



# **Independent Review of the Riot (Damages) Act 1886**

**Report of the Review**

**September 2013 - Neil Kinghan**



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# Independent Review of the Riot (Damages) Act 1886

## Report of the Review

### Chapter 1: Introduction

1.1. The riots of August 2011 in cities across England were unprecedented in their geographical scale. Rioting began in Tottenham on Saturday, 6 August, spread to other parts of London on 7 and 8 August and to cities outside London, notably Birmingham, Manchester and Liverpool, on 8 and 9 August. Riots have happened before in England and other parts of mainland Britain, on occasion involving significant violence and damage to property, in particular in Liverpool and Brixton in the 1980s. But they have been relatively few in number and in a small number of places at any one time. August 2011 was the first time that rioting had broken out in many places at the same time, and caused such widespread damage to property. The riots took everyone by surprise: the police, the insurance industry, central and local Government and, of course, the people living and working in the areas concerned.

1.2. One consequence of the riots was to put the spotlight on the Riot (Damages) Act which requires the police to pay compensation to those whose property is damaged in a riot. The Act dates from 1886 and has been applied sparingly since then. A copy of the Act is at Annex A. The largest payouts before 2011 were in the early 1980s, in Liverpool, Brixton and a small number of other places, with a total cost to the Exchequer of £6.2m. In the aftermath of August 2011, estimates of the cost to be incurred ran into hundreds of millions of pounds. So far, at the time this is written, the public expenditure cost has been £35.2m on claims under the Riot (Damages) Act, but it could still grow to £100m, or more. The riots called into question the continuing validity of a law passed more than 120 years ago, its potential cost and the capacity of the police, the Government and the insurance industry to respond to the requirements of the Act.

1.3. The Home Secretary asked me to carry out an independent review of the Act and its administration. The terms of reference for my review are set out in Annex B, together with the Ministerial statement announcing the review in May this year. It has not been part of my task to review the riots themselves. Many reviews at local and national level have examined the causes of the riots and the events of August 2011. My focus has been on the compensation arrangements provided for in the Riot (Damages) Act, on how they were implemented following the riots and on what changes might be made both to the Act and to future arrangements in the event that there are riots in the future.

1.4. It is now more than two years since August 2011 and, for most of the population, the riots are an increasingly distant memory. For many of those who were the victims of the riots, and for the areas most seriously affected, they are not at all remote and the consequences are still with them. I hope that riots will not occur again on anything like the scale of August 2011, better still that they should not occur again on any scale. In that case, it may be that some of the recommendations in this report will be needed in limited form, if at all. But it is essential that we should learn from the events that followed the riots, as well as from the riots themselves, and from the experiences of those affected.

1.5. In carrying out this review, I have met and heard views from a wide range of people, in the police and the offices of the Police and Crime Commissioners, the Deputy Mayor in London, in the insurance industry, in central and local Government, MPs for some of the

areas concerned, charities and business organisations who sought to help those affected by the riots and business owners and residents in the areas affected by the riots, many of them victims of the riots themselves. I have visited Birmingham, Merseyside, Manchester and Salford and, in the London area, Croydon, Ealing, Enfield, Hackney, Haringey, Southwark and Wandsworth, to meet those affected and to see the areas where the riots occurred. I have also received a report from Greenwich Council giving their views on the Act and its administration.

1.6. The names of all those whom I met are listed at Annex C. I am very grateful to them all for their contributions, for their generosity with their time and their views and their willingness to share their experiences. As I promised when I met them, I have not given personal attribution for any of the points they made to me but I have done my best to reflect their views, to learn from their experiences and to take account of the ideas for the future which they put to me. I have received excellent support from the Home Office in carrying out this review, in arranging my meetings, accompanying me to them and taking notes of the discussions, and in providing me with information and advice when I asked for it. That said, my review has been an independent one and all those I have met have respected that independence. The conclusions and recommendations which I offer are my responsibility.

1.7. I have heard a wide range of views in the course of my review, about the future of the Riot (Damages) Act and its administration following the 2011 riots. Some of those I met were positive about the approach taken by the Government and the police authorities concerned to the administration of the Act, others were critical, some sharply so. It is inevitable in an exercise of this kind that the most strongly expressed views have been critical. My objective in this report has been to strike a fair balance between positive and negative views, while recognising how strongly some of those views are held. What has been very clear to me is that no-one was prepared for the riots or the demands for compensation they would generate. Many of the problems that followed were the result of a lack of preparation. There can be no justification for a failure to prepare for the possibility that compensation arrangements may be needed in the future, if riots on a significant scale should happen again.

1.8. This report will offer some facts and figures about the Riot (Damages) Act and about its application following the riots of August 2011, record the main points put to me in the course of the review, about the rationale for the Act, the way it was administered and the options for change, set out my reflections on those points, taking account of the value for money of possible changes, and then offer my conclusions and recommendations to the Home Secretary.

## **The Riot (Damages) Act, Chronology and Statistics**

1.9. The Riot (Damages) Act 1886 was introduced following riots in Trafalgar Square in London in 1885, involving the Social Democratic Federation. It took the place of the Remedies against the Hundred Act 1827 (a Hundred being a local tax-raising body akin to a local authority). The essential structure of the Act has not been amended since 1886, though the definition of a riot has been amended, most recently by the Public Order Act 1986. The Riot (Damages) Act provides that, in the event of a riot, the police authority

(now the Police and Crime Commissioner, the Mayor's Office for Policing and Crime in London) for the area concerned shall pay compensation to any person whose house, shop or property is damaged or destroyed in the riot; where such a person has received payment from an insurer, the compensation is payable to the insurer. The Act provides for strict liability on the police, so a claimant does not have to prove that the police were at fault in making a claim.

1.10. The Act provides for compensation for damage to physical property, to buildings and their contents, whether they are stolen or damaged or destroyed. It does not cover personal injury or damage to vehicles, unless they are within the property attacked. It has been assumed by the Government and the police that the Act does not provide for loss of income or consequential costs as a result of a riot, business interruption in the language of the insurance industry, and compensation has not covered such costs. This interpretation has recently been affirmed by the courts but may be the subject of further legal action at the time this report is written. Compensation has been paid on an indemnity basis taking account of the value of the property, building and contents at the time they were damaged, an "old for old" basis, rather than "new for old" as is now common in many insurance policies.

1.11. Just as riots have been relatively rare in mainland Britain since 1886, so the Riot (Damages) Act has been applied on relatively few occasions. Information about the use of the Act before the 1980s is scanty. References in Hansard reports of the House of Commons show that Government Ministers in the first half of the 20th century distanced themselves from the use of the Act, which was a matter for the police authority for the area where the riot occurred. There seems to have been no question of the Exchequer meeting or sharing the costs of compensation under the Act.

1.12. The riots in the Toxteth area of Liverpool, in Brixton, in Bristol and in other areas in 1981 were on a serious scale and the Government became involved in meeting the costs. The riots gave rise to claims totalling £17.2m and the Government met 60% of the costs of the police authorities in the worst affected areas, at a cost to the Exchequer of £6.2m. It is not clear from the evidence available whether these figures relate only to claims under the Riot (Damages) Act or include other police costs associated with the riots; if anything, they may overstate the comparable costs. There have been further uses of the Act since then, including the Brixton riot in 1995 which gave rise to claims of £1.39m and on a number of occasions in Yorkshire and the North West, involving expenditure of £900,000, though these costs did not involve Exchequer support.

1.13. Following the riots in August 2011, the Government decided immediately that it would provide police authorities with the funds they needed to meet the full cost of claims under the Riot (Damages) Act. The Prime Minister made this clear to the House of Commons on Thursday 11 August. He said that the Government would "stand behind" the police in meeting costs under the Riot (Damages) Act and that there was "no cap at all" on claims under the Act. He announced that, in addition to the Riot (Damages) Act, the Government was setting up a number of schemes to help businesses and people made homeless by the riots:

- the Recovery Scheme, to be funded jointly by the Department for Communities and Local Government (DCLG) and Her Majesty's Treasury (HMT), to meet local councils' immediate costs in "making safe and clean areas affected by the riots". By November 2011, 29 local authorities had claimed almost £3m under this scheme;
- the High Street Support Scheme, to be jointly funded by DCLG, HMT, and the Department for Business, Innovation and Skills (BIS) to support local councils in reducing business rates for affected businesses, funding emergency repairs and taking steps to encourage retail customers back into affected areas. By Christmas 2011, 24 local authorities had claimed £7.4m under this scheme; and
- the Homelessness Support Scheme, of £1m, funded by DCLG, to meet the immediate costs of re-housing those made homeless by the riots. By the end of September, 2011, 167 households had been displaced because of the riots; £380,000 was paid to six councils for these costs.

