affected groups, especially Black, Asian and minority ethnic (BAME) members, and under-18 members.²⁹

6. ELIGIBILITY REQUIREMENTS FOR PANEL MEMBERS

Bedfordshire: CSPs members must live, work or study in Bedfordshire.³⁰

Cambridgeshire and Peterborough: members are 'dedicated people' who live, work or study within Cambridgeshire. Membership should 'as far as possible' be representative of the demographics of the county, including 16-17 year-olds.³¹ Members must participate in training and attend at least one meeting per quarter.³²

7. HOW PANEL MEMBERS ARE APPOINTED

²⁵ West Yorkshire Police (n 14) 11.

²⁶ Office of the Bedfordshire Police & Crime Commissioner, *Stop and Search and Use of Force Community Scrutiny Panel* (Web Page, 2024)

<<https://www.bedfordshire.pcc.police.uk/stop-and-search-and-use-of-force-scrutiny-panel/>> 'Young Independent Members Poster'.

²⁷ Office of the Bedfordshire Police & Crime Commissioner, *Stop and Search/Use of Force Volunteer Application Form* (Web Page, 2024)

<<https://www.bedfordshire.pcc.police.uk/stop-and-search-use-of-force-application-form/>>.

²⁸ Office of the Bedfordshire Police & Crime Commissioner (n 12) 18.

²⁹ Kirat Kaur Kalyan & Peter Keeling, 'Stop & Scrutinise: How to improve community scrutiny of stop and search', *Criminal Justice Alliance* (Briefing, February 2019) 10.

³⁰ Office of the Bedfordshire Police & Crime Commissioner (n 12) 18.

³¹ Police and Crime Commissioner Cambridgeshire and Peterborough, 'Cambridgeshire and Peterborough Community Scrutiny Panel Terms of Reference' (8 February 2024) [6.1].

³² *Ibid* [6.4].

West Yorkshire: per the Terms of Reference, police and scrutiny panels should collaborate to identify and select panel members.³³ The process should not be overly formal or administrative, to minimise barriers to involvement.³⁴

Bedfordshire: membership is reviewed every twelve months. Admission to membership is subject to:

- 'completion of an application form,
- interview by the Chair and OPCC (Office of the Police and Crime Commissioner),
- confirmation of appointment from the OPCC, and
- the signing of a confidentiality agreement.

A Panel member will be asked to take part in interviews for new members.³⁵

Draft Framework: in principle, CSPs should be independent, and members should ideally be selected by other panel members. PCCs and police may assist. Emphasis should be placed on members of groups disproportionately affected by police powers, and on individuals with lived experience of police powers and the criminal justice system. Selection processes should be transparent, fair and open. Selection processes should be informed by training and resources.

8. HOW LONG PANEL MEMBERS ARE APPOINTED FOR

Bedfordshire: CSPs meet quarterly,³⁶ and members must attend at least once every six months, or they will be removed.³⁷ No appointment period is specified.

Cambridgeshire and Peterborough: Members can serve for up to 10 consecutive years.³⁸

Hertfordshire: panel membership terms last 5 years³⁹

³³ West Yorkshire Police (n 14) [3.2].

³⁴ Ibid [3.4].

³⁵ Office of the Bedfordshire Police & Crime Commissioner (n 12) 18.

³⁶ Office of the Bedfordshire Police & Crime Commissioner (n 12) 6.

³⁷ Office of the Bedfordshire Police & Crime Commissioner (n 12) 7.

³⁸ Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [5.4].

³⁹ David Lloyd Police and Crime Commissioner for Hertfordshire, 'Use of Force Scrutiny Panel – Terms of Reference (2024)' [5.4].

9. TERMS OF REFERENCE FOR CSPs

Draft Framework: ‘A CSP should have its own Terms of Reference.’⁴⁰

Terms of Reference are available online for CSPs in policing territories including (but not limited to):

- Hertfordshire (this document is particularly detailed)⁴¹
- Bedfordshire⁴²
- West Yorkshire⁴³
- Cambridgeshire and Peterborough⁴⁴
- Gloucestershire⁴⁵
- Sussex⁴⁶
- Lincolnshire⁴⁷

10. HOW ARE CONFLICTS OF INTEREST MANAGED?

Bedfordshire: panel members are required to ‘excuse themselves from consideration of any material where they know or have personal knowledge of the officer, detained individual or injured person being the subject of the footage under consideration’.⁴⁸

Cambridgeshire and Peterborough: members must advise the panel’s co-chair or vice chair if they recognise an individual from a case or have a conflict of interest.⁴⁹ The member may still take part in discussion unless the co-chair asks the member to excuse themselves.⁵⁰

⁴⁰ Home Office (n 6) 13.

