



# Library Note

## **Policing and Crime Bill (HL Bill 55 of 2016–17)**

This House of Lords Library briefing provides an overview of the provisions of the Policing and Crime Bill. It focuses on the provisions of the Bill which concern the emergency services; the police complaints and disciplinary systems; the police workforce; police powers; and the protection of children and vulnerable adults. It outlines the policy background in those areas, and a summary of some of the key amendments made to the Bill during its committee and report stages in the House of Commons.

The Policing and Crime Bill is a carry-over bill from the 2015–16 session. The Bill completed its final stages in the House of Commons on 13 June 2016, and was introduced in the House of Lords on 14 June 2016. The Bill consists of nine parts:

- Part 1 would place a statutory duty on police, fire and ambulance services to collaborate to improve efficiency and effectiveness, and would enable Police and Crime Commissioners (PCCs) to take on responsibility for fire and rescue services.
- Part 2 would reform the police complaints and disciplinary systems, and includes measures to extend the disciplinary regime to former officers for up to twelve months after they have left the police, and to make changes to the governance of the IPCC.
- Part 3 would enable chief officers to confer a wider range of policing powers on police civilian staff and volunteers.
- Part 4 would introduce a presumption that bail conditions would not apply to suspects released prior to charge, and would create a new offence of breach of pre-charge bail conditions which relate to travel for individuals arrested on suspicion of terrorism offences. It would also make changes to the rules governing how the police deal with people suffering mental crises under sections 135 and 136 of the Mental Health Act 1983.
- Part 5 would make changes to the terms of office for Deputy PCCs and would give the Home Secretary the power to change the name of a police area by order.
- Part 6 would amend the Firearms Act 1968 and would provide a statutory definition of the terms 'lethal', 'component part' and 'antique firearm', which are currently undefined in legislation.
- Part 7 would amend the Licensing Act 2003 to make clear that powdered and vaporised alcohol are both covered by the Act.
- Part 8 contains provisions relating to the enforcement of EU, UN and other financial sanctions.
- Part 9 would amend the Sexual Offences Act 2003 to mandate that offences relating to child sexual exploitation cover the streaming or transmission of indecent images of children. It would enable the Secretary of State to issue statutory guidance to local taxi and private hire licensing authorities with regard to the protection of children and vulnerable adults.

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## I. Overview

### I.1 Summary of Key Provisions

The Policing and Crime Bill, as introduced in the House of Lords, consists of nine parts. This section briefly outlines the Bill's key provisions, as summarised by the [Explanatory Notes](#), which have been prepared by the Home Office. A more detailed analysis of the provisions of the Bill, as introduced in the House of Commons, can be found in the House of Commons Library briefing, [Policing and Crime Bill 2015–16](#).<sup>1</sup>

#### Part 1: Emergency Services Collaboration (clauses 1 to 11)

Part 1 would place a statutory duty on police, fire and rescue and ambulance services to consider opportunities to collaborate and to give effect to collaboration proposals if it would be in the interests of the efficiency and effectiveness of at least two of the services.<sup>2</sup> The Bill would also enable Police and Crime Commissioners (PCCs) to take on responsibility for fire and rescue services, and would make equivalent provision for combined authority mayors. In addition, part 1 would bring fire and rescue services in London under the direct responsibility of the Mayor of London by abolishing the London Fire and Emergency Planning Authority.<sup>3</sup>

This part also seeks to strengthen the current inspection powers under the Fire and Rescue Services Act 2004, with the stated aim of ensuring an “an independent regime” for the fire and rescue services in England.<sup>4</sup> The changes are intended to create an inspection framework similar to the current framework for police forces.

#### Part 2: Police Complaints, Discipline and Inspection (clauses 12 to 36)

Part 2 seeks to reform the police complaints and disciplinary systems. Its provisions would:

- Allow local policing bodies to choose to take on direct responsibility for a number of statutory functions in the police complaints system.<sup>5</sup> The Bill also makes it explicit that such local bodies would be responsible for holding chief officers to account for the exercise of their functions in the handling of police complaints. They would also be the review body for reviews and appeals.<sup>6</sup>
- Clarify the definition of a complaint, end the practice of non-recording complaints, and introduce a duty to keep complainant and other interested persons informed.<sup>7</sup>
- Allow the Independent Police Complaints Commission (IPCC) to commence an investigation into any matter of concern that has come to its attention without the need for a police force to make a referral.<sup>8</sup>
- Make changes to the governance of the IPCC, and provide for it be renamed the Office for Police Conduct.<sup>9</sup>

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<sup>1</sup> House of Commons Library, [Policing and Crime Bill 2015–16](#), 2 March 2016.

<sup>2</sup> [Explanatory Notes](#), para 5.

<sup>3</sup> *ibid*, para 395.

<sup>4</sup> *ibid*, para 5.

<sup>5</sup> *ibid*, para 473. A local policing body is defined in the Explanatory Notes to the Policing and Crime Bill as a PCC; or the Mayor's Office for Policing and Crime in relation to the metropolitan police district; or the Common Council in relation to the City of London police area.

<sup>6</sup> *ibid*, para 474.

<sup>7</sup> *ibid*, para 60.

<sup>8</sup> *ibid*, para 61.

<sup>9</sup> *ibid*, para 69.

- Establish a new ‘super-complaints’ system to allow certain advocacy groups and charities to raise concerns about “any aspect of policing in England and Wales that causes significant harm to the interests of the public”.<sup>10</sup>
- Confer new protections on police whistle-blowers,<sup>11</sup> and provide for the IPCC to investigate concerns raised by an individual police whistle-blower without the matter having to be raised with their force first.<sup>12</sup> The Bill would also enable further provisions to be made by regulations to protect the identity of the whistle-blower.
- Extend the disciplinary regime to former officers for up to twelve months after they had left the police.<sup>13</sup>
- Create a new statutory list of persons barred from working in policing.<sup>14</sup> The ‘barred list’ would include all those dismissed from service in the police (and those who would have been dismissed had they still been serving).
- Increase the powers of Her Majesty’s Inspectorate of Constabulary and extend its remit to inspect contractors and third parties who carry out policing functions.<sup>15</sup>

### **Part 3: Police Workforce and Representative Institutions (clauses 37 to 50)**

Part 3 would enable chief officers of police to confer a wider range of policing powers on police civilian staff and volunteers, though this would exclude those powers reserved for warranted police officers.<sup>16</sup> The Bill leaves unchanged the position of contracted out detention officers and escort officers. This part would also confer on the Home Secretary a power to specify police ranks in regulations. Furthermore, it would update the “core purpose” of the Police Federation for England and Wales and make it subject to the Freedom of Information Act 2000.

### **Part 4: Police Powers (clauses 51 to 107)**

Part 4 would introduce a number of reforms to police powers. These would include:

- A presumption that suspects released prior to charge would be released without bail, the introduction of statutory time limits on bail, and judicial oversight of extensions of bail beyond three months.
- A new offence of breaching pre-charge bail conditions that relate to travel restrictions in terrorism cases.
- Powers to enable the retention of DNA profiles and fingerprints of those convicted outside of England and Wales.
- Changes to the Mental Health Act 1983 in respect of persons experiencing a mental health crisis, including banning the use of police cells for the detention of under-18s, and reducing the maximum period of detention.
- The extension of police powers to investigate offences committed on vessels operating at sea.
- Amendments to the Police and Criminal Evidence Act 1984 (PACE) to ensure that 17 year-olds who are detained in police custody are treated as children for all purposes.

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<sup>10</sup> [Explanatory Notes](#), para 6 and para 564.

<sup>11</sup> *ibid*, para 61.

<sup>12</sup> *ibid*, para 569.

<sup>13</sup> *ibid*, para 594.

<sup>14</sup> *ibid*, para 598.

<sup>15</sup> *ibid*, para 73.

<sup>16</sup> *ibid*, para 7.

- Cross-border powers of arrest to enable a person who commits an offence in one UK jurisdiction to be arrested without warrant by an officer in another jurisdiction.<sup>17</sup>

### **Part 5: Police and Crime Commissioners and Police Areas (clauses 108 to 110)**

Part 5 would enable Deputy PCCs to be eligible for the appointment to the position of acting PCC in the event of the office of PCC falling vacant mid-term. This part also makes provision for changes to the names of police areas to be made by regulations.<sup>18</sup>

### **Part 6: Firearms (clauses 111 to 116)**

Part 6 relates to firearm offences. The purpose of the provisions are to amend the Firearms Act 1968 in order to “close loopholes that can be exploited by criminals and terrorists”.<sup>19</sup> Part 6 would provide a power for the Home Secretary to issue statutory guidance to ensure that a “consistent approach” is taken by chief officers of police in the consideration of applications for firearms licences and shotgun certificates. It would also provide a statutory definition of the terms ‘lethal’, ‘component part’ and ‘antique firearm’.<sup>20</sup> Furthermore, its provisions would create a new offence of possession of an article with the intention of using it to convert an imitation firearm into a firearm. The new offence would apply to any person other than a registered firearms dealer.