1.14. Alongside these Government funds, a charitable High Street Fund was established by a group of businessmen led by Sir William Castell, "as a response by big business to help the small businesses affected by the riots". The fund was launched by Boris Johnson, Mayor of London, on 24 August and paid out £2.8m in London and other cities through grants in two phases: Phase 1 grants of up to £2,000 to "provide swift emergency funding and hope to the applicant"; and Phase 2 grants of up to £8,000 to provide working capital in response to loss of trade and other costs not covered by insurance or Riot (Damages) Act claims.

1.15. The Mayor of London contributed to the High Street Fund. He subsequently announced in November 2011 that £50m would be provided for regeneration projects in Tottenham and Croydon, the two areas of London worst affected by the riots, which had not previously been given priority in regeneration funding.

1.16. In the week following the riots, the Home Office amended the form prescribed for applications for compensation under the Riot (Damages) Act, to replace its out-of-date predecessor, and extended the time within which applications could be made from 14 to 42 days, both changes made on advice from the insurance industry. The Home Office also established a bureau to handle applications from uninsured claimants under the Act, to relieve the anticipated pressure on police authorities and make it easier for people to apply. The bureau took initial responsibility for handling applications on behalf of the Metropolitan Police Authority, the West Midlands and Merseyside Police Authorities; its role was to assess the claims and pass them on to the police authorities to decide payment. The Greater Manchester Police Authority decided not to use the bureau.

#### *Police statistics for claims under the Riot (Damages) Act 1886*

1.17. The following tables give the statistics provided to me by the Home Office for payment of claims to the uninsured and to insurers under the Riot (Damages) Act by the four police authorities in whose areas riots took place in August 2011.

## Metropolitan Police

### Uninsured

	Claims	Settled	Rejected	Paid (£)
<b>Feb 2012</b>	240 (*)	87	83	£954k
<b>Aug 2012</b>	432	260	148	£2.4m
<b>Feb 2013</b>	428	276	146	£2.5m
<b>Aug 2013</b>	428	278	147	£2.6m

(\*) Claims increased from 240 in Feb 12 to 432 in Aug 12 due to cases being transferred by the Home Office Bureau before its closure.

### Insured

	Claims	Settled	Rejected	Paid (£)
<b>Feb 2012</b>	2665	328	1130	£1.85m
<b>Aug 2012</b>	2376	591	1392	£7.85m
<b>Feb 2013</b>	2386	690	1422	£17.8m
<b>Aug 2013</b>	2389	765	1442	£28.6m

## West Midlands Police

### Uninsured

	Claims	Settled	Rejected	Paid (£)
<b>Feb 2012</b>	21	15	1	£73k
<b>Aug 2012</b>	26	23	1	£167k
<b>Feb 2013</b>	27	26	1	£377k
<b>Aug 2013</b>	27	26	1	£433k

### Insured

	Claims	Settled	Rejected	Paid (£)
<b>Feb 2012</b>	437	81	128	£164k
<b>Aug 2012</b>	436	156	209	£584k
<b>Feb 2013</b>	436	187	223	£1.2m
<b>Aug 2013</b>	436	195	224	£1.7m

## Greater Manchester Police

### Uninsured

	Claims	Settled	Rejected	Paid (£)
Feb 2012	99	58	24	£340k (*)
Aug 2012	101	70	25	£442k
Feb 2013	101	74	25	£627k
Aug 2013	101	74	25	£632k

### Insured

	Claims	Settled	Rejected	Paid (£)
Feb 2012	311	56	173	No data (*)
Aug 2012	309	99	187	£448k
Feb 2013	309	108	189	£676k
Aug 2013	309	113	189	£820k

(\*) GMP no split between insured and uninsured in Feb 2012.

## Merseyside Police

### Uninsured

	Claims	Settled	Rejected	Paid (£)
Feb 2012	24	8	9	£63k
Aug 2012	21	12	8	£78k
Feb 2013	21	12	8	£79k
Aug 2013	22	13	8	£82k

### Insured

	Claims	Settled	Rejected	Paid (£)
Feb 2012	92	16	64	£24k
Aug 2012	86	21	62	£66k
Feb 2013	86	23	62	£385k
Aug 2013	86	24	62	£387k

### *Association of British Insurers statistics*

1.18. The following figures are estimates made by the Association of British Insurers on the basis of returns from their members, who represent 90% of the UK insurance market.

By **February 2012** insurers had paid out £416,000 to customers for domestic claims and £34,453,000 to customers for commercial claims. At this point 90% of domestic claims had been settled in full or interim payments made; and 82.5% of commercial claims had been settled in full or interim payments made.

By **April 2012** insurers had paid out £505,000 to customers for domestic claims and £63,214,000 to customers for commercial claims. At this point 97% of domestic claims had been settled in full or interim payments made; and 88% of commercial claims had been settled in full or interim payments made.

By **April 2013** insurers had paid out £1,581,270 to customers for domestic claims and £129,774,438 to customers for commercial claims. At this point 100% of domestic claims had been settled in full or interim payments made; and 96.2% of commercial claims had been settled in full or interim payments made.

#### **September 2013**

Total number of riot claims: 2,254

Total value of riot claims: £167,346,708

Total number of personal lines claims: 165

Total value of personal lines claims: £1,581,270

Total number of commercial claims: 2,089

Total value of commercial claims (material damage to property / contents): £135,088,992

Total value of commercial claims (business interruption): £30,590,819

### **Issues addressed in the Review**

1.19. The remainder of this report will address the issues raised in the review, reflecting the views put to me in my meetings and my consideration of the issues, on:

- the rationale for the requirement imposed on Police and Crime Commissioners by the Riot (Damages) Act to compensate individuals and businesses whose property is damaged as a result of a riot;
- the rationale for retaining compensation to insurers in respect of payments they have made to people whose property is damaged in a riot;
- the administration of the Riot (Damages) Act by police authorities and the Government following the riots in August 2011;
- the scope for new arrangements to improve the administration of the Act (or its successor) in preparation for the possibility of future riots;
- the case for retaining the Riot (Damages) Act or a new Act to replace it, and what changes should be made if a statutory scheme is retained;

- the case for replacing the Riot (Damages) Act with a discretionary scheme;
- the case for replacing the Riot (Damages) Act with a collaborative scheme like Pool Re; and
- the definition of a riot for the purposes of a new Act.

I will then offer my recommendations to the Home Secretary in the light of this analysis.

## Chapter 2: The rationale for the Riot (Damages) Act

2.1. The Riot (Damages) Act rests on the principle that the police are responsible for maintaining law and order and should be held to account if law and order breaks down and a resulting riot causes damage to property. The Police and Crime Commissioner is then liable to pay compensation to the owners of that property. The Act provides for claims against the police to be on a strict liability basis. If the claim is in line with the criteria in the Act, compensation must be paid. The claimant has no need to prove that the police were at fault, or to take them to court.

2.2. The Act appears to be unique in this respect. Other public bodies may be sued for negligence, as happens when hospitals, for example, are alleged to have failed to provide adequate care for their patients. But the claimant must prove that the hospital was at fault. This is not required in the case of a riot. There is no comparable statutory provision for compensation in the event of natural disasters such as floods, which have been increasingly common in recent years, or tornadoes such as the one in Birmingham in 2005. Nor is there any comparable liability on the police in the event of outbreaks of burglary or vandalism, where it might be argued that different policing policies might have reduced their occurrence.