⁴¹ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33).

⁴² Office of the Bedfordshire Police & Crime Commissioner (n 12) 15-16.

⁴³ West Yorkshire Police (n 14).

⁴⁴ Police and Crime Commissioner Cambridgeshire and Peterborough (n 25).

⁴⁵ Gloucester Constabulary (n 16).

⁴⁶ Sussex Police, ‘Stop & Search Scrutiny Panel Terms of Reference’ (2024).

⁴⁷ Lincolnshire Police, ‘Scrutiny Panel Terms of Reference’ (2024).

⁴⁸ Office of the Bedfordshire Police & Crime Commissioner (n 12) 18.

⁴⁹ Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [12.2].

⁵⁰ Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [12.3].

Gloucestershire: panel members must declare conflicts of interest at the earlier opportunity.⁵¹

Draft Framework: police forces and PCCs should avoid conflicts of interest by selecting cases which are not from the immediate local areas of panel members.⁵²

11. HOW OFTEN DO PANELS MEET?

Bedfordshire: quarterly.⁵³

West Yorkshire: at least quarterly,⁵⁴ or every six weeks.⁵⁵

Cambridgeshire and Peterborough: at least twelve times per year.⁵⁶

Gloucestershire: monthly.⁵⁷

Hertfordshire: bi-monthly (six times per year).⁵⁸

12. WHAT SPECIFICALLY DO PANELS SCRUTINISE?

West Yorkshire (HCSP): police responses to hate crime incident reports.⁵⁹

Hertfordshire: dip-sampling of documentations and video recordings in various categories, including: Unarmed Defence Techniques, Handcuffs, PAVA, Taser, Spit Guard, Limb

⁵¹ Gloucester Constabulary (n 16) 2.

⁵² Home Office (n 6) 28.

⁵³ Office of the Bedfordshire Police & Crime Commissioner (n 12) 7, 13.

⁵⁴ West Yorkshire Police (n 14) [4.1].

⁵⁵ West Yorkshire Police, *Hate Crime Scrutiny Panels* (Web Page, August 2020) <<https://www.westyorkshire.police.uk/advice/abuse-anti-social-behaviour/hate-crime/hate-crime-hate-incidents/hate-crime-scrutiny-panels>>.

⁵⁶ Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [9.1].

⁵⁷ Gloucester Constabulary (n 16) 3.

⁵⁸ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [6.1].

⁵⁹ West Yorkshire Police (n 49).

Restraint, Baton and Escalated force'.⁶⁰ Panel scrutinises police officers' statements and body worn video.⁶¹

Cambridgeshire and Peterborough: meetings rotate between topics of Custody Detention, Stop and Search and Use of Force. The Co-Chair and Vice Chair may set themes.⁶² The Cambridgeshire Constabulary provides material for scrutiny such as data reports and body worn video.⁶³

Draft Framework: CSPs may scrutinise records of police-public interactions, including body-worn video (BWV) footage.⁶⁴

13. HOW IS IT DECIDED WHAT CASES CSPs SCRUTINISE?

Bedfordshire:⁶⁵ sub panels view and review videos. These videos are selected according to trends identified in data panel meetings. Panel members will then select videos based on parameters including: Black Community, Under 10's, Section 163 (Vehicle Stops), Custody videos.⁶⁶ Panel members also consider the validity of the search shown in each given video, and intelligence markers.⁶⁷

Draft Framework: PCCs and Chief Constables (CC) select and provide relevant records. Case selection can be random, based on themes requested by a CSP, and CSPs should be given access to statistics, standards and reports to aid selection. CSPs should not investigate alleged misconduct under live investigation.⁶⁸

14. WHAT DOES THE PANEL PRODUCE?

⁶⁰ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [2.1].

⁶¹ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [2.2].

⁶² Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [9.2].

⁶³ Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [8.1].

⁶⁴ Home Office (n 6) 12.

⁶⁵ Office of the Bedfordshire Police & Crime Commissioner (n 12) 10.

⁶⁶ Office of the Bedfordshire Police & Crime Commissioner (n 12) 10.