Part 6 would also provide for the full cost recovery of the Home Office’s and Scottish Government’s licensing functions in respect of companies trading in prohibited weapons, museums with firearms collections and shooting clubs, through the levying of fees.<sup>21</sup>

### **Part 7: Alcohol: Licensing (clauses 117 to 122)**

Part 7 would amend the Licensing Act 2003 to make clear that powdered and vaporised alcohol are both covered by the Act.<sup>22</sup> It would also provide licensing authorities with the power to revoke or suspend a personal license on conviction for a relevant offence, and expand the existing list of relevant offences.<sup>23</sup>

### **Part 8: Financial Sanctions (clauses 123 to 136)**

Part 8 contains provisions relating to the enforcement of European Union, United Nations and other financial sanctions.<sup>24</sup> It would enable the maximum custodial sentence on conviction for breaching sanctions to be increased, and would expand the range of enforcement options, including a new system of monetary penalties, and would provide for the immediate implementation of UN-mandated sanctions.

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<sup>17</sup> [Explanatory Notes](#), para 8.

<sup>18</sup> *ibid*, para 9.

<sup>19</sup> *ibid*, para 10.

<sup>20</sup> *ibid*, para 893.

<sup>21</sup> *ibid*, para 10.

<sup>22</sup> *ibid*, para 919.

<sup>23</sup> *ibid*, paras 928–41.

<sup>24</sup> Following the result of the EU referendum on 23 June 2016, and speaking in response to a question about the Government’s legislative programme, the Leader of the House of Lords, Baroness Stowell of Beeston, stated that “we are in the European Union until we are out of the European Union and we have not yet triggered the Article 50 process that will put that process in train. We must very much continue with our programme and we have a mandate for that programme from the election of only one year ago” ([HC Hansard, 27 June 2016, col 1387](#)).

## Part 9: Miscellaneous and General (clauses 137 to 151)

Part 9 contains several miscellaneous and general provisions, including:

- New requirements on arrestees and defendants to confirm nationality.
- An amendment to the Sexual Offences Act 2003 to provide that the offences in relation to child sexual exploitation cover the streaming or transmission of indecent images of children.
- Lifelong anonymity for victims of forced marriage.
- A power to issue statutory guidance to local taxi and private hire vehicle licensing authorities in relation to the safeguarding of children and vulnerable individuals.
- Requirement on arrested persons to state their nationality, for suspected foreign nationals to produce their nationality document(s) following arrest, and for defendants in criminal proceedings to provide their name, date of birth and nationality to the court.

### 1.2 Territorial Extent

Policing is generally devolved in Scotland and Northern Ireland.<sup>25</sup> Clause 149 sets out the territorial extent of the Bill, and subject to certain exceptions, the provisions of the Bill extend and apply to England and Wales only.<sup>26</sup> Further, whilst the provisions on emergency services collaboration extends to England and Wales, they apply to England only. The main exceptions are listed in the Explanatory Notes, and additional information can be found in the House of Commons Library briefing, [Policing and Crime Bill 2015–16](#).<sup>27</sup>

### 1.3 Second Reading

The Conservative Party's 2015 general election manifesto made a commitment to “finish the job of police reform”.<sup>28</sup> Speaking at the second reading of the Policing and Crime Bill on 7 March 2016, the Home Secretary, Theresa May, stated that “since 2010 the Government has implemented the most radical programme of police reform in decades”.<sup>29</sup> However, she said that the “task of police reform” was not “yet finished”, and argued that:

If policing is successfully to meet the challenges that it faces over the next five years, we must continue to reform it to drive efficiency, new capability, and higher levels of professionalism and integrity.<sup>30</sup>

Ms May argued that the Policing and Crime Bill had been drafted to enact such reforms, and during her speech she highlighted the Bill's provisions on emergency services collaboration; the role of Police and Crime Commissioners (PCCs); the police complaints and disciplinary systems; police powers relating to pre-charge bail and detention under the Mental Health Act 1983; firearms; and the enforcement of EU, UN and other financial sanctions.<sup>31</sup>

Responding on behalf of the Opposition, the Shadow Home Secretary, Andy Burnham, said the Labour Party welcomed “most” of the measures in the Bill.<sup>32</sup> In particular, Mr Burnham

<sup>25</sup> House of Commons Library, [Policing and Crime Bill 2015–16](#), 2 March 2016, p 6.

<sup>26</sup> [Explanatory Notes](#), para 270.

<sup>27</sup> House of Commons Library, [Policing and Crime Bill 2015–16](#), 2 March 2016, p 6.

<sup>28</sup> Conservative Party, [Conservative Party Manifesto 2015](#), April 2015, p 58.

<sup>29</sup> [HC Hansard, 7 March 2016, col 37](#).

<sup>30</sup> [ibid, col 38](#).

<sup>31</sup> House of Commons Library, [Policing and Crime Bill 2015–16: Committee Stage Report](#), 22 April 2016, p 4.

<sup>32</sup> [HC Hansard, 7 March 2016, col 48](#).

expressed support for the provisions relating to firearms, alcohol licensing and child sexual exploitation, and he congratulated the Home Secretary on acting to outlaw the practice of holding people in police cells who are in “mental health crisis”. However, he argued that the Bill also “fell short” of providing “what our emergency services need”.<sup>33</sup> Mr Burnham stated, for example, that whilst there was nothing wrong in principle with greater collaboration between the police and the fire services, and greater use of police volunteers, there were inherent risks in both policies, and that “patching two leaky buckets together does not make one that works”.<sup>34</sup> He also argued that the Government had not “gone far enough” in its reform of the police complaints system, accountability of the police or police bail.<sup>35</sup>

Speaking on behalf of the Scottish National Party (SNP), Angela Crawley (SNP MP for Lanark and Hamilton East), called for clarity on the provisions in the Bill which would affect Scotland, and urged the UK Government to engage with the Scottish Government to “monitor any impact the Bill could have on devolved Parliament”.<sup>36</sup> She expressed particular concerns about the maritime enforcement measures included in the Bill, and the power to compel arrested persons to state their nationality.<sup>37</sup> Ms Crawley stated that the SNP was supportive of the provisions in the Bill which concerned firearms, but called on the Government to work closely with the Scottish Parliament because of potential implications for Scottish legislation.<sup>38</sup>

Liz Saville Roberts (Plaid Cymru MP for Dwyfor Meirionnydd) called for policing to be devolved to the National Assembly for Wales, as recommended by the Commission on Devolution in Wales, established by the Coalition Government in 2011.<sup>39</sup>

Keith Vaz, chair of the House of Commons Home Affairs Committee, welcomed the provisions on mental health, police bail, Police Federation reform and police discipline, which he stated implemented a number of recommendations made by the Home Affairs Committee.<sup>40</sup>

## 2. Emergency Services

### 2.1 Background

The Conservative Party’s 2015 general election manifesto made a commitment “to enable fire and police services to work more closely together”.<sup>41</sup> The Conservative Government’s [Spending Review and Autumn Statement](#) in 2015 promised to legislate for a new statutory duty for emergency services to collaborate, and to enable PCCs to take over police and fire services “subject to a clear business case and local support”.<sup>42</sup>

<sup>33</sup> [HC Hansard, 7 March 2016, col 49.](#)

<sup>34</sup> [ibid, col 51.](#)

<sup>35</sup> [ibid, col 48.](#)

<sup>36</sup> [ibid, col 62.](#)

<sup>37</sup> [ibid, cols 61–2.](#)

<sup>38</sup> [ibid, col 62.](#)

<sup>39</sup> [ibid, cols 86–7.](#) The Commission on Devolution in Wales—also known as the Silk Commission—was established by the Coalition Government in 2011 to look at the future of the devolution settlement in Wales. As part of its terms of reference, the Commission looked at Wales’s financial powers (part 1 of their work) and legislative powers (part 2 of their work) and made a number of recommendations in two final reports. The [first report](#) was published in November 2012, and the [second report](#) in March 2014.

<sup>40</sup> [HC Hansard, 7 March 2016, cols 65–8.](#)

<sup>41</sup> Conservative Party, [The Conservative Party Manifesto 2015](#), April 2015, p 59.

<sup>42</sup> HM Treasury, [Spending Review and Autumn Statement 2015](#), November 2015, Cm 9162, p 70.