### *The case against retaining the Act*

2.3. It can be argued that the Act dates from a time very different from the present day, that the task of the police is much more complex now, that riots happen for much more complex reasons, in some cases through no failing on the part of the police, and that most people and businesses are insured today, whereas very few were in 1886. This argument is put forward by some in the police service, and was put to me by some of those whom I met in my review, in the police and in the bodies responsible for them, though it is far from being a general police view.

2.4. The argument is also made by some that it is wrong that the state (be it Government or police) should pay out when people and businesses have chosen not to take out insurance. If those concerned are reckless enough to make such a choice, or have failed to do so for any other reason, they should take responsibility for the consequences, as they do in the event of burglary, vandalism, natural disasters etc. Taking this argument further, it is suggested that the existence of the Riot (Damages) Act may discourage people and businesses in potential riot areas from taking out insurance because they know that the state or the police will protect them if they fall victim to a riot.

### *Other countries*

2.5. It has seemed to me to be helpful to consider whether comparable legislation exists outside Great Britain. A similar provision to the Riot (Damages) Act exists in Northern Ireland; indeed it is more comprehensive there. But the research which the Home Office has carried out for me has uncovered few parallels in other countries. In Sweden, the Tort Liability Act (Skadeståndslag 1972:207) chapter 3, section 2, provides that:

“The State, or a municipality, shall be liable to pay compensation for personal injury, loss or damage to property, or financial loss, where such injury, damage or loss has been caused by a wrongful act or omission done in the course of, or in connection with, the exercise of public authority in carrying out functions for the performance of which the State, or the municipality, is responsible.”

2.6. Thus, if the Swedish police were to act negligently in failing to prevent a riot, the State could be held liable for damage caused. But strict liability does not apply here. A claimant can apply to the Chancellor of Justice for compensation, free of charge, and can then initiate court proceedings if the application is rejected. I understand that no compensation has been awarded to the victims of rioting in Stockholm earlier this year. In the United States, there is no parallel to the Riot (Damages) Act at federal or state level though action may be taken against City Police Departments in cases where negligence is said to have contributed to a riot. The Home Office research has not uncovered any other arrangements in other countries comparable to those in place in the United Kingdom.

2.7. In Northern Ireland, a Government compensation scheme operates in relation to criminal damage. The scheme provides compensation for agricultural property or property exempt from rates under the Rates (Northern Ireland) Order 1977 when loss has been suffered as a result of malicious or wanton damage. For property not covered by these definitions, it must be shown that the damage was caused unlawfully, maliciously or wantonly by three or more persons unlawfully, riotously or tumultuously assembled together, or as a result of an act committed maliciously by a person acting on behalf of, or in connection with, an unlawful association, or an act of terrorism. The Criminal Damage (Compensation) (Northern Ireland) Order 1977 provides for claims in the event of riots or other criminal damage, to cover:

- the cost of repairs or reinstatement or reduction in market value of property;
- damage to stock, contents and fixtures and fittings;
- consequential loss (eg. loss of profits or rental of alternative accommodation or bank interest arising from extra costs incurred as a direct result of the damage); and
- damage to vehicles.

2.8. The primary impetus for the Northern Ireland Order in 1977 was to ensure that the costs of damage caused by the terrorist campaigns of the 1970s were properly compensated by Government. The trends in criminal damage have significantly shifted away from damage caused by terrorist-related activity to an increasing dependence on the “three or more persons” criterion in the 1977 Order. While many of these claims could be provided for by normal commercial insurance, there is still a tendency to seek compensation from the Government when the criteria are met. In the last six years, the Compensation Services Office has made payments as a result of riots of: £22m in 2007/08; £12m in 2008/09; £5m in 2009/10; £4m in 2010/11; £6m in 2011/12; and £3m in 2012/13. The Department of Justice is now reviewing the legislation underpinning the compensation scheme.

2.9. Those who say that the Riot (Damages) Act is out of date and no longer necessary or appropriate in a country like Great Britain in the 21st century may therefore point to the shortage of international parallels, accepting the special circumstances of Northern Ireland in 1977, where commercial insurance was not readily available for criminal damage. If the

Riot (Damages) Act was repealed, the argument runs, those without insurance would be incentivised to take it, and a potentially expensive burden on the Exchequer would be removed.

### *The case for retaining the Act*

2.10. In practice, very few of those I met in the course of my review took this view. This near consensus may be less surprising than it first appears, since most of those I met were associated with the areas of the riots or with their consequences, and many were themselves victims. But the case for retaining the principle of the Act was shared by MPs, central and local government officials and councillors, some within the police and the insurance industry. The report of the London Assembly's Budget and Performance Committee on the aftermath of the riots, *Picking up the Pieces*, noted that all of those who contributed to its review shared the view that the state should continue to compensate victims who suffer damage as a result of rioting. There are reasons of principle and of practice why it is argued that the Riot (Damages) Act or something like it should be sustained.

2.11. The first proposition is that the principle on which the Act is based remains valid today as it was in 1886. It is the central duty of the police to maintain law and order. If they fail, and there is a riot, they should be held to account and they should meet the costs of compensating those affected. In some riots, it may be said that action, or inaction, by the police was wholly or partly responsible for the riot. This was said of the Brixton riots in the 1980s and of the outbreak of rioting in Tottenham in August 2011, though not of all the riots which followed. In other cases, such as the poll tax riots of 1990, it may be argued that the outbreak of rioting was not attributable to police action, or inaction.

2.12. The causes of riots are not part of the scope of this review. They are many and complex as was evidenced by the many studies published following the 2011 riots. But for many of those who argue that the principle of the Riot (Damages) Act should be retained, the causes of a riot are not the issue nor is the degree of culpability to be assigned to the police. Whatever the causes, a riot means the breakdown of law and order and the police, on behalf of the state, should be held to account. In their view, the principle of strict liability should be retained and compensation paid to the victims, whether out of a Police and Crime Commissioner's own resources or with Government support.

### *Alternative approaches to accountability*

2.13. It would be possible to retain the principle of police accountability but to drop the concept of strict liability, so that it was left to victims to sue the police on the basis of negligence or fault. This would be more like the Swedish approach, though it might well lead to expensive litigation in British courts which could prove more costly than the existing arrangements. Moreover, it might set a precedent for other negligence claims against the police, where the courts have generally found that there is no liability. For those reasons, the police would not welcome a change of this kind. Nor would it provide a satisfactory way forward for those who believe in the central principle of police accountability.

2.14. Similar considerations would apply to the suggestion that was put to me in one of my meetings during the review, that the question of police responsibility for a riot should not

be assumed but should be the subject of an inquiry. Only if the police were found to be at fault would they be liable for compensation. This idea offers the possibility of providing a fairer basis on which to assess responsibility for riots and might lead to long-term measures to reduce their incidence. But recent history does not show that inquiries always produce agreed conclusions. More critically, an inquiry-led approach could result in long delays before victims were compensated, or complicated pay-back arrangements. Inquiries may be desirable as a means of addressing long-term policy issues but I did not find support for this approach as a means of resolving compensation claims.

### *The Riot (Damages) Act and police motivation*

2.15. There is one line of argument for retaining the Riot (Damages) Act which was put to me which I did not find credible but which I should record for the sake of completeness. This is the argument that the existence of the Act makes it more likely that the police will take seriously their responsibilities for maintaining law and order and preventing riots than they would in its absence. Even those who offer this argument would not go so far as to claim that the operational commanders responsible for dealing with potential or actual riots would act differently without the Act in place. It strains belief to suggest that the operational commanders during the riots in August 2011 gave a moment's thought to the Riot (Damages) Act, which most of them had never heard of anyway.

2.16. It may be more plausible to suggest that the police took the existence of the Act into account in considering what action to take to prevent further riots, in the reviews they undertook following August 2011. It is suggested that the police would be less likely to put the necessary resources and planning in place to prevent future riots if they did not face the prospect of meeting the costs of compensating those who might be affected by them. I raised this issue with a number of senior police officers and others responsible for the police in the course of the review. They were all emphatic in their rejection of the argument. They were unequivocal in their assertion that their priorities were to learn from the experiences of August 2011 and to put resources, training and planning into place so that anti-riot action would be more effective in future, to protect the public, not to save money under the Riot (Damages) Act. I found their responses wholly convincing.