⁶⁷ Office of the Bedfordshire Police & Crime Commissioner (n 12) 10.

⁶⁸ Home Office (n 6) 28.

Draft Framework: PCC and/or CC should be responsible for establishing feedback processes for CSPs, and ensuring that feedback is reported, published and actioned.⁶⁹ Principles for output⁷⁰ include that PCC and CC should note panel findings, and inform the panel of follow-up including providing explanations or if training needs are identified.⁷¹ Clear communication loops between PCC, force leads and CSPs are important.⁷²

West Yorkshire: CSP produces a 'scrutiny activity record' comprising outcomes, observations and/or recommendations.

Dorset: minutes and summaries of CSP meetings are published and available to the public, including details of analysis of incidents.⁷³

West Midlands: CSPs produce meeting minutes, summarising findings.⁷⁴

Hertfordshire: OPCC publishes publicly available minutes after each panel review session on OPCC website.⁷⁵ Panel members produce an annual report detailing findings for the year, including number of incidents analysed, confidence of the panel in police action in the incidents, other details of scrutiny levels, and aims and goals for the coming year.⁷⁶

15. HOW IS CSP FEEDBACK DOCUMENTED?

Bedfordshire CSPs submit feedback via a feedback form.⁷⁷

⁶⁹ Home Office (n 6) 12.

⁷⁰ Home Office (n 6) 33.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Dorset Police, *Stop and Search Scrutiny Panel* (Web Page, 2024) <<https://www.dorset.police.uk/police-forces/dorset-police/areas/stats-and-data/stats-and-data/stop-and-search-scrutiny-panel/>>.

⁷⁴ West Midlands Police and Crime Commissioner, *Birmingham North Stop and Search Scrutiny Panel* (Web Page, 2022) <<https://www.westmidlands-pcc.gov.uk/tackling-violence/stop-search/stop-and-search-scrutiny-panels/birmingham-north-stop-and-search-scrutiny-panel/>>.

⁷⁵ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [9.1].

⁷⁶ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [12.1].

⁷⁷ Office of the Bedfordshire Police & Crime Commissioner (n 12) 11.

Draft Framework: PCC and/or CC should be responsible for establishing feedback processes for CSPs, and ensuring that feedback is reported, published and actioned.⁷⁸

West Yorkshire: a 'scrutiny activity record' is maintained in a corporate format via the Scrutiny Panel Feedback Portal.⁷⁹

Hertfordshire: panels produce a feedback spreadsheet at each meeting, which form the basis of annual reports which are made publicly available.⁸⁰

16. DOES POLICE LEADERSHIP SEE INTERNAL REPORTING ABOUT CSP LEARNINGS OR REPORTS?

West Yorkshire: the Police Senior Team Leadership member must ensure the scrutiny activity record is reviewed and acted upon by relevant stakeholders such as individual staff members, police leaders, West Yorkshire Police Headquarters Local Policing.⁸¹

Hertfordshire: panel can escalate cases that will be directed to supervisors.⁸² It is unclear who is meant by the term 'supervisors'.

Gloucestershire: CSP links into the work of the PCC to encourage transparency and representation. Chair and Vice Chair will offer to meet with PCC at least annually to share issues, suggestions and findings.⁸³

17. WHAT LIMITATIONS AND CONFIDENTIALITY REQUIREMENTS ARE PLACED UPON PANELS?

⁷⁸ Home Office (n 6) 12.

⁷⁹ West Yorkshire Police (n 14) [4.6].

⁸⁰ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [2.4].

⁸¹ West Yorkshire Police (n 14) [5.9].

⁸² David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [2.8].

⁸³ Gloucester Constabulary (n 16) 4.

Bedfordshire: all information disclosed to CSPs is treated as confidential.⁸⁴ Members sign non-disclosure agreements (example provided).⁸⁵ Signees are required to comply with terms of the *Data Protection Act 2018* (UK), *General Data Protection Regulation* (UK), and *Computer Misuse Act 1990* (UK), which outline 'personal liability for any wilful or reckless act regarding misuse of information.'⁸⁶

Cambridgeshire and Peterborough: scrutiny data, police records, and personal data must be treated by panel members as confidential. Panel members cannot share information that can identify individuals.⁸⁷

West Yorkshire: panel members about bound by a Confidentiality Arrangement,⁸⁸ though this document is not available online.