In 2012, the Coalition Government commissioned Sir Ken Knight, the outgoing Chief Fire and Rescue Advisor, to conduct an independent review of efficiency in the provision of fire and rescue services in England. Sir Ken Knight's report, [Facing the Future](#), was published in May 2013. It argued that "efficiency and quality can be driven through collaboration outside the fire sector, particularly with other blue-light services", and that opportunities could be found in procurement, co-working and co-location.<sup>43</sup> The report suggested that whilst proposals for PCCs to take responsibility for fire and rescue services would complicate the current administration of fire authorities, it stated that it would welcome "such a model being trialled".<sup>44</sup> The report noted that:

Subject to the outcome of the pilot, to become most effective and efficient this model would need to be adopted universally, with clearly set out benefits, both financially and accountability and scrutiny for the public.<sup>45</sup>

In September 2015, the Conservative Government launched the consultation document, [Enabling Closer Working Between the Emergency Services](#), which sought views on a range of proposals to increase joint working between the emergency services.<sup>46</sup> The measures that the Government consulted on included:<sup>47</sup>

- Introducing a new duty on all three emergency services to actively consider collaboration opportunities with one another to improve efficiency and effectiveness.
- Enabling PCCs to take on the duties and responsibilities of fire and rescue authorities, where a local case is made; and where a PCC takes on the responsibilities of a fire and rescue authority, enabling him or her to create a single employer, facilitating the sharing of back office functions and streamlining management.
- In areas where a PCC had not become responsible for fire and rescue services, enabling them to have representation on their local fire and rescue authority.  
Abolishing the London Fire and Emergency Planning Authority and giving the Mayor of London direct responsibility for the fire and rescue service in London.

In January 2016, the Government published its response, which stated that the Government intended to legislate to introduce these measures.<sup>48</sup>

The Government's response stated that there was "significant support" for the new statutory duty, although some thought it unnecessary in view of existing collaboration.<sup>49</sup> Currently, the Policing and Crime Act 2009 provides for collaboration agreements between two or more police forces, and the Fire and Rescue Services Act 2004 requires authorities "so far as practicable" to enter into a reinforcement (mutual assistance) scheme with other fire and rescue authorities. Emergency services are able to establish collaboration schemes, but it is not a requirement.<sup>50</sup>

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<sup>43</sup> Sir Ken Knight, [Facing the Future](#), 17 May 2013, p 52.

<sup>44</sup> *ibid*, p 75.

<sup>45</sup> *ibid*.

<sup>46</sup> HM Government, [Enabling Closer Working Between the Emergency Services: Summary of Consultation Responses and Next Steps](#), 26 January 2016, p 5.

<sup>47</sup> HM Government, [Consultation: Enabling Closer Working Between the Emergency Services](#), September 2015, p 5.

<sup>48</sup> HM Government, [Enabling Closer Working Between the Emergency Services: Summary of Consultation Responses and Next Steps](#), 26 January 2016, p 5.

<sup>49</sup> *ibid*, p 7.

<sup>50</sup> House of Commons Library, [Policing and Crime Bill 2015–16](#), 2 March 2016, p 12.

## 2.2 Committee Stage

The Bill sets out a number of possible models for the way in which PCCs could become involved in the provision of fire and rescue services. The Explanatory Notes outlines the various models:

Clause 6 and associated schedule 1 make provision for a PCC to take responsibility for the fire and rescue service in his or her area where a local case is made (the ‘governance’ model), as well as to take the additional step to create a single employer for police and fire (the ‘single employer’ model).<sup>51</sup>

Clause 7, which would apply where a PCC has not adopted either of the other two models, would enable the PCC to be represented on the Fire Rescue Authority (FRA) (outside of London) with voting rights, where that authority has agreed.<sup>52</sup>

The “single-employer model” set out in clause 6 and schedule 1 of the Bill was the subject of debate at both the committee and report stage. Under this model, the PCC would not only take over the governance of the fire and rescue service, but would appoint a single chief officer to be in charge of both police and fire services. At committee stage the Government tabled a new clause which would enable the single employer model to be applied to combined authority mayors. Speaking on behalf of the Opposition, Lyn Brown (Labour MP for West Ham), stated that Labour was opposed to the model, and therefore oppose the new clause.<sup>53</sup> The Committee divided, and the new clause (now clause 8) was agreed to by 9 votes to 6.<sup>54</sup>

Debate was had on whether clause 6 should remain part of the Bill. Ms Brown argued that the Opposition did not believe that the Government had made “the case for the fundamental governance reforms to the fire and rescue service”.<sup>55</sup> She questioned why the Government had not undertaken a pilot, as had been recommended by the Knight Review. She contended that with its “much smaller budgets and less media attention than policing”, the fire service will become “an unloved secondary concern of management, a Cinderella service”.<sup>56</sup> The Committee divided on clause 6, and it was ordered to stand part of the Bill by eight votes to six.<sup>57</sup>

An amendment was moved by Lyn Brown which would have prevented a PCC from privatising any part of the fire and rescue service. Speaking to the amendment Ms Brown invited Mike Penning, Minister of State at the Home Office, to make a “clear statement that this Government will not allow privatisation”.<sup>58</sup> In response, Mr Penning stated that there were no plans to change legislation to enable privatisation of the fire service.<sup>59</sup> The Committee divided on the amendment, which was negated by eight votes to six.<sup>60</sup>

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<sup>51</sup> [Explanatory Notes](#), para 305.

<sup>52</sup> *ibid*, para 368.

<sup>53</sup> [Public Bill Committee, Policing and Crime Bill](#), 12 April 2016, session 2015–16, 7th sitting, col 279.

<sup>54</sup> *ibid*, col 281.

<sup>55</sup> [Public Bill Committee, Policing and Crime Bill](#), 22 March 2016, session 2015–16, 3rd sitting, col 108.

<sup>56</sup> *ibid* cols 108–10.

<sup>57</sup> *ibid*, col 113.

<sup>58</sup> [Public Bill Committee, Policing and Crime Bill](#), 22 March 2016, session 2015–16, 4th sitting, col 151.

<sup>59</sup> *ibid*.

<sup>60</sup> *ibid*, col 153.

## 2.3 Report Stage

### Opposition Amendments

At report stage, Lyn Brown reiterated the Labour Party's opposition to the Government's proposals to allow PCCs to take over fire and rescue services. Ms Brown stated that they had tabled a number of amendments to remove the provisions in the Bill that would enable them to do so, as well as "amendments to mitigate the risks if the Government's proposals are enacted". The Opposition pressed to a division the following amendments:

- Amendments to remove clause 6 and schedule 1, and thereby preventing PCCs from taking over the functions of FRAs. Lyn Brown reiterated the argument that the Government had "ignored [the Knight Review's] key recommendation to trial the policy" with a "rigorous pilot".<sup>61</sup> She stated that there was support for the view that there needed to be greater collaboration between emergency services but she argued that the Government had not provided "any justification of why it is more likely to occur under PCCs". The Minister, Mike Penning, responded that the amendments would "rip the heart out of the Bill",<sup>62</sup> and "decimate the PCCs' role".<sup>63</sup> The amendment to remove clause 6 was pressed to a division and was defeated by 308 votes to 200.<sup>64</sup>
- A requirement that PCCs could only take over a fire and rescue service if it had the consent of all relevant local FRAs or following a local referendum. Lyn Brown questioned "what sort of localism allows the Secretary of State to impose her will against local objections", and argued that it "portraye[d] an utter distrust of, and contempt for, local government and elected councillors".<sup>65</sup> Jake Berry (Conservative MP for Rossendale and Darwen) highlighted the potential cost of these referendums.<sup>66</sup> The amendment was negated on division by 307 votes to 200.<sup>67</sup>
- An amendment which would have required the Home Secretary to conduct a funding review prior to an order giving PCCs responsibility for fire and rescue services. Lyn Brown argued that they had tabled such a measure because the "PCCs will not know what the risks are, because the Government refuse to model them".<sup>68</sup> Ms Brown stated that this requirement would ensure that an "assessment of the level of funding that fire services need to keep the public safe" was conducted. In response, Mike Penning highlighted that there would be separate funding streams for police and fire operations.<sup>69</sup> The amendment was also negated on division by 303 votes to 209.<sup>70</sup>

The Opposition also tabled new clause 20 which would have made the fire and rescue service in England statutorily responsible for leading the emergency services response to flooding. Speaking to the proposed clause, Ms Brown argued that "when flooding is not formally the responsibility of any service", it is not given the priority "it deserves in budgeting and planning".<sup>71</sup> Kate Hoey (Labour MP for Vauxhall) expressed support for the new clause, highlighting that this issue had been discussed on numerous occasions with ministers "who have

<sup>61</sup> [HC Hansard, 26 April 2016, col 315.](#)

<sup>62</sup> [ibid, col 1337.](#)

<sup>63</sup> [ibid, col 1339.](#)

<sup>64</sup> [ibid, cols 1343–7.](#)

<sup>65</sup> [ibid, col 1320.](#)

<sup>66</sup> [ibid.](#)

<sup>67</sup> [ibid, col 1354.](#)

<sup>68</sup> [ibid, col 1320.](#)

<sup>69</sup> [ibid, col 1317.](#)

<sup>70</sup> [ibid, cols 1348–50.](#)

<sup>71</sup> [ibid, col 1322.](#)

all said that they supported it”.<sup>72</sup> Jake Berry also said that the “aim of the new clause [...] to give fire and rescue services the lead in flooding is good”.<sup>73</sup> Nevertheless, he stated that “putting that in legislation is probably a step too far”. Commenting on the proposed new clause, the Minister, Mr Penning, said that flooding was increasingly part of the fire and rescue service’s work, but that this was “not new”.<sup>74</sup> The amendment was not moved to a division.