### *The uninsured and the under-insured*

2.17. There are many reasons why businesses and residents do not take out insurance, or have inadequate insurance. The reasons put to me in the course of my review were mostly concerned with affordability; many small businesses are only just viable and cannot afford insurance, still less full insurance for their stock and their buildings. They have taken the view that the cost of insurance outweighs the risks to their business, in particular the risks of burglary or vandalism, since little thought is normally given to the risk of a riot. This is said to be a particular issue in some of the areas that have been affected by riots, where insurance is expensive because levels of crime are relatively high. In such areas, the premiums charged reflect the high risk levels; there may be large excesses in place; or it may be difficult for some businesses to obtain cover at all.

2.18. Relatively few residential properties were affected by the riots of August 2011, though some of those that were suffered serious damage. In the case of residential property,

buildings insurance is generally the responsibility of the owner of the building, the landlord or the freeholder in buildings with tenants or leaseholders, or the owner-occupier who may be required by their mortgage lender to take on buildings insurance. Contents insurance is the responsibility of the occupier, be they owners, leaseholders or tenants. A number of the residents affected by the 2011 riots did not have contents insurance.

2.19. Many of those concerned with the areas affected argue that the economic and social consequences of removing the compensation provided by the Riot (Damages) Act for those who are uninsured or under-insured would be unacceptable in these areas. Businesses would not be able to replace their stock and residents would be unable to replace their lost possessions. On this argument, the question of whether the Act rewards, or protects, those who were “irresponsible” in not taking out insurance is much less relevant than the potential practical impact of denying them compensation. There is no evidence that the existence of the Riot (Damages) Act has dissuaded people or business owners from taking out insurance. Almost all insurance policies are all-risk policies, covering burglary, vandalism and other risks more likely to arise than riots even in the those areas where riots have occurred.

2.20. I recognise that the general support for retaining the principle of the Riot (Damages) Act which I found in my review might not be shared by people in other parts of the country unaffected by the riots. Those who have suffered from flood damage, for example, may be less sympathetic to the proposition that the uninsured and under-insured victims of riots are entitled to compensation which they do not have. They, and others, may take the view that a business owner or a resident who fails to take insurance cover has made a choice and should not be given compensation because they happen to be the victim of a riot rather than a flood or a tornado.

2.21. It is no part of my role to offer comments on the relative claims of those who have suffered from natural disasters. My subject is the Riot (Damages) Act and the point was made to me very strongly during the visits that I made to the riot-affected areas, both by the victims and by those supporting them that, whatever the causes of the riots and whatever responsibility might fairly be assigned to the police or Government more generally, they were innocent victims, who could not have anticipated the riots nor the effects on them. They had done nothing to bring the riots on themselves, nor the damage to their property or their livelihood, nor the emotional and psychological damage they had suffered. Fortunately, there were relatively few injuries to people during the riots, though there were some and a small number of deaths, but a number of people were put seriously at risk, as the television pictures at the time showed. Others had to face the trauma of seeing their businesses and sometimes their homes damaged or destroyed, in some cases by people they knew to be part of their local community.

### *The Government's response*

2.22. The Government responded to the sense of outrage felt by the victims of the riots, and shared by the rest of the population, by promising the support described earlier in this report. The Prime Minister said that compensation would be provided to those not covered by insurance under the Riot (Damages) Act and that payments under the Act were not capped. Natural disasters such as floods give rise to emergency support but they do not

normally provoke the immediate promises of compensation which the Government made in August 2011, with the full backing of the other political parties. It would clearly be possible for a future Government to respond differently to a riot, to take a much firmer line on the question of personal responsibility and to say that it would not step in to help those who had been irresponsible in failing to take out their own insurance.

2.23. It seems to me very doubtful that a future Government would take that approach, unless there is a significant change in political culture. The Government's response in August 2011 and the large measure of agreement shown by those whom I met in the course of my review reflect the same view. Riots are seen in the United Kingdom as different from natural disasters and other types of crime. I agree with this view. It is right that the police and the Government are held to account under the Riot (Damages) Act, albeit that the Act itself needs significant modernisation. Policing in the United Kingdom relies on consent, not on fear or on legal imposition. The implied contract between the public and the police requires that the public respect the leadership of the police when required and that the police maintain law and order. If they fail to do so, they should be accountable for that failure and compensation paid to those affected.

### **The rationale for retaining compensation for insurers**

2.24. The Riot (Damages) Act not only requires Police and Crime Commissioners to compensate people and businesses whose property is damaged in a riot, it also requires them to compensate, or reimburse, insurers who have paid out on insurance claims from their customers affected by the riot. This aspect of the Act is at least as controversial as the question of compensating the uninsured. Those who are unhappy with it argue that insurance companies have already received premiums from the customers concerned; the Act, in effect, pays them twice, and they should not be the recipients of scarce Government resources. The insurers, by contrast, argue that they are as entitled to compensation as others if there is a riot which they were in no position to anticipate or ask their customers to do so; in that respect, the rationale for compensation has not changed since 1886. They also argue that, if compensation were no longer available to them, insurance would be more expensive in potential riot areas, and might be withdrawn altogether.

### *The impact of the Act on insurance premiums*

2.25. Insurers respond to the assertion that they are "paid twice" if they receive compensation under the Riot (Damages) Act by arguing that this misconceives the basis on which premiums are calculated. In calculating premiums for businesses operating in potential riot areas, underwriters take the existence of the Act, and the protection it offers them, into account. If the Act were repealed, or their protection withdrawn, the risk for them of insuring businesses in the areas concerned would increase: premiums for these businesses would rise, excesses might be much bigger and some insurance might be withdrawn. It seems clear that this possibility is relevant primarily to small businesses operating in areas assessed as potential riot areas, since chain stores are insured in relation to their portfolio as a whole, not individual shops or businesses. Insurers also say that they might find it necessary to increase premiums for property insurance generally if the protection of the Act is withdrawn.

2.26. Those who argue that insurers should not be protected by the Act, or its successor, say that they overstate the risk to them of its withdrawal: almost all insurance policies are “all risk” policies, in which riot is a relatively small part; the total cost even of the 2011 riots, at about £170m so far, though much bigger than previous riots, is relatively small for an industry whose turnover is counted in billions; given this context, it seems unlikely that the protection offered by the Act can have much impact on premiums in riot areas; premiums reflect the view which insurers and others take of an area as a whole, not just the riot risk which is inherently unpredictable; and, even if some existing insurers were to respond to the withdrawal of statutory protection in the ways anticipated, the industry is a competitive one and others would move in to take their place at competitive rates.

2.27. There is some reason to believe that riots already have an impact on insurance premiums, even with the Riot (Damages) Act in place, in those areas where the risk may be seen to be the greatest. I was told that premiums have increased for some businesses in Tottenham since August 2011. In Toxteth, it was said that the legacy of the 1981 riots was still having an impact on insurance premiums, and that it had become even harder to find affordable insurance since August 2011. In other areas affected by the 2011 riots, where they had been least expected, in Ealing and Clapham Junction for example, there had reportedly been no impact on insurance premiums. I should make clear that this account is not based on systematic evidence in any of the areas concerned; I have not seen any such evidence. But it does reflect both the messages that I heard from business owners in the riot areas and the views of local business support organisations and local authority staff in those areas.

### *The case for, and against, change*

2.28. It seems unlikely that, if the Riot (Damages) Act did not exist but a new scheme was developed to protect the uninsured, its protection would be extended to insurance companies. If the Act is to be replaced by new legislation more in line with the modern world, as I shall recommend later in this report, the question will be whether retaining protection for insurers is justifiable now. It might be argued that the risk of withdrawing protection from insurers is a small one. The insurance market is competitive; even if some insurers were to pull out, new insurers might enter the market in potential riot areas to take the place of those who pull out. Among those insurers whom I met in the course of the review, there were some who thought that they would not withdraw from potential riot areas, or increase premiums there, if the protection of the Act were withdrawn, though most said they would.