Gloucestershire: panel members must not reveal information about meeting proceedings, police record information, or personal data of police officers and members of the public. Only information recorded in published notes from meetings may be shared. All panel members sign a confidentiality agreement. The requirements of the *Data Protection Act 2018* (UK) apply to all work undertaken by panel members.⁸⁹

Hertfordshire: panel members must not reveal information about meeting proceedings, police record information, or personal data of police officers and members of the public. All panel members sign a confidentiality agreement. The requirements of the *Data Protection Act 2018* apply to all work undertaken by panel members.⁹⁰

18. Do CSPs COMMUNICATE WITH THE PUBLIC/BROADER COMMUNITY?

Various CSPs make meeting minutes and reports publicly available (see question 12).

⁸⁴ Office of the Bedfordshire Police & Crime Commissioner (n 12) 21.

⁸⁵ Office of the Bedfordshire Police & Crime Commissioner (n 12) 17.

⁸⁶ Office of the Bedfordshire Police & Crime Commissioner (n 12) 17.

⁸⁷ Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [12.2].

⁸⁸ West Yorkshire Police (n 14) [12.2].

⁸⁹ Gloucester Constabulary (n 16) 2.

⁹⁰ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [3.1]-[3.4].

Bedfordshire: OPCC and Bedfordshire Police are data controllers. They agree on what information is shared outside the panel, including on social media pages⁹¹

Cambridgeshire and Peterborough: per the terms of reference, scrutiny report findings, meeting minutes and actions taken by Constabulary are to be published on the PCC's website.⁹²

19. DOES THE PANEL HAVE ANY PARTICULAR POWERS IN RELATION TO REQUESTING INFORMATION FROM POLICE OR HOLDING POLICE TO ACCOUNT?

CSPs have no power to compel forces to share body-worn video.⁹³

Draft Framework: CSPs should be able to request information,⁹⁴ though the Draft Framework does not mention CSPs having power to compel PCC to share information.

20. Do CSPs CONNECT TO POLICE INTEGRITY REVIEW BODIES?

No specific mention in information available for most CSPs.

Hertfordshire: panel can escalate cases that will be directed to supervisors.⁹⁵ It is unclear who is meant by the term 'supervisors'.

21. HOW ARE CSP COSTS RESOURCED?

⁹¹ Office of the Bedfordshire Police & Crime Commissioner (n 12) 21.

⁹² Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [15.1].

⁹³ HMICFRS, the College of Policing, and IOPC (n 8) 146.

⁹⁴ Home Office (n 6) 28.

⁹⁵ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [2.8].

Cambridgeshire and Peterborough: some travel expenses can be claimed, and other reimbursements must be authorised by OPCC.⁹⁶ No information is provided regarding funding sources.

Hertfordshire: reasonable travel expenses incurred by panel members will be reimbursed by the Office of the PCC.⁹⁷

Draft Framework: CC should clarify costs model, and communicate this to members. This should be done in targeted community panel recruitment campaigns, and through conversations with panel members.⁹⁸

⁹⁶ Police and Crime Commissioner Cambridgeshire and Peterborough (n 25) [14.1].

⁹⁷ David Lloyd Police and Crime Commissioner for Hertfordshire (n 33) [8.1].

⁹⁸ Home Office (n 6) 17.

Information drawn from evaluations of CSPs to show whether they improve policing and community confidence in policing of hate crimes

As CSPs function independently to one another in distinct policing territories, and utilise varying standards and processes, it may be difficult to impact CSPs. Nonetheless, some reports are available.

22. HOW ARE CSPs EVALUATED BY THE POLICE OR UK GOVERNMENT?

I was unable to find information describing specific CSP evaluation processes by the police or UK government. The terms of reference for different CSPs describe differing mechanisms for reporting to be considered and incorporated by respective police forces - examples are provided in the previous section under questions 13, 14, 18, and 19.

2) Evaluation reports, summaries of what has been found to work and require improvements

Kirat Kaur Kalyan & Peter Keeling, 'How to improve community scrutiny of stop and search'

This 2019 briefing details how community scrutiny may improve stop and search processes. The findings on the role of CSPs may apply to other community scrutiny mechanisms.

Key findings regarding CSPs include:

- Black, Asian and minority ethnic (BAME) people receive disproportionately negative treatment in the use of stop and search. Community scrutiny of this use can play a crucial role in building trust by providing transparency and accountability.⁹⁹
- CSPs vary in their practice, though examples of good practice exist. **Best practice includes:**¹⁰⁰
 - identifying and sharing best practice across CSPs,
 - operation independent from police or OPCC,
 - actively recruiting panel members to represent affected demographics,
 - ensuring ongoing training for members,
 - ready access to police data and body-worn footage, and
 - transparency regarding CSP remit and terms of reference, to ensure appropriate communities and demographics are engaged.