### **Title of Police and Crime Commissioners**

Amanda Milling (Conservative MP for Cannock Chase) tabled an amendment to change the title of PCCs who had taken on fire and rescue services, in order to reflect their new additional responsibility. Speaking to the amendment Ms Milling stated that its purpose was to provide the public with “greater clarification”.<sup>75</sup> Mike Penning said he agreed in principle with the proposed new clause, and stated that the Government would introduce an amendment when the Bill was in the House of Lords to achieve this.<sup>76</sup>

### **Inspection of the Fire and Rescue Authorities**

The Government moved a new clause (now clause 11) and a new schedule (now schedule 3) to make changes to the inspection regime for FRAs in England. Explaining the purpose of the measures, Mike Penning stated that:

The amendments provide for the appointment of a chief fire and rescue inspector, who will be required to prepare a programme for the inspection of fire and rescue services. The Secretary of State will have the power to require inspections outside the published programme if necessary. Fire and rescue inspectors will be required to produce reports on their inspections, and the chief inspector will make an annual report to Parliament.

[...]

These amendments will help fire and rescue authorities be more transparent and more accountable.<sup>77</sup>

Robert Neill, chair of the House of Commons Justice Committee, welcomed the new clause.<sup>78</sup> However, he argued that there should be “flexibility” within it to “to permit the use of external contractors” to carry out certain elements of the inspection on behalf of inspectors where “outside expertise may not be readily available in a public body”.<sup>79</sup> In response, Mr Penning stated that he would look again at the issue, and if he believed it necessary to “clarify the position”, he would introduce a government amendment during the Bill’s passage in the House of Lords.<sup>80</sup>

The new clause and new schedule were agreed to without division and added to the Bill.<sup>81</sup>

<sup>72</sup> [HC Hansard, 26 April 2016, col 1324.](#)

<sup>73</sup> [ibid, col 1330.](#)

<sup>74</sup> [ibid, col 1341.](#)

<sup>75</sup> [ibid, col 1323.](#)

<sup>76</sup> [ibid, col 1339.](#)

<sup>77</sup> [HC Hansard, 13 June 2016, col 1463.](#)

<sup>78</sup> [ibid, col 1487.](#)

<sup>79</sup> [ibid, cols 1463–88.](#)

<sup>80</sup> [ibid, col 1488.](#)

<sup>81</sup> [ibid, cols 1506–10.](#)

### 3. Police Complaints and Disciplinary System

#### 3.1 Background

##### Complaints and Disciplinary System

In July 2014, the Home Secretary, Theresa May, announced that the Home Office had commissioned a review of the police disciplinary system, and that it would be chaired by Major-General Chip Chapman (thus it was subsequently referred to as the ‘Chapman Review’).<sup>82</sup> Ms May stated that the Government intended to consult publicly on the policies that emerged from the review.<sup>83</sup> The [Chapman Review](#) was published in October 2014. It concluded that the current police disciplinary system was complex, and lacked transparency and independence.<sup>84</sup> The review made 39 recommendations for improving the system. A number of these recommendations were taken forward by the Government in its public consultation, [Improving Police Integrity: Reforming the Police Complaints and Disciplinary Systems](#), which was launched in December 2014.<sup>85</sup> The consultation sought views on the following areas:<sup>86</sup>

- The police complaints system.
- The police disciplinary system.
- Measures to strengthen protections for police whistle-blowers.
- Changes to the role of the Independent Police Complaints Commission (IPCC).
- Changes to the powers of Her Majesty’s Inspectorate of Constabulary (HMIC).

On 12 March 2015, the Home Secretary announced a range of reforms, which were also set out in the [Government’s response to the consultation](#).<sup>87</sup> The proposed changes included:<sup>88</sup>

- Extending the disciplinary regime to former officers for up to twelve months after they leave the police.
- Ensuring that the IPCC investigate all cases involving chief officers.
- Allowing the IPCC to present its own cases to disciplinary hearing panels.
- Simplifying the complaints system.
- Establishing a stronger role for PCCs.
- Clarifying the definition of a complaint and ending the practice of non-recording complaints.
- New measures to strengthen protections for police whistle-blowers.
- Introducing a system of super-complaints.

Chapters 1 to 4 of part 2 of the Bill give effect to those reforms announced in March 2015 which require primary legislation.<sup>89</sup>

<sup>82</sup> [HC Hansard, 22 July 2014, cols 1265–7.](#)

<sup>83</sup> [ibid, col 1266.](#)

<sup>84</sup> Chip Chapman, [An Independent Review of the Police Disciplinary System in England and Wales](#), October 2014; and [Explanatory Notes](#), para 57.

<sup>85</sup> Home Office, [Improving Police Integrity: Reforming the Police Complaints and Disciplinary Systems](#), December 2014.

<sup>86</sup> Home Office, [‘Improving Police Integrity: Reforming the Police Complaints and Disciplinary Systems’](#), 12 March 2015.

<sup>87</sup> [HC Hansard, 12 March 2015, cols 36–8VWS](#); and Home Office, [Improving Police Integrity: Reforming the Police Complaints and Disciplinary Systems—Summary of Consultation Responses and Next Steps](#), March 2015.

<sup>88</sup> [Explanatory Notes](#), paras 60–1.

<sup>89</sup> [ibid](#), para 62.

## IPCC Governance

On 12 March 2015, the Coalition Government published the [Triennial Review of the IPCC](#), which considered whether the governance arrangements of the organisation were in line with the recognised principle of good corporate governance.<sup>90</sup> The review noted that the current structure of the IPCC had resulted in commissioners having a dual role as a consequence of being engaged in both the “governance of the organisation and its operational activity”.<sup>91</sup> The review recommended that the IPCC “consider what governance arrangements [...] will best secure efficient, effective and accountable operations”.<sup>92</sup>

The [IPCC’s response to the Triennial Review](#) set out proposals for reform of its governance arrangements, and Sheila Drew Smith was subsequently commissioned by the Conservative Government to undertake an independent review of the IPCC’s proposals.<sup>93</sup> Sheila Drew Smith’s [Review of the Governance Arrangements of the Independent Police Complaints Commission](#) was published on 17 December 2015,<sup>94</sup> alongside the launch of a public [consultation on reforming the IPCC’s structure and governance](#).<sup>95</sup> The [Government’s response to the consultation](#) was published on 7 March 2016.<sup>96</sup>

## 3.2 Committee Stage

### Independent Police Complaints Commission

At second reading, Theresa May announced that the Government would be bringing forward amendments to the Policing and Crime Bill to provide for a new governance model for the IPCC.<sup>97</sup> She explained that:

Following an independent review by Sheila Drew Smith and our recent consultation on changes to the governance of the IPCC, I have concluded that the existing commission model, with commissioners having operational responsibilities, is no longer suitable to oversee the expanding organisation in the new system.

[...]

The reformed organisation will be headed by a Director-General, appointed by Her Majesty the Queen. The Director-General will have ultimate responsibility for individual case working decisions, including in respect of the investigation of the most serious and sensitive allegations involving the police. Corporate governance will be provided by a board comprising a majority of non-executive directors, appointed by the Home Secretary, which will have oversight of the overall running of the organisation. It follows that as, under the new governance model, there will be no commissioners, we cannot

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<sup>90</sup> Home Office, [Triennial Review of the Independent Police Complaints Commission](#), March 2015.

<sup>91</sup> *ibid*, p 11.

<sup>92</sup> *ibid*, p 13.

<sup>93</sup> Independent Complaints Commission, [IPCC’s Response to the Triennial Review of the IPCC](#), June 2015.

<sup>94</sup> Sheila Drew Smith, [Review of the Governance Arrangements of the Independent Police Complaints Commission](#), 17 December 2015.

<sup>95</sup> Home Office, [Reforming the Independent Police Complaints Commission: Structure and Governance: A Public Consultation](#), December 2015.

<sup>96</sup> Home Office, [Reforming the Independent Police Complaints Commission: Structure and Governance: Summary of Consultation Responses and Next Steps](#), 7 March 2016.

<sup>97</sup> [HC Hansard, 7 March 2016, col 43](#).

continue with the name “Independent Police Complaints Commission”. The reformed organisation will instead be known as the Office for Police Conduct.<sup>98</sup>

The changes were made to the Bill without debate during committee stage.<sup>99</sup>

The Government also moved a new clause to replace clause 14 of the Bill as introduced in the House of Commons. Clause 14 would have allowed the IPCC to commence an investigation into any matter of concern, either when the police had complied with a request for the complaint to be referred, or after a certain period of time had expired. However, the Government stated that it had decided to replace clause 14 with a new “unambiguous power of initiative”.<sup>100</sup> Speaking to the amendment, Karen Bradley, Parliamentary Under Secretary of State in the Home Office, stated that the new clause would “enable the IPCC to treat a complaint, conduct matter or DSI—death or serious injury—matter that comes to its attention as having been referred to it immediately”. The Committee disagreed to clause 14 and added a new clause (now clause 16) to the Bill.