2.29. The counter-argument is that the present existence of the Riot (Damages) Act must be factored into an assessment of possible future behaviour. Those insurers who have taken reinsurance from its protection may respond to its withdrawal as predicted. I am not in a position to assess just how important the Act is for underwriters in their calculations of premiums and insurability but I do not question their evidence to me that it is a factor which is taken into account. The risk and potential cost of riots even in areas where they have happened in the past is small but the value of the business to insurers in insuring small businesses in such areas is also small.

2.30. There is a significant risk that small businesses in areas such as Tottenham and Toxteth who wish to insure and who already find it difficult to secure insurance at reasonable rates, while the Act is in place, will find it even more difficult if its protection is withdrawn from insurers. In that case, some of those businesses which require insurance cover against other risks as well as riots may be unable to afford to pay for it. They may, as a result, find it difficult to continue trading at all. Not only may these small businesses go out of business, the economic viability of the areas in which they trade may be at risk.

2.31. It is with these risks in mind that many of those I met in my review, including MPs, members and officers of local authorities and supporters of local businesses thought that the risk of withdrawing all protection from insurers was too great. Their concern was not with the interests of the insurers, though the insurers' own representatives quite reasonably had their own interests in mind, but with the viability of the businesses and the areas concerned. The point was made that it might turn out to be as expensive to the Government to withdraw the support which the Riot (Damages) Act provides for insurers and then have to invest more heavily in regeneration in the areas most at risk, as to continue to offer compensation for insurers.

2.32. I have listened carefully to these arguments and counter-arguments during my review. It appears to be the case that the United Kingdom is unique in the statutory protection it offers to both the uninsured and to insurance companies in the event of a riot. It is impossible to know for sure what would happen if protection were withdrawn from insurers but I agree with those who fear that there is a significant risk that complete withdrawal of protection from insurers in a new version of the Riot (Damages) Act would make it harder for small businesses in the most affected areas to secure insurance at rates they could afford. That would put their future at risk, and the overall economic viability of their areas. That does not mean that insurance companies should continue to receive the level of protection they do under the existing Act. I shall recommend that a new version of the Act should continue to provide compensation for insurers but that it should be capped to ensure the delivery of best value for money for the Exchequer.

## Chapter 3: The administration of the Riot (Damages) Act following the riots in August 2011

3.1. Two features stand out most strongly in looking back at the administration of the Riot (Damages) Act and other support following the riots and at the picture that emerged in the course of my review: firstly that many people in central and local Government and in the private sector did their very best to help those affected; and secondly that their efforts were hampered by a complete lack of advance preparation and, to some degree, by the wording of the Act itself. The riots took everyone by surprise, including the police and the Government. Riots had not featured in the National Risk Register for Civil Emergencies maintained by the Cabinet Office. The Riot (Damages) Act was barely known to most of those who now had to apply it; hardly anyone had any experience in administering it; there was no experience in handling claims on the scale that would follow these riots. The problems that would accompany the administration of the Act were in substantial part the result of this lack of preparation.

### *Action to respond to the riots*

3.2. The initial Government response to the riots was a rapid one. The Home Office acted swiftly:

- to simplify the form required for applications for compensation under the Riot (Damages) Act;
- to extend the period within which claims could be made from 14 to 42 days; and
- to establish a bureau to handle claims from the uninsured and assess them before passing them on to police authorities to decide the claims.

These steps were all taken within a week of the riots. The Government also made clear that they would meet the costs of the police authorities in paying claims under the Riot (Damages) Act.

3.3. The Home Office took on two firms of loss adjusters to run its bureau, provide advice to claimants and to assess the claims, Cunningham Lindsey and Crawford. The Department took the view that the Act did not allow them to delegate decision-making on claims to the bureau, nor to a consortium of insurers, as the Association of British Insurers and its members offered; decisions on spending public funds under the Act had to remain with the relevant police authority. The Greater Manchester Police Authority decided not to use the Home Office bureau but to handle claims for compensation within its area directly.

3.4. The Department of Communities and Local Government launched its Recovery Fund, High Street Support Scheme and Homelessness Support Scheme on 12 August, to help local authorities take action immediately to support recovery from the riots, by helping businesses to repair immediate damage to property, to reopen for business as soon as possible, and to support residents whose homes were damaged in the riots. These schemes are described briefly in Chapter 1.

3.5. Local authorities and their business support organisations sent staff to visit all those affected immediately after the riots to offer whatever support was needed, in many cases offering cash grants to deal with immediate repairs. A number of authorities set up advice centres to help small businesses deal with insurance claims and claims under the Riot (Damages) Act; affected businesses were offered business rate holidays. Campaigns to emphasise and encourage local support for the area were launched: “I love ...Tottenham, Ealing, Salford” and many others. Residents whose homes had been damaged were provided with alternative housing.

3.6. Sir William Castell and a group of leading businessmen established the High Street Fund with donations totalling £3m, as a “response by big business to help small businesses affected by the riots. The Fund distributed £2.8m in grants to help businesses initially with swift emergency funding (Phase 1), secondly with working capital to respond to loss of trade (Phase 2). 575 grants of up to £2,000 were paid out under Phase 1; 270 of grants up to £8,000 under Phase 2. The payments made to claimants by insurance companies are set out in Chapter 1.

3.7. This is an impressive range of action by central and local Government and the private sector, rather more impressive than some critics allow for in looking back at the riots. Many of those affected were given rapid support and were able to reopen for business quickly. Much repair work was done and many of the riot-affected areas recovered their former appearance quickly. Local authorities generally found the funding schemes provided by DCLG operated on a sensible basis without unnecessary bureaucracy. The charitable High Street Fund distributed its grants quickly.

### *Criticisms of the initial response*

3.8. But the picture is much less positive in other respects and particularly for the areas most seriously affected. The Riots, Victims and Communities Panel reported a range of problems for those affected; so did the London Assembly report, Picking up the Pieces. In my visits to the riot-affected areas, two years after the riots, I heard many of the same criticisms:

- communication about the support available to victims did not reach those who most needed it despite the national and local efforts; the range of support was itself confusing;
- many victims were unused to dealing with authorities and making claims, especially those who were uninsured;
- some victims had limited English and there were no interpreting services available to help them;
- many claimants had lost their records in the riots and had no evidence of what they had lost;
- the application forms required under the Riot (Damages) Act had been simplified but still required a lot of information to support a claim;
- 42 days was too short a time for some claimants, especially in areas which had been treated as crime scenes after the riots and impossible to access; and

- staff of the Home Office bureau were said to be insensitive on occasion, in particular with claimants who had been traumatized by the riots and some of whom were unfamiliar with making claims; they offered no interpreting services; they were slow to respond; and the call centre provided was said to be unhelpful to many claimants.

3.9. These criticisms were not universal but they were made strongly in the worst-affected areas, in particular in Tottenham and Croydon and in some other riot areas. I heard stories about the difficulties which victims experienced in trying to make claims, about lost claims, and what they felt to be unsympathetic responses. With hindsight, it is not surprising that small business owners and residents without insurance would have great difficulty in making claims and in dealing with bureaucracies, and that their problems would be made worse by language difficulties and the trauma of the riots themselves. Those who established and provided support did not anticipate how difficult these problems would be for those most affected.

3.10. This review has been about the Riot (Damages) Act, not about the response of the insurance industry to the riots, but I have inevitably heard stories about the problems and complaints which arose with them too. Those issues are also addressed in the reports I quoted earlier, by the Riots, Communities and Victims Panel and the London Assembly. As might be expected, those whom I met who had been able to offer well-kept records in support of their claims, particularly in the bigger businesses affected by the riots, for example in central Manchester, had found the claims process worked well for them. Smaller businesses making insurance claims had some of the problems faced by the uninsured, especially when their records had been lost. The insurance industry itself faced an unexpected series of problems as a result of the riots.