⁹⁹ Kalyan & Keeling (n 23) 2.

¹⁰⁰ Kalyan & Keeling (n 23) 2-3.

- Further details on findings regarding best practice are found at pages 18-19 of the report.¹⁰¹
- For scrutiny processes to be effective, forces should be open to criticism and be willing to incorporate learnings.¹⁰² Few CSPs were consulted in the design and review of 'community complaints trigger' processes.¹⁰³

The report describes four principles for effective CSPs:¹⁰⁴

- **'Independent and empowered:** Led by the community, acts as a 'critical friend', provides constructive challenge and influences change.'
- **'Informed:** Has effective and transparent access to a wide range of data and records on stop and search, including body worn video footage, and access to appropriate training and guidance.'
- **'Representative:** Reflects the communities most affected by stop and search, stays dynamic by periodically reviewing and refreshing its membership and actively engages young people and BAME people in its work.'
- **'Open and visible:** Promotes its work widely in the community, particularly with young people and 'harder to reach' groups, publishes summaries of meetings and outcomes, and is easily contactable by members of the public.'

Other notable findings of the report include:

- Effectiveness of scrutiny is varied across forces, and only a minority of forces in 2017 had very effective and independent CSPs.¹⁰⁵
- Representation of BAME people as panel members varied from 10 to 80 percent in different areas. CSPs who successfully engage representative demographics do so by working with schools, colleges, universities, charities, social enterprises, and BAME-led organisations. Constant recruitment processes are helpful in achieving representative panels.¹⁰⁶
- CSPs can be more effective by making their terms of reference available to the public, creating their own websites, enabling the public to contact them directly, and

¹⁰¹ Kalyan & Keeling (n 23) 18-19.

¹⁰² Kalyan & Keeling (n 23) 2.

¹⁰³ Kalyan & Keeling (n 23) 3.

¹⁰⁴ Kalyan & Keeling (n 23) 3.

¹⁰⁵ Kalyan & Keeling (n 23) 6.

¹⁰⁶ Kalyan & Keeling (n 23) 10.

engaging with local charities and organisations to improve the exchange of ideas with affected communities.¹⁰⁷

His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), the College of Policing and the Independent Office for Police Conduct (IOPC), 'Report on the Criminal Justice Alliance's super-complaint'

This report provides a summary of the findings of their investigation into stop and search scrutiny panels. These findings include:

- All forces had some form of CSP model. The CSPs' terms of reference and processes varied greatly across forces, including methods for selecting cases for scrutiny, and process and level of scrutiny. This led to 'very different' approaches and outcomes.¹⁰⁸
- Forces and local policing bodies provided CSPs with a range of support. This included administrative support, as well as officers providing advice and information regarding legislation and police practices to help panels make informed decisions.¹⁰⁹
- Most CSPs had some level of diversity of ethnicity and gender in their membership, but sometimes struggled to get young people to join and stay.¹¹⁰
- Most CSPs reviewed body-worn video footage, though some had concerns about quality and completeness of the footage.¹¹¹

This report identified other specific concerns regarding CSPs, including:

- Stakeholders had concerns about inadequate training for some CSPs, as members lacked knowledge and experience sufficient for the complexity of the role. Stakeholders stated that training was inconsistent in its quality and availability.¹¹²
- CSP reviews of stop and search records and body-worn footage were completed in isolation from other issues, such as use of force. Linking reviews of these issues could lead to greater feedback, insight and learning.¹¹³

¹⁰⁷ Kalyan & Keeling (n 23) 14.

¹⁰⁸

¹⁰⁹ HMICFRS, the College of Policing, and IOPC (n 8) 137.

¹¹⁰ HMICFRS, the College of Policing, and IOPC (n 8) 137.

¹¹¹ HMICFRS, the College of Policing, and IOPC (n 8) 137, 139, 140.

¹¹² HMICFRS, the College of Policing, and IOPC (n 8) 137.

¹¹³ HMICFRS, the College of Policing, and IOPC (n 8) 138.