The Government added a further clause to the Bill (now clause 18) to restrict the disclosure of sensitive information received by the IPCC, irrespective of how the information was obtained.<sup>101</sup> The information concerned includes intelligence service information, intercept information and government information, the disclosure of which would potentially cause damage to national security or government relations.

### Police Whistle-blowers

The Government tabled a series of amendments in relation to the provisions on police whistler-blowers. The amendments were added to the Bill and would:

- Require the IPCC to keep a whistle-blower informed about an investigation into the concern raised, subject to exceptions set out in regulations.
- Allow regulations to permit the disclosure of the whistle-blower’s identity without their consent for specified “permitted disclosure purposes” (including crime prevention and protecting national security).
- Restrict the purposes for which the regulation-making power could be used.
- Allow regulations to permit the IPCC to send the report to the appropriate authority without the whistle-blower’s consent (but only for particular purposes) and to send a redacted report in certain circumstances.<sup>102</sup>

Jack Dromey (Labour MP for Birmingham, Erdington) tabled an Opposition amendment which would have required that representatives of relevant workforces were consulted about the regulations. Mike Penning, Minister of State at the Home Office, stated that he would return to the issue at report stage, because he believed that there was a case for consulting the Police Advisory Board.<sup>103</sup>

<sup>98</sup> [HC Hansard, 7 March 2016, col 43.](#)

<sup>99</sup> [Public Bill Committee, Policing and Crime Bill](#), 12 April 2016, session 2015–16, 7th sitting, cols 284–6 and 344–60.

<sup>100</sup> [Public Bill Committee, Policing and Crime Bill](#), 22 March 2016, session 2015–16, 4th sitting, col 190.

<sup>101</sup> [Public Bill Committee, Policing and Crime Bill](#), 12 April 2016, session 2015–16, 7th sitting, cols 268–70; and House of Commons Library, [Policing and Crime Bill 2015–16: Committee Stage Report](#), 22 April 2016, p 8.

<sup>102</sup> [Public Bill Committee, Policing and Crime Bill](#), 24 March 2016, session 2015–16, 5th sitting, cols 199–202.

<sup>103</sup> *ibid*, col 202.

## Police Discipline

Jack Dromey tabled an amendment to remove the Bill's twelve-month time limit on initiating disciplinary proceedings after an officer had retired or resigned. He stated that Labour "strongly welcomed" the fact that for the first time disciplinary proceedings could be initiated against former officers in circumstances where misconduct had not come to light until after the individual's time in office.<sup>104</sup> However, he argued that the twelve-month time limit was "unduly restrictive", citing as an example the inquests into the [Hillsborough disaster](#), where 96 football supporters died during a FA Cup semi-final match at Hillsborough stadium on 15 April 1989. He highlighted that it had taken many years "for campaigners and families to uncover wrongdoing". In response, Karen Bradley, Parliamentary Under Secretary of State in the Home Office, said that criminal matters could always be investigated, and suggested that there was a risk that removing the time limit might breach article 8 of the European Convention on Human Rights. The amendment was not moved to a division.<sup>105</sup>

## 3.3 Report Stage

The Government tabled a series of amendments which were added to the Bill on matters related to the IPCC, including a provision requiring the Secretary of State to consult the Police Advisory Board for England and Wales before making regulations relating to IPCC investigations into concerns raised by police whistle-blowers.<sup>106</sup> Under the terms of the measure, the Secretary of State would be required to supply the Board with any such regulations and take into consideration any representations made by the Board.

### Time Limit on Disciplinary Proceedings

The subject of initiating disciplinary proceeding against former members of police forces and former special constables was raised again during the debate at report stage. The Opposition tabled an amendment which would have provided for disciplinary proceedings to take place within a specified period after the allegation of misconduct was first raised, rather than a time-limit based on when the person concerned left a police force. In response, Mike Penning made a commitment to "table an amendment in the House of Lords to allow, in exceptional circumstances, an unlimited extension of the twelve-month time limit".<sup>107</sup> As a result, the amendment was not pressed to a vote.

### Police and Media

Andy Burnham, the Shadow Home Secretary, spoke to new clauses 64 and 66 which were tabled by the Opposition, and related to the relationship between the police and the media.

New clause 66, Mr Burnham argued, would legislate for a code of practice with regard to the media relations policy of each police force, and "spell out that attributable briefing by police forces, which was so damaging in the case of Hillsborough" was not permitted unless it was "in exceptional circumstances".<sup>108</sup> In response, Mike Penning stated that the College of Policing was currently examining the issue, and that the Government would await the outcome of its review before issuing guidance.<sup>109</sup> The amendment was not moved to a division.

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<sup>104</sup> [Public Bill Committee, Policing and Crime Bill](#), 24 March 2016, session 2015–16, 5th sitting, col 203.

<sup>105</sup> *ibid*, col 204.

<sup>106</sup> [HC Hansard, 13 June 2016, col 1519](#).

<sup>107</sup> [ibid, col 1466](#).

<sup>108</sup> [ibid, col 1467](#).

<sup>109</sup> [ibid, col 1466](#).

New clause 64 would have compelled the Prime Minister to instigate an independent inquiry into the relationships between the press and the police. Andy Burnham stated that the proposed clause sought to “hold the Government to their promise to the victims of press intrusion to hold a second-stage inquiry looking at the culture of relations”.<sup>110</sup> The Minister, Mike Penning, responded that clause was “about Leveson part 2”, and explained that the Government would not make a decision until after the ongoing criminal proceedings had come to a conclusion.<sup>111</sup> Keith Vaz, chair of the House of Commons Home Affairs Committee, argued that there “was nothing wrong with the Government beginning the process”, and pointed to “growing suspicions” amongst interested organisations that “this matter is being slowly slid into the long grass”.<sup>112</sup> The new clause was pressed to a vote and was negated by 268 votes to 155.<sup>113</sup>

### Parity of Funding

Andy Burnham also pressed to a division new clause 63, which would have ensured that funding to a bereaved family, or group of bereaved families, for the purposes of legal representation during an inquest, was an amount broadly equal to the level of funding that the police received. Mr Burnham stated that the proposed clause would establish “the crucial principle” of parity of funding between the police and families at inquests.<sup>114</sup> Norman Lamb (Liberal Democrat MP for North Norfolk) stated that the Liberal Democrats would support the proposal.<sup>115</sup> However, responding for the Government, Mike Penning highlighted that the Home Secretary had commissioned Bishop James Jones, former Bishop of Liverpool, to conduct a review of “the whole aspect of how we could improve things so that families do not go through a situation such as Hillsborough ever again”.<sup>116</sup> He stated that the Government would wait for the outcome of the review before introducing new measures. The new clause was defeated by 264 votes to 155.<sup>117</sup>

## 4. Police Workforce

### 4.1 Background

Sworn police officers hold the office of constable, and their powers are defined across a wide range of acts and in common law.<sup>118</sup> Civilians are also able to work alongside police officers in police forces. The Explanatory Notes to the Bill provide further information:

Since the passage of the Special Constables Act 1831, it has been possible to vest the full powers of a constable on volunteers serving with the police. The Road Traffic and Roads Improvement Act 1960 introduced Traffic Wardens with certain road traffic-related policing powers and part 4 of the [Police Reform Act 2002] conferred on chief officers of police the power to designate a member of police staff as a police community support officer (PCSO), investigating officer, detention officer or escort officer, each with a range of specified policing powers appropriate to their role.<sup>119</sup>

<sup>110</sup> [HC Hansard, 13 June 2016, col 1467.](#)

<sup>111</sup> [ibid, col 1466.](#)

<sup>112</sup> [ibid, col 1471.](#)

<sup>113</sup> [ibid, cols 1515–17.](#)

<sup>114</sup> [ibid, col 1467.](#)

<sup>115</sup> [ibid.](#)

<sup>116</sup> [ibid, col 1466.](#)

<sup>117</sup> [ibid, cols 1515–17.](#)

<sup>118</sup> [Explanatory Notes](#), para 74.

<sup>119</sup> [ibid](#), para 75.

Under the Police Reform Act 2002 a chief officer of police may designate a civilian member of police staff with more than one role.<sup>120</sup> For each role, chief officers have the discretion to confer on a designated member of staff the mix of powers, taken from a specified list, appropriate to the individual's particular role and training. In the case of PCSOs, there is a set of standard powers which "form a minimum core appropriate to the role".

There are also two main types of volunteers in policing: special constables, who have the full range of police powers and police support volunteers, who undertake support functions and have no powers.

In June 2015, the College of Policing published its report, [Review of Leadership](#), which recommended that there should be increased "flexibility in assigning powers and legal authorities to staff".<sup>121</sup> On 9 September 2015, the Home Secretary, Theresa May, announced that the Government was launching the consultation, [Reforming the Powers of Police Staff and Volunteers](#), to seek views on proposals to:<sup>122</sup>

- Abolish the concept of standard powers for PCSOs and enable each chief officer to designate their staff with only those powers they consider necessary in their force areas.
- Set out the core powers that should be reserved only for constables (with a power to amend this list by order).
- Allow police volunteers to be designated in the same manner as police staff.
- Enable chief officers to designate PCSOs directly with the necessary traffic powers, rather than additionally designate them as traffic wardens, and abolish the role of traffic warden under the Road Traffic Act 1988.