### *Police handling of claims*

3.11. The focus of handling claims under the Riot (Damages) Act shifted to the police authorities as the Home Office bureau passed on claims from the uninsured and insurance companies passed on claims on which they had made payments to their customers and were now claiming compensation from the police. The statistics quoted in Chapter 1 show how great the number of claims was, in particular for the Metropolitan Police Service. They and the other police authorities were immediately under pressure to deal with the claims quickly, from politicians and everyone else, not least the small businesses which needed their claims paid to be able to get fully going again.

3.12. The police authorities were not prepared for the volume of cases they now had to deal with. They had faced claims from time to time over the previous twenty years and the Metropolitan Police Service had made payments on seven occasions since 1995, including £1.4m for a riot in Brixton in 1995 and £565,000 for the student riot in Milbank in 2010. Greater Manchester Police had paid £37,000 following the riots in Oldham in 2001. But none of the police authorities had any experience of claims handling at the level of demand they now faced, or the resources to meet it. They also had to cope with legislation written 125 years previously, which did not cover vehicles or personal injury, which provided for compensation on an indemnity basis, rather than “new for old” as most contemporary insurance policies do (except for car insurance), and which they believed excluded business interruption costs and did not allow for interim payments. They were further constrained by a definition of a riot written in the language of the nineteenth century.

3.13. Despite these difficulties, some claimants were happy with the response of the police authorities concerned. Two jewellers I met, one in London, one in Manchester, considered that they had been compensated fairly and reasonably quickly. The Metropolitan Police Service was praised for flexibility it showed in allowing late claims if there was a good reason for delay (though not in all cases), for its flexibility in accepting that businesses had been victim of a riot if the street had seen rioting, and for the arrangement it made with the charitable High Street Fund, after initial difficulties, to allow claimants to retain payments received from the Fund. There has also been recognition that the police authorities were rightly careful of the public funds which they were spending, and that some of the claims they received were overstated, in some cases substantially so.

3.14. There were, however, strong criticisms of the police handling from some of those I met, again particularly in Tottenham and Croydon. Critics complained of:

- excessive bureaucracy in the handling of claims and raising unnecessary questions about the content of claims;
- a legalistic approach to claimants, particularly in correspondence with them;
- rejecting claims which should have been accepted;
- failing to differentiate sufficiently between small and large claims, and to handle small ones quickly;
- taking too long to define the area of the riots, and thereby hampering the claims process;
- insisting on double-checking the work of loss adjusters working for the Home Office bureau and insurance companies;
- failing to let people know what was happening to their claims, or explain the reasons for delay;
- insisting on reducing claims to reflect payments by charities, when the charities wanted the claimants to keep the payments (despite the agreement reached in London with the High Street Fund)
- an unnecessarily narrow interpretation of the indemnity principle, for example in relation to a dry cleaning machine for which compensation was offered reflecting its age when the only replacements available are new; and
- overall, taking far too long to handle the claims.

3.15. At a meeting of the Tottenham Traders Partnership which I attended, one owner of a small business said:

*“the police failed us twice, first in not preventing the riots, secondly in failing to provide adequate compensation under the Riot (Damages) Act.”*

One senior police officer whom I met said that the Metropolitan Police Authority was more worried about what the Daily Mail would say if it paid out too much on a claim than with the need to make payments quickly to those who were entitled to them.

3.16. I have discussed these criticisms with the senior police service staff who dealt with claims. They recognise that it took too long to deal with many of the claims. The police statistics which I quoted in Chapter 1 show that in London, which had much the largest share of claims and which was the focus of most attention, 87 claims by the uninsured had been settled by February 2012, six months after the riots, and £954k paid out. This rose significantly over the next six months, so that, by August 2012, 260 claims from the uninsured had been settled and £2.4m paid out. By comparison, the figures for the insurance industry show that 90% of domestic claims had been settled in full or an interim payment made by February 2012, 82.5% of commercial claims.

3.17. The police service staff also point to the problems they faced in handling claims:

- incomplete and sometimes inaccurate claims submitted to them;
- frequent problems in securing answers to their questions from claimants and their representatives;
- the constraints imposed by the terms of the legislation, in providing for compensation on an indemnity basis, as in the dry cleaning machine example, in inhibiting interim payments and in giving them no flexibility in handling cases where payments had been made by charities or others; and
- a lack of resources and a lack of preparedness for the size of the demands on them.

3.18. Many of the criticisms reported here were made in relation to people who were uninsured and for whom the Riot (Damages) Act was the only recourse for compensation. Other victims were insured but not sufficiently, either because their insurance did not cover all the damage they suffered or because their business had changed since they took out insurance and they had not up-dated the cover. Some had insured their stock with a view to possible burglary, but not the buildings they occupied. Some had less full cover than they thought; others had their claims rejected by their insurance companies. Some of those who were uninsured for these and other reasons submitted claims outside the 42 day deadline, but their claims were considered by the police authorities concerned. The numbers of the under-insured were not counted separately and they are not identifiable in the statistics quoted. The issues raised in the handling of their cases were similar to those of the uninsured.

3.19. Insurers have also been critical of the time taken by the police authorities in handling their claims for reimbursement in relation to payments which they had made to their customers. These represent the largest number of claims in the police statistics quoted in Chapter 1 and much the largest share of the total costs of compensation – a national total of 3,220 claims of which 1,097 had been settled at a total public expenditure cost of £31.5m for the insured, compared with a total of 578 claims of which 391 had been settled at a public cost of £3.76m for the uninsured, by August 2013. Given the comparative size of the claims, it is perhaps not surprising that claims from insurers took relatively longer to settle. By August 2012, £3.1m had been paid to the uninsured, £8.9m for the insured (national figures). Insurers consider that police authorities took far too long to pay out on their claims, and were much too cautious in double-checking; the police authorities' response is that many claims needed careful checking and that insurers took a long time in many cases to provide the information they needed.

3.20. I see no reason to doubt that the police authority staff did the best they could in the situation they faced, bearing in mind their duty to protect public funds, as the staff of the Home Office bureau did; so too staff in local authorities and the insurers. At the same time, I was struck by the reports I heard of the value added by business support staff, the staff of MPs and others who were not part of the claims process and became involved to provide help to people who found the official bodies, public and private, difficult to deal with. The administration of the Riot (Damages) Act had its good points, but it is fair that I should also record some of the critical phrases used by those I met in the course of my review, including:

- “a bureaucratic meltdown”;
- “a lack of preparedness on the part of the Home Office and the police”;
- “confusion and uncertainty about what the requirements of the Riot (Damages) Act” were; and
- “an inadequate response to the needs of those most seriously affected by the riots”.

3.21. Many of the problems that arose in the administration of the Act following August 2011 were the result of a lack of preparation. This was not surprising, given that riots on this scale had not happened before in mainland Britain. It would not be acceptable to be so unprepared again and I shall make recommendations in the next section of this report for steps which the Government and others should take to ensure that they are well prepared if there should be another significant outbreak of rioting. Other problems were the consequence of the out-of-date nature of the Riot (Damages) Act, which is also not surprising since it dates from 1886. In further sections of my report I shall make recommendations for modernising and up-dating the Act.

## Chapter 4: New arrangements to improve the administration of the Riot (Damages) Act or its successor

4.1. The recommendations made in this chapter of my report assume that the Government will continue to provide compensation for victims of riots in future and that new legislation which I hope will be brought forward will continue to place the responsibility for compensation on the police and therefore on Police and Crime Commissioners (the Deputy Mayor in London). It would be possible to transfer responsibility for compensation to central Government and such a change would recognise the financial responsibility which the Home Office assumed following the 2011 riots. But it seems to me to be right to retain responsibility with the Police and Crime Commissioners for reasons both of principle and of practicality.

4.2. The principle of direct police accountability is one that I support, for the reasons I have given in Chapter 2. The practical argument for retaining accountability with the police is that most riots in Britain have been much more limited in scale and in geographical spread than the 2011 riots, and the police have applied the Riot (Damages) Act to them with relatively little controversy. There is no reason to anticipate that future riots will not normally be local and the Police and Crime Commissioners should continue to represent the first line of responsibility and accountability. At the same time there should be a clear understanding and provision in new legislation to allow for the Government to take responsibility for the financing of compensation and for its administration if significant rioting breaks out in the future.