- Forces mostly did not consult panels before giving authorisation to stop and search. CSPs were occasionally asked to review police decisions to authorise stop and search after the fact.¹¹⁴
- There is a lack of CSP networking at local or national levels, national coordination body, or library of positive practice. Forces therefore miss opportunities to share findings and learnings. Forces indicate that they would welcome a national framework that provided guidance and support, but not one that had authority or regulatory control over forces.¹¹⁵

23. SUMMARY OF SUCCESS STORIES OR CRITICISM ON THE PUBLIC RECORD OF HCSP

Hate Crime scrutiny panel reviews London hate crime cases¹¹⁶

In a pan-London hate crime panel meeting, representatives of Jewish, Muslim, and LGBT+ communities gathered to analyse recent hate crime prosecutions. The panellists examined how cases progressed, and identified learning points for police forces and Crown Prosecution.

The panel was chaired by Chief Crown Prosecutor Barry Hughes, who said that “‘It’s incredibly important that those communities most at risk from hate crimes have the confidence that the CPS, and our police colleagues, are doing everything possible to identify and prosecute those who carry out these hateful crimes.”

“By opening up our decision-making, both as police and prosecutors, we build the confidence of the communities we serve.”

"We don't always make the right decisions, so it's important to be open and transparent and to learn when things don't always go as well as we would like. By being receptive to challenges, I've also found that we get incredibly helpful ideas and suggestions from the community so that we can improve."

¹¹⁴ HMICFRS, the College of Policing, and IOPC (n 8) 138.

¹¹⁵ HMICFRS, the College of Policing, and IOPC (n 8) 138.

¹¹⁶ Crown Prosecution Service (UK), *Hate Crime scrutiny panel reviews London hate crime cases* (Blog post, 20 January 2023) <<https://www.cps.gov.uk/london-north/news/hate-crime-scrutiny-panel-reviews-london-hate-crime-cases>>.

Volunteers Week: highlighting the essential role of volunteers in police scrutiny¹¹⁷

PCC states that an “important part of [his] job is to hold the Chief Constable to account for the way that officers and staff carry out their roles ... [Cambridgeshire and Peterborough CSP] plays a vital role in helping to ensure officers carry out their duty in line with strict protocols and professionalism.”

Notable CSP achievements include: ‘initiating an improvement in the quality of the grounds recorded in the use of Stop and Search, prompting an enhancement of the protection of individuals during Strip Searches and instigating enhanced mental health training to be provided to all front-line officers.’

Panel members stated that their involvement in the panel gave them the chance to give honest feedback, and to learn about policing practices.

24. JOURNAL ARTICLES ON HCSPs

Nicole Asquith, ‘Vulnerability and the Art of Complaining Making’

In her 2012 chapter on barriers to reporting hate crimes, Nicole Asquith indicates that HCSPs, alongside additional contact with victims, specialist units, and improved police training, can improve the trust between victim communities and police. This trust can have a flow-on effect of improving vulnerable groups’ willingness to report hate crimes to police.¹¹⁸

Stuart Lister, ‘Scrutinising the role of the Police and Crime Panel in the new era of police governance in England and Wales’

In his 2014 article, Stuart Lister explored the role of Police and Crime Panels (PCPs) (functionally CSPs) within the then-new constitutional arrangements for governing police forces in England and Wales. The paper sought to contribute to debates regarding whether PCPs were effective local forums of public accountability.

The article utilises desktop research of PCP web pages, documentary analysis of panel meeting reports, and a literature review of relevant academic materials.

¹¹⁷ Police and Crime Commissioner Cambridgeshire and Peterborough Darryl Preston, *Volunteers Week: highlighting the essential role of volunteers in police scrutiny* (Blog post, 3 June 2024) <<https://www.cambridgeshire-pcc.gov.uk/news/2024/volunteers-week-highlighting-the-essential-role-of-volunteers-in-police-scrutiny/>>.

¹¹⁸ Nicole Asquith, ‘Vulnerability and the Art of Complaining Making’ in Isabelle Bartkowiak-Théron and Nicole Asquith (eds), *Policing Vulnerability* (The Federation Press, 2012) 147, 155.

The article concludes that ‘the role, powers and sanctions of [PCPs] appear to be very limited, both in law and in practice.’¹¹⁹

¹¹⁹ Stuart Lister, ‘Scrutinising the role of the Police and Crime Panel in the new era of police governance in England and Wales’ (2012) 13(1) *Safer Communities* 22.