On 20 January 2016, the Home Secretary announced the outcome of the consultation. She stated that:

The majority of the responses were supportive of all our proposed reforms and were clear that there is indeed a role for police staff and volunteers, provided of course that they are appropriately selected, trained and accountable for the role that they undertake. Given the majority of respondents welcomed all of the proposals, with the caveats in some areas [...] we intend to legislate in the forthcoming Policing and Crime Bill to give effect to the proposals consulted on.<sup>123</sup>

## 4.2 Committee Stage

At committee stage, Labour moved a series of amendments which related to the provisions in chapter 1 of part 3 of the Bill, which would provide additional powers to police staff and volunteers. The amendments would have:

- Ensured that employees of private sector companies who are police contractors could not be designated with additional powers under the proposals in the Bill.
- Allowed chief constables to use volunteers in their forces for appropriate tasks, but removed the ability for chief constables to give them powers of a constable or a PCSO.

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<sup>120</sup> [Explanatory Notes](#), para 76.

<sup>121</sup> College of Policing, [Review of Leadership](#), June 2015, p 34.

<sup>122</sup> [Explanatory Notes](#), para 80.

<sup>123</sup> [HC Hansard, 20 January 2016, cols 37–8WS](#).

- Prevented volunteers from being placed in roles which would normally be paid jobs, being placed into some of the most sensitive and demanding police staff roles, or roles that might require the use of restraint or force.
- Prevented volunteer police support officers from being issued with CS spray and PAVA spray.
- Compelled the College of Policing to issue guidance to chief officers of police on the training of volunteers.

Introducing the series of amendments, Jack Dromey, stated that he wanted to draw the distinction between what should be done by police officers and what could be done by the private sector “in one capacity or another, in support of the police service”.<sup>124</sup> Speaking to the role of police volunteers, Mr Dromey acknowledged that the police could do not do their job “without a voluntary army”, but he argued that volunteers should not, in turn, do the job of the police.<sup>125</sup> He further expressed concern that these measures “may be an attempt by the Home Secretary to provide policing on the cheap”. He also said that the Opposition had “particular concerns” about the proposal for volunteers to be issued with CS and PAVA spray.<sup>126</sup> He stated that:

It is our very strong view that the use of CS gas and PAVA spray should be undertaken only by full-time officers, who are regularly trained on their usage and, importantly, in the law surrounding their use.<sup>127</sup>

Responding on behalf of the Government, the Minister, Mike Penning, said:

This is not about taking police officers off the street and replacing them with volunteers or of saying, “You’re not good enough at your job, so we are bringing someone else in.” We are saying that we need to use all the skills we have in this great country of ours to help us with policing, particularly in respect of new technology. I am sure that there were concerns when specials were introduced 180 years ago. Perhaps they were similar to the concerns of the Opposition today. I think that they are unfounded. Having powers that help us to catch criminals and make people safer in their homes and workplaces is surely what this is all about.<sup>128</sup>

Mr Dromey withdrew the first amendment about the additional powers for contractors, and the other amendments were defeated on division.<sup>129</sup>

### 4.3 Report Stage

The Opposition tabled a further set of amendments at report stage which would have removed the ability for volunteers to be given the powers of a constable or police and community support officer; be placed in roles which may require the use of force or restraint; and would have removed the provisions for volunteer police and PCSOs to be issued with CS spray and PAVA spray.

During the debate at report, Jack Dromey reiterated the concern that the proposals were an attempt by the Government to reduce the cost of policing.<sup>130</sup> He argued that the public

<sup>124</sup> [Public Bill Committee, Policing and Crime Bill](#), 24 March 2016, session 2015–16, 5th sitting, col 213.

<sup>125</sup> *ibid*, col 215.

<sup>126</sup> *ibid*, col 217.

<sup>127</sup> *ibid*.

<sup>128</sup> *ibid*, cols 220–1.

<sup>129</sup> *ibid*, cols 223–4.

“demand that police functions are discharged by police officers, which is essential”. In response, Karen Bradley, Parliamentary Under Secretary of State in the Home Office, stated that:

Chapter 1 of part 3 will enable chief officers to designate police staff with a wider range of police powers. They will also be able to confer police powers, other than the core powers reserved for warranted officers, on volunteers. The intention is that the powers that can be conferred on employed staff and designated volunteers are the same. This includes the power to carry and use defensive sprays, such as CS gas and PAVA spray, where the chief officer considers that there is an operational case for this. It is already the case that chief officers can equip police community support officers with defensive sprays, and to that extent the Bill codifies the existing position.<sup>131</sup>

She further explained that “appropriate training would be given” on the use of defensive sprays.<sup>132</sup>

The House divided on the amendment which would have prevented volunteer police and community support officers from being issued with CS spray and PAVA spray. It was defeated by 306 votes to 182.<sup>133</sup> The Opposition also pressed to a division its amendment requiring that police funding be protected in a police grant settlement before proposals to grant additional police powers to volunteers could be brought forward. The amendment was negatived by 305 votes to 182.<sup>134</sup>

## 5. Police Powers

### 5.1 Background

#### Pre-charge Bail

In order to avoid prolonged periods of detention, the police have the power to grant bail prior to charge to allow them to conduct further enquiries.<sup>135</sup> Applying bail conditions means that the police can manage a suspect within the community, provide protection to complainants or witnesses and preserve evidence and mitigate the risk of further criminality.<sup>136</sup>

On 18 December 2014, the Home Secretary, Theresa May, announced the publication of the consultation paper, [Pre-charge Bail: A Consultation on the Introduction of Statutory Time Limits and Related Changes](#).<sup>137</sup> She explained that the consultation was seeking views on a series of measures intended to reduce both the number of individuals subject to, and the average duration of, pre-charge bail. The consultation was complementary to that carried out by the College of Policing between March and July 2014 on the principles of pre-charge bail management.<sup>138</sup> The College of Policing published its report, [Response to the Consultation on the Use of Pre-Charge Bail](#) on 11 December 2014. It concluded that there was “no one size fits all approach” and that “any system to regulate the use of bail must be flexible”.<sup>139</sup> However, it

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<sup>130</sup> [HC Hansard, 26 April 2016, col 1361.](#)

<sup>131</sup> [ibid, cols 1358–9.](#)

<sup>132</sup> [ibid, col 1359.](#)

<sup>133</sup> [ibid, cols 1396–9.](#)

<sup>134</sup> [ibid, cols 1400–2.](#)

<sup>135</sup> [Explanatory Notes](#), para 90.

<sup>136</sup> [ibid](#), para 100.

<sup>137</sup> [HC Hansard, 18 December 2014, col 132WS.](#)

<sup>138</sup> [Explanatory Notes](#), para 103.

<sup>139</sup> College of Policing, [Response to the Consultation on the Use of Pre-Charge Bail](#), 11 December 2014, p 5.

acknowledged that “a stronger emphasis on clear standards could help encourage greater consistency and influence the responses of all criminal justice partners”.

The Home Secretary announced the outcome of the Government’s consultation on 23 March 2015. The [response to the consultation](#) set out the following legislative proposals:<sup>140</sup>

- A presumption to release without bail, with bail only being imposed when it is both necessary and proportionate.
- A clear expectation that pre-charge bail should not last longer than a specified finite period of 28 days (subject to the possibility of extension).
- Provision for when that initial period might be extended further, and who should make that decision (including longer periods to be determined by the courts).
- Where an individual has been released without bail while analysis takes place of large volumes of material, the police can make a further arrest where key evidence is identified as a result of the analysis of that material that could not reasonably have been done while the suspect was in custody or on bail.
- A procedure to allow sensitive information to be withheld from a suspect where its disclosure could harm the investigation, such as where disclosure might enable the suspect to dispose of or tamper with evidence.
- Provision for an exceptional case procedure.

Chapter 1 of part 4 gives effect to these proposals.<sup>141</sup>

The issue of suspected terrorists absconding from pre-charge bail has also been the subject of debate, following cases where individuals from the UK have travelled to Syria, Iraq and other countries.<sup>142</sup> When giving evidence to the House of Commons Liaison Committee in January 2016, the Prime Minister, David Cameron, stated that he would “look carefully” at police bail powers.<sup>143</sup> On 6 April 2016, Theresa May announced that a new offence of breach of pre-charge bail conditions relating to travel would be introduced as part of the Policing and Crime Bill.<sup>144</sup> These measures would apply to individuals who had been arrested on suspicion of relevant terrorism offences.