4.3. My recommendations will address the possibility of major riots on a scale that will bring Government action into play, but I hope that they will also be relevant to more local riots. In the light of the experience of last time, preparations for possible future riots should be made for new arrangements for handling claims both for the uninsured and for the insured, assuming that it will remain possible for insurance companies to claim compensation from Police and Crime Commissioners. New arrangements should be made:

- to transform the handling of claims in future, based on planning for a new riot claims bureau and a guidance manual for handling claims; and
- to provide more substantial and better targeted support for the victims of rioting, to be coordinated by local authorities and form part of their emergency planning.

### *A new riot claims bureau*

4.4. The Home Office bureau established in August 2011 was a well-meant attempt to help victims make claims under the Riot (Damages) Act and to help police authorities in handling claims. Its ways of working had not been fully thought-through and it did not cope well with the demands it faced, particularly from people unused to dealing with claims of the kind required. The police authorities were then overwhelmed with the demands on them to decide the claims submitted to them, for which they were not prepared or staffed. There is no good reason why we should expect Police and Crime Commissioners to employ people skilled in handling insurance claims or why staff whom they employ for normal police business should have claims handling skills.

4.5. The option of using experienced staff from insurers and loss adjustors to provide an emergency team to handle and decide claims under the existing Riot (Damages) Act was considered and rejected in 2011 because the Act did not allow for the delegation of decisions. It would be necessary to clarify the powers of the Home Secretary to make such delegations in future, in new legislation to replace the existing Act, to empower the new riot claims bureau which I recommend, though some elements of the role could be delivered without new legislation.

4.6. The aim should be to provide for a riot claims bureau to come into operation immediately in the event of significant rioting in future, empowered to employ loss adjustors to assess claims, to handle and decide all claims directly from the uninsured and when submitted by insurance companies in relation to claims on which they have made payments to their customers. The bureau would act on information from the police; it would replace the role which the police authorities played following the 2011 riots. Its decisions would be subject to audit, on behalf of the Government, but those decisions would not be the subject of duplicate scrutiny, unless the audit process requires it.

4.7. I have looked at ways in which such a bureau might be developed, and discussed the possibilities with insurers, police staff and Government officials. The best option would be to prepare for a team to be drawn from leading insurers and loss adjustors, with police representation, to include people with expertise in claims handling, loss adjusting and knowledge of property valuation, to be prepared to start work immediately, on a contingent basis, in the event of major riots. Staff should be drawn from several companies, to avoid conflicts of interest; they could be seconded to the bureau for six or twelve months; their salary costs to be met by the Government. I have been pleased to note the willingness of the companies with whom I have discussed the possibility to cooperate with such a plan but they would, of course need to be consulted formally, in developing a bureau.

4.8. A riot claims bureau of this kind should be established in contingent form in advance of a riot, with agreements in place between the Home Office as sponsor Department and the companies who would second their staff when needed. Such agreements would need to be reviewed and refreshed over time, probably on an annual basis. I am glad to be able to report that a working group led by the Home Office has made progress on several of the issues that would need to be resolved for a new bureau to be effective, including:

- the preparation of a new claims form;
- rules on handling claims of different amounts, with minimum bureaucracy for relatively small claims;
- more flexibility in the deadlines for submitting claims;
- targets for prioritising and resolving cases: and
- the ability to make interim payments.

4.9. These preparations will be invaluable if the model of a new riot claims bureau is taken forward. The best means of securing them would be to include them as part of a guidance manual which should be prepared as soon as practically possible, to benefit from the lessons from the last riots while many staff who experienced the difficulties discussed in

this report are still in place. It may be helpful for the Home Office to employ a firm of loss adjustors, though not one centrally involved the last time, to prepare the manual, and to retain them, to keep it up to date. In addition to the issues addressed by the Home Office working group, the manual could provide:

- guidance for handling the types of claims which might result from a riot;
- guidance in dealing with claimants who are unused to making claims, including the use of non-legal language as far as possible;
- the use of interpreters where necessary; and
- other points to address issues which arose last time.

4.10. A model of this kind for a claims bureau would involve the insurance industry closely in the planning for the possibility of future riots, and is highly desirable for that reason. It is they who have the expertise in handling insurance claims, and an arrangement to make use of that expertise on an agreed basis, with careful advance preparation, would be a highly desirable replacement for the mix of arrangements put in place at short notice in 2011. There should not be any risk to public sector audit requirements in such an arrangement, provided that there are provisions to avoid possible conflicts of interest. There should, in any case, be provision for the decisions of the riot claims bureau to be audited as necessary.

4.11. There are alternative models for a riot claims bureau to fulfil a similar function to that described above. One, which some people in the insurance industry encouraged me to pursue, would involve the appointment of a loss adjustor to carry out the full role without the supervision of the group I have described. That would be a much simpler option and might be a satisfactory alternative if prepared carefully in advance of future riots, rather than at very short notice as the Home Office bureau was last time. But it would not pull in the range of expertise which my preferred option would offer, nor invite the same degree of engagement and cooperation from a range of insurance companies and loss adjustors.

4.12. Another alternative would be to employ a service provider to run a service of the kind envisaged for the new bureau. Capita, Serco and Deloittes were among the names suggested and there are several other alternatives. Such an approach would put the chosen provider in charge of pulling together the arrangements for the bureau and involve one contract for the Government rather than several. It would also take advantage of the experience and expertise which such companies have in pulling together diverse teams at short notice. But it would be potentially a more expensive option, since a commission would be payable to the service provider; and it would miss the opportunity to build on the goodwill which exists among insurers to cooperate with a Government-led model as described.

4.13. I recommend that the Home Office takes forward discussions as quickly as possible with the aim of agreeing the preparation of a new riot claims bureau, which would draw in secondees from leading insurance companies and loss adjustors, and the preparation of a guidance manual for the bureau to use; and that powers should be included in a new version of the Riot (Damages) Act to allow delegation of decisions on claims to the new bureau.

*A new advice and support service for riot victims*

4.14. Several of the local authorities whose areas were most affected by the riots in August 2011 went to great lengths to help businesses and residents whose property was damaged. Their staff were out the day after the riots visiting all those affected, offering support and advice, with the involvement of business support organisations where they existed. Grants were provided to help with repairs, the replacement of broken windows and security systems and the short-term replacement of stock. Business rate holidays were offered and help with claims to insurance companies and the Riot (Damages) Act. For residents whose homes were damaged, alternative accommodation was found and help provided with benefit claims.

4.15. The authorities concerned were glad to have been able to help and took pride in having acted quickly. In the visits that I made to the riot areas and in my meetings with business people and residents affected by them, I met many people who were impressed with what their councils had done to help and grateful for their support. Other business people and their supporters considered that, well-intentioned as this support was, there was not enough, in particular, to help those:

- who found it difficult to cope with making claims;
- who could not understand the array of schemes available;
- who had been persuaded in the aftermath of the riots to engage a loss assessor or other adviser and were now unsure of their advice;
- whose command of English was not good;
- who faced complex problems in relation to their businesses and sometimes their homes too;
- who were traumatised by the riots, in some cases by the actions of people they recognised;
- who were unused to dealing with authorities of any kind and doubtful that they could rely on local authority staff; and
- who needed subsequent help and support in dealing with letters and inquiries they did not understand about claims they had made to insurers or the police.

4.16. Two particular themes stood out: firstly that those who found the prospect of making claims and dealing with unfamiliar authorities, and who had been traumatised by the riots, needed support not only in the immediate aftermath of the riots but for weeks and months thereafter, in submitting claim forms, in responding to questions, in following them up and answering letters about their claims; and secondly that for some victims, the problems they faced were too complex to be resolved quickly, possibly because their businesses may already have faced problems before the riots, possibly because of a mix of housing and business problems, and sometimes benefits too.

4.17. There was little criticism of local authorities among those I met, from people complaining that they had failed in offering the complex mix of advice and support that some riot victims

needed. The sense was rather that what was needed went beyond what any authority would normally be expected to do. There may always be problems that cannot be resolved, if a business owner, for example, is unwilling to accept help or expose the details of his, or her, business to anyone in authority. But more could be done to prepare a new level of support, in the light of the experience of 2011.