### **Police Powers under the Mental Health Act 1983**

Sections 135 and 136 of the Mental Health Act 1983 confer powers on the police to temporarily remove people from private premises (section 135) or a public place (section 136) who appear to be suffering from a mental disorder and who need urgent care to a ‘place of safety’ specified in section 135(6), so that a mental health assessment can be carried out and appropriate arrangements made for their ongoing care if necessary.<sup>145</sup>

In February 2014, the Coalition Government published a [Mental Health Crisis Care Concordant](#) for England. The 27 national signatory organisations (as at 28 June 2016) from across the healthcare, social care and policing sectors have committed to work together locally in order to stop the use of police stations as a place of safety, apart from in exceptional circumstances.<sup>146</sup>

<sup>140</sup> Home Office, [Pre-Charge Bail: Summary of Consultation Responses and Proposals for Legislation](#), 23 March 2015, p 5.

<sup>141</sup> [Explanatory Notes](#), para 105.

<sup>142</sup> *ibid*, para 106; and House of Commons Library, [Policing and Crime Bill 2015–16](#), 2 March 2016, p 52.

<sup>143</sup> House of Commons Liaison Committee, [Oral Evidence: Evidence from the Prime Minister](#), 12 January 2016, Q 53.

<sup>144</sup> Home Office, [Home Secretary Announces New Offence of Breach of Pre-charge Bail](#) 6 April 2016.

<sup>145</sup> [Explanatory Notes](#), para 115.

<sup>146</sup> *ibid*, para 116; and House of Commons Library, [Policing and Crime Bill 2015–16](#), 2 March 2016, p 61.

In December 2014, under the Coalition Government, the Home Office and Department of Health published the outcomes of a [joint review of the operations of sections 135 and 136 of the Mental Health Act 1983](#).<sup>147</sup> The published review included recommendations for a number of legislative changes to sections 135 and 136. The Department of Health included these recommendations in the consultation, [No Voice Unheard, No Right Ignored: A Consultation for People with Learning Disabilities, Autism and Mental Health Conditions](#), which was launched in March 2015.<sup>148</sup> The [Conservative Government's response](#) was published on 10 November 2015, and included the following proposals:<sup>149</sup>

- An end to the use of police cells as a place of safety for children and young people detained under sections 135 or 136 of the Mental Health Act 1983.
- No one detained under sections 135 or 136 to be held in a 'place of safety' for more than 24 hours without being assessed by a relevant professional and either discharged or admitted.

Chapter 3 of part 4 of the Policing and Crime Bill gives effect to these actions.<sup>150</sup>

## 5.2 Committee Stage

### Police Bail

In its response to the consultation on pre-charge bail, the Government made a commitment to introduce a requirement for the police to notify a suspect released without bail of any decisions to take no further action.<sup>151</sup> In committee, two new government clauses were added to the Bill (now clauses 65 and 66) which would require the police to notify a suspect released under certain sections of PACE if it had been decided that the individual would not be prosecuted.<sup>152</sup>

The Government also moved two new clauses to introduce an offence of breach of pre-charge bail conditions relating to travel. The offence would apply where a person had been arrested in respect of certain terrorism offences. The new clauses (now clauses 67 and 68) were added to the Bill.<sup>153</sup>

Labour had also tabled a new clause which would have made it an offence for those arrested on suspicion of terrorist offences to breach pre-bail conditions linked to travel. Jack Dromey stated that he welcomed the Government's new clause, but added that the Opposition wanted to ensure that the police were "able to insist on a suspect's passports being handed over when they are in the custody suite".<sup>154</sup> Mr Dromey argued that the Government's "proposal does not set out how exactly the police can seize travel documentation". In response, the Minister, Mike Penning, highlighted that the police are able to accompany a person still under arrest, before given bail, to ascertain their travel documents under the provisions of PACE.<sup>155</sup>

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<sup>147</sup> Department of Health and Home Office, [Review of the Operation of Sections 135 and 136 of the Mental Health Act 1983: Review Report and Recommendations](#), December 2014.

<sup>148</sup> Department of Health, [No Voice Unheard, No Right Ignored: A Consultation for People with Learning Disabilities, Autism and Mental Health Conditions](#), March 2015, Cm 9007.

<sup>149</sup> [Explanatory Notes](#), para 26.

<sup>150</sup> *ibid*, para 121.

<sup>151</sup> Home Office, [Pre-Charge Bail: Summary of Consultation Responses and Proposals for Legislation](#), 23 March 2015, p 7.

<sup>152</sup> [Public Bill Committee, Policing and Crime Bill](#), 12 April 2016, session 2015–16, 7th sitting, cols 272–3.

<sup>153</sup> *ibid*, cols 300–1.

<sup>154</sup> *ibid*, col 298.

<sup>155</sup> *ibid*, col 300.

### Powers under the Mental Health Act 1983

The Government moved a new clause on ‘protective searches’ to ensure that search powers could be used in any place of safety. The clause was added to the Bill (now clause 81).<sup>156</sup>

Kevan Jones (Labour MP for North Durham) also tabled a series of amendments and new clauses, which included:

- A requirement that patients be offered care in a residential or hospital setting before their home be used as a place of safety.
- A requirement that the detention period would start from the time when the decision was taken to remove the person and not from the point when they arrived at the place of safety.
- A provision to reduce the permitted period of detention from 24 hours to 12 hours.
- A requirement that police forces report annually on the use of their power to detain under the 1983 Act.
- A provision to give detainees the right to a mental health advocate.

Speaking to his amendments, Mr Jones acknowledged that the Government were “trying to make progress” on ensuring that the way in which people with mental illness are treated by the police is “both compassionate and secures them the help that they deserve”.<sup>157</sup> However, he suggested that “the elephant in the room is the resources and activities of the Department of Health”, and suggested the reason that people are currently being detained in cells is because of the reduction in the number of beds and facilities.

Karen Bradley, Parliamentary Under Secretary of State in the Home Office, stated that the Bill was “designed to increase the flexibility” that the police and medical professionals have to act in the best interests of the person concerned.<sup>158</sup> Mr Jones did not move the amendments.

### 5.3 Report Stage

A number of amendments relating to police powers under the Mental Health Act 1983 were tabled at report stage. They included a series of proposed new clauses tabled by Charles Walker (Conservative MP for Broxbourne) and Norman Lamb (Liberal Democrat MP for North Norfolk), which concerned the deployment of police officers to psychiatric wards, and the use of tasers on those wards. Speaking to his new clause, which would have prohibited the use of tasers, Mr Lamb, a former Minister of State at the Department of Health, stated that he wanted to “challenge the assumption that force is necessary at the level with which it is used at the moment”.<sup>159</sup> Charles Walker’s proposed new clauses 42 and 43 would have required that any incidents of police deployment on a psychiatric ward, or the use of tasers on such a ward, was reported to the Home Secretary. Commenting on Mr Lamb’s proposed new clauses, Mr Walker said that while his “heart is with him”, he recognised that there were some “highly charged situations” where the use of a taser was required.<sup>160</sup> However, he stated that it was important that there was an “immediate notification” to the PCC and IPCC of such an occurrence. He called for an improvement in the “recording and reporting of such incidents”.

<sup>156</sup> [Public Bill Committee, Policing and Crime Bill](#), 12 April 2016, session 2015–16, 6th sitting, col 286.

<sup>157</sup> *ibid*, col 237.

<sup>158</sup> *ibid*, col 245.

<sup>159</sup> [HC Hansard, 13 June 2016, col 1491](#).

<sup>160</sup> *ibid*, col 1484.

In response, the Minister, Mike Penning stated that he understood the reasons behind “many of the amendments”. However, he said that in “exceptional circumstances” the use of tasers were necessary. He stated that the Government were still holding discussions on the issue. Mr Penning also acknowledged that PCCs “should know what is going on in their part of the world, and that information should be made available to the public”.

## 6. Protection of Children and Vulnerable Adults

### 6.1 Child Sexual Exploitation

#### Background

Sections 48 to 50 of the Sexual Offences Act 2003 criminalise the following conduct:

- Section 48: causing or inciting sexual exploitation of a child.
- Section 49: controlling a child in relation to sexual exploitation.
- Section 50: arranging or facilitating sexual exploitation of a child.

Section 51 of the Act defines the term “sexual exploitation”.

Clause 144 of the Bill would amend the 2003 Act to ensure that it covered situations where indecent images were steamed via the internet or transmitted by some other technological means.

#### Prevention Orders

During the report stage of the Policing and Crime Bill a number of new clauses were tabled which concerned child exploitation.

These included a series of amendments tabled by the Opposition. Speaking on behalf of the Labour Party, Sarah Champion (Labour MP for Rotherham) stated that the amendments were intended to provide “stronger safeguards against the sexual exploitation and abuse of children and to disrupt the perpetrators”.<sup>161</sup> Turning first to new clause 6 she explained that:

New clause 6, which relates to the extension of child abduction warning notices, known as CAWNs, which are a vital tool for the police in the prevention of the abuse and exploitation of children. CAWNs are issued by the police at the request of a parent or legal guardian. They disrupt contact between a child and an adult believed to be in the process of grooming that child for sex. Currently, the police can issue a CAWN in relation to any child under the age of 16, but only a tiny minority of 16 and 17 year-olds, including children who have been taken into care under section 31 of the Children Act 1989, those who are subject to an emergency protection order and those in police protection. All other 16 and 17 year-olds are left unprotected.<sup>162</sup>

Ms Champion stated that new clause 60 would require police forces to collect annually the number of CAWNs issued or breached, and the number of sexual risk orders and sexual harm prevention orders issued following such a breach.<sup>163</sup> The proposed new clause would have required the Secretary of State to report annually to Parliament on this issue. In summary,

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<sup>161</sup> [HC Hansard, 13 June 2016, col 1564.](#)

<sup>162</sup> [ibid.](#)

<sup>163</sup> [ibid.](#)

Ms Champion argued that “every Member must take responsibility for the children to whom we owe a duty of care”.

Responding to the Opposition’s amendment, Karen Bradley, Parliamentary Under Secretary of State, stated that she was “determined to tackle this issue”.<sup>164</sup> She further explained the Government’s position:

I have convened the round table in a couple of weeks’ time to look at the overall issue of child abduction warning notices. I am not convinced that a warning notice from the police in relation to a child abduction offence is necessarily the right way to make sure we protect such vulnerable young people. I want to consider all issues relating to child abduction warning notices [...] and to look at everything we are doing in this area and at ensuring we have the right tools in the armoury for the law enforcement agencies, because it is so important that the police are able to use those tools and to protect young people with the right tools for those young people.<sup>165</sup>

Labour pressed new clause 60 to a vote. It was defeated by 257 votes to 157.<sup>166</sup>

Ann Coffey (Labour MP for Stockport) also tabled new clauses 13 and 14 which would have made it an offence for adults to groom children and young people for criminal behaviour, and would have introduced a new grooming for criminal behaviour prevention order. Ms Coffey called for the creation of an order similar to the prevention orders available to police to tackle grooming for child sexual exploitation. She stated that these new orders could be used where children were being “groomed by organised crime to act as drug runners”.<sup>167</sup> Sarah Champion stated that she supported the proposed new clauses.<sup>168</sup> Ms Coffey did not move the amendments to a division.

## 6.2 Licensing Taxis and Private Hire Vehicles

### Background

Local authorities in England and Wales (and, in London, Transport for London) are responsible for licensing taxi and private hire vehicle (PHV) operators and drivers. When issuing taxi licences, local authorities must ensure that anybody who holds a license is deemed a fit and proper person.<sup>169</sup> This will often involve a criminal record check, a medical check, a driving test, a comprehensive topographical examination, and a check on the financial standing of the prospective proprietor. However, there is no statutory requirement for local authorities to carry out a criminal record check before issuing a licence to a taxi driver. Most councils have also adopted provisions that subject PHV drivers and operators to licensing. Professor Alexis Jay’s [Inquiry into Child Sexual Exploitation in Rotherham 1997–2003](#) and Dame Louise Casey’s [Report of Inspection of Rotherham Metropolitan Borough Council](#) both noted the prominent role played by taxi and PHV drivers in a large number of cases of abuse.<sup>170</sup>

<sup>164</sup> [HC Hansard, 13 June 2016, col 1576.](#)

<sup>165</sup> [ibid.](#)

<sup>166</sup> [ibid, cols 1589–91.](#)

<sup>167</sup> [ibid, col 1559.](#)

<sup>168</sup> [ibid, col 1568.](#)

<sup>169</sup> [Explanatory Notes](#), para 203.

<sup>170</sup> [ibid](#), para 204.

## Introduction of Statutory Guidance

At report stage of the Bill, the Government tabled a new clause which would confer a power on the Secretary of State to issue statutory guidance to licensing authorities on the exercise of their taxi and PHV licensing functions. Speaking to the new clause, Karen Bradley stated that it dealt with the “need to spread good practice in how local authorities discharge their licensing functions in respect of taxis and private hire vehicles”.<sup>171</sup> She further explained that the Government intended to bring forward statutory guidance, and that a “duty to have regard to the guidance sets a high bar, and a public authority will not be able to set aside the guidance without good reason”.

The new clause (now clause 145) was added to the Bill without division.<sup>172</sup>

## 7. Devolution of Policing in Wales

At committee stage and at report stage Liz Saville Roberts (Plaid Cymru MP for Dwyfor Meirionnydd) tabled amendments which would have added policing to the list of devolved subjects in schedule 7 to the Government of Wales Act 2006.

At committee, Ms Saville Roberts stated that she would not push the new clause to a vote, but hoped that the Government would consider the issue.<sup>173</sup> On day two of the report stage of the Bill she tabled new clause 2, which she did press to a division. Speaking to the proposed new clause she stated:

Although Wales is one of the four nations of the United Kingdom, it is the only one that has no responsibility for its police forces. The Governments of both Scotland and Northern Ireland are able to acknowledge the specific needs of their communities and direct their police forces to work effectively in response to those needs, but Wales must follow the policing priorities of England. The four police forces of Wales are unique in the United Kingdom in that they are non-devolved bodies operating within a largely devolved public services landscape. They are thus required to respond to the agendas of two Governments, and to serve a nation whose people have the right to use either the English or the Welsh language.<sup>174</sup>

Alistair Carmichael (Liberal Democrat MP for Orkney and Shetland) stated that the Liberal Democrat Party would support the clause.<sup>175</sup> Sarah Champion said that:

Labour believes that the people of Wales should have a greater say over the policing of Wales, and that should be pursued through the Wales Bill.<sup>176</sup>

The House divided on the clause, and it was defeated by 262 votes to 12.<sup>177</sup>

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<sup>171</sup> [HC Hansard, 13 June 2016, col 1573.](#)

<sup>172</sup> [ibid, col 1585.](#)

<sup>173</sup> [Public Bill Committee, Policing and Crime Bill](#), 12 April 2016, session 2015–16, 7th sitting, cols 301–2.

<sup>174</sup> [HC Hansard, 13 June 2016, cols 1554–5.](#)

<sup>175</sup> [ibid, col 1569.](#)

<sup>176</sup> [ibid.](#)

<sup>177</sup> [ibid, cols 1577–9.](#)

## 8. Third Reading

Opening the third reading debate, the Home Secretary, Theresa May, set out the purpose of the Bill in the context of the Government's wider programme of police reform:

I have put in place the most radical programme of police reform in a generation. Today, that programme is changing policing for the better, making it more transparent, more accountable and more efficient. But the task of reform is not yet finished. If we are to continue ensuring that the police can protect the most vulnerable in our society, if we are to continue helping the police build trust between themselves and the public, and if we are to continue ensuring that the police and other emergency services deliver for the taxpayer, we must go further and faster.

The Policing and Crime Bill will allow us to do that.<sup>178</sup>

Ms May acknowledged that there had been “small areas of disagreement”, most notably on the role of PCCs; in relation to the governance of fire and rescue authorities; the role of volunteers within police forces; and the “cut-off for taking disciplinary action” against former police officers. However, she stated that the “process of scrutiny that the Bill has already been subject to in this House has greatly strengthened and improved it”.<sup>179</sup>

Andy Burnham, the Shadow Home Secretary, stated that the Bill was a “decidedly mix bag”.<sup>180</sup> He argued, for example, that it had made improvements to police accountability, but it had also undermined the independence of the fire service and the police service by “allowing volunteers to replace front-line staff”.<sup>181</sup> Mr Burnham welcomed the fact that the Government had been prepared to extend the twelve-month limit for exceptional instances of misconduct. However, he expressed disappointment that the Government had not accepted the principle of parity in funding for bereaved families at inquests where police are represented.<sup>182</sup> He also argued that the Government had “weakened their position” by stating that there “might” be an inquiry into press abuse and intrusion once outstanding legal matters were concluded, because the Prime Minister had previously made “a firm promise” to commission such an inquiry.<sup>183</sup> In conclusion, Mr Burnham said:

This is my direct appeal to the other place: vote for equality of legal funding for families, and vote for the honouring of the promise to the victims of press intrusion. In doing so, make Hillsborough a moment of real change in this country.<sup>184</sup>

Keith Vaz, the chair of the House of Commons Home Affairs Committee, said that the Government had “done quite well” in the Bill in picking up a number of the recommendations made by the Home Affairs Committee.<sup>185</sup> However, he also stated that he “strongly” agreed with the Shadow Home Secretary about “Leveson 2”. He said that he could not “understand the Government's reluctance to accept that we will have to have a second inquiry”.<sup>186</sup>

<sup>178</sup> [HC Hansard, 13 June 2016, cols 1594–5.](#)

<sup>179</sup> [ibid, col 1595.](#)

<sup>180</sup> [ibid, col 1596.](#)

<sup>181</sup> [ibid.](#)

<sup>182</sup> [ibid, col 1597.](#)

<sup>183</sup> [ibid, col 1598.](#)

<sup>184</sup> [ibid.](#)

<sup>185</sup> [ibid.](#)

<sup>186</sup> [ibid, col 1599.](#)

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