4.18. Those who faced the range of difficulties I have described were relatively few in number, even in riots on the scale of those in August 2011. But for those few, the problems were severe; they did not receive the support they needed and the consequences of the riots were long-lasting for them. The difficulties they faced in making and following-up claims added to the delays and costs faced by those trying to resolve the claims, both insurance companies and the police authorities administering the Riot (Damages) Act. Planning for the possibility of future riots should include plans for a well-coordinated, targeted and intense level of support and advice to be provided for those most in need of help. Local authorities are the bodies best placed to provide such a service, indeed the only bodies which could do so, and they should be asked to include planning for it in their emergency plans.

4.19. Local authority emergency plans already include plans for emergencies such as industrial disasters, floods and terrorist attacks. They should be asked now to prepare plans for future riots, to provide a coordinated advice and support service, whose roles could include:

- the capacity to deal with with the immediate consequences of the riots, including rehousing where necessary, securing and repairing buildings;
- advice on the range of support available, from central and local Government and charities;
- help with preparing claim forms for insurance claims, claims under the Riot (Damages) Act and other sources of support;
- language support where needed;
- help with housing and benefit issues, and schooling if families are re-housed;
- advice on re-starting businesses; and
- follow-up support in dealing with claims, answering questions, providing information when required and dealing with correspondence.

4.20. This list is not a comprehensive one, nor is it meant to be prescriptive. Local authorities will be much better able than me to judge what is likely to be needed in their areas. They will also be better able to assess how to staff such a service. I anticipate that they would plan to bring in members of staff with the relevant skills and expertise from across their authority, from business support organisations in their areas, from local advice centres and the Benefits Agency as necessary. Bearing in mind the lack of familiarity which some potential riot victims may have with authority figures, staffing plans might include people from local community groups as well.

4.21. I have discussed this possibility with those in local and central government with experience and expertise in emergency planning and riots. They were encouragingly

positive about the idea. They thought that it was essential that the detail of such plans should reflect local circumstances and the specific approach of individual local authorities. I fully accept this local emphasis. There was also a view that such plans prepared for possible future riots might inform emergency planning for other disasters too. This seems sensible, though the focus of this review is specifically on the possibility of further riots.

4.22. I recommend that local authorities should be asked to plan for riot-recovery services of this kind as part of their emergency plans, and refresh them regularly as they do other aspects of those plans. The Government should make clear that it will meet the cost of the implementation of the riot plans just as it paid for the recovery schemes after the August 2011 riots. This can reasonably be seen as part of the Government's responsibility for dealing with the consequences of riots. Moreover, the services provided, if they are sufficiently well-targeted, should reduce the administrative cost of handling future claims under the Riot (Damages) Act and its successor, because the claimants will be much better able to get their claims right and follow them up effectively.

## Chapter 5: Options for legislative change

5.1. I will discuss in this chapter the options for change to the Riot (Damages) Act, including the possibility of replacing the existing Act with a discretionary scheme, backed by legislation and the option of a scheme for riot compensation similar to Pool Re for terrorist attacks. There are five main possibilities:

- (1) repeal the Riot (Damages) Act and put nothing in its place;
- (2) leave the Act in place and rely on administrative changes;
- (3) repeal the Act and replace it with a modernised version;
- (4) repeal the Act and replace it with a power to implement a discretionary scheme whose criteria are not prescribed in statute; or
- (5) repeal the Act and replace with a scheme similar to the collaborative arrangement for terrorism insurance, Pool Re.

### *Option 1 – repeal the Act and put nothing in its place*

5.2. No-one I met in my review supported this option in its purest form, though some thought it worthy of consideration if the police could take sufficient precautions against the possibility of serious future rioting so that compensation arrangements would not be needed in future. That would indeed be a desirable objective. But the causes and starting points for riots are diverse and few of us would have confidence that the police can eliminate the possibility of riots in future, though we would share the hope that the steps taken since August 2011 will reduce the possibility that riots on a similar scale will break out again in the near future.

5.3. Chapter 2 of this report discusses the rationale for a state-funded compensation scheme such as that provided by the Riot (Damages) Act, and the views about it which I encountered in the course of my review. My conclusion was that the case for retaining something like the existing Act was a very strong one, for reasons of principle and practicality. I will not pursue this option any further here.

### *Option 2 - leave the Act in place and rely on administrative changes*

5.4. This is a much more serious possibility than option 1, not least because the demands on Parliamentary time may make it difficult for the Government to bring forward new legislation. It would be possible to make some, though by no means all, of the administrative changes discussed in the previous chapter without changing the existing legislation. If the police are successful in minimising the occurrence of future riots or in substantially reducing their impact, it can be argued that there is no great need to change the law. It has, after all, served its purpose for the last 125 years without attracting much attention. This option would also avoid provoking disputes about the more controversial aspects of the Act, such as the provision for compensation to insurers, and would be acceptable to some insurers on that basis.

5.5. There are, on the other hand, powerful criticisms of the existing Act, including the following:

- it has lasted without much attention since 1886 because it has rarely been used. The experience of 2011 demonstrated its many faults;
- the language is archaic and the effect of the archaic wording is to make it unnecessarily difficult for claimants and their advisers to understand it;
- the Act provides compensation for property but not for cars or other vehicles, unless they are within the property affected, an unjustifiable exclusion in the 21st century;
- it is unclear whether the Act allows for interim compensation payments to be made, which made police authorities reluctant to pay them last time;
- it is unclear how much flexibility the Act allows for Police and Crime Commissioners in adjusting, or not, for payments made by others to riot victims, including payments by charities;
- the Act does not allow for the delegation of payment making to bodies other than Police and Crime Commissioners;
- the Act does not deal with personal injury or consequential loss (business interruption);
- the Act provides for compensation on an indemnity basis, rather than “new for old” even when the damaged goods cannot be replaced by something of the same age; and
- the Act requires that insurance companies be compensated in full for payments they have made, within the existing criteria.

5.6. Many of these points were made to me in the course of my review by those who had tried to make claims and their advocates, and by the police staff who had been frustrated by the wording of the Act in paying compensation. There was very little support for leaving the existing Act in place, except among those fearful that it might be repealed altogether. Some of the criticisms made of the existing Act are less valid than others, for example on the treatment of personal injury and consequential loss, and may not be pursued, as I shall discuss below. But, those apart, the list adds up to a compelling case for the Act to be replaced by one that is fit for purpose in the 21st century.

5.7. A number of the administrative changes I have advocated, including the strengthened role for local authorities in planning support for riot victims and some of the changes which the Home Office group is working on, would be possible within existing law. These include the preparation of new forms and new arrangements for handling claims. It will also be possible to develop plans with the insurance industry for a new riot claims bureau, though not to give it the power to make decisions on behalf of the police. Others, including the delegation of decision-making to the riot claims bureau, and clarification of the law on interim payments and charitable payments, would not be possible. Nor would it be possible to introduce a more proportionate arrangement for the compensation of insurers as I shall recommend without changing the legislation.

5.8. The disadvantages of leaving the existing Act in place will not attract much public scrutiny if there are no significant riots in the near future. But the case for replacing the Act with a new modern version is too strong to be allowed to left to further years of neglect. I recommend against Option 2.

### *Option 3 – replace the Act with a modernised version*

5.9. This option was the one preferred by a substantial majority of those I met in my review, among all groups, police, insurers, central and local Government, MPs and those who had been the victims of the riots, though there was a range of different views about the changes that should be made. Most who expressed a preference preferred the idea of a modernised Riot (Damages) Act to the option of a discretionary scheme because the statutory criteria offered by a new Act would provide greater certainty. I will return to that comparison below.

5.10. It would theoretically be possible to amend the existing Act, to bring it up to date and to make changes that are considered desirable. But the legal advice I received was that the archaic wording of the existing Act makes that approach unsustainable. Much better to repeal it and start again. That advice seems wholly sensible to me and I will deal in turn with each of the issues which would need to be considered in bringing forward proposals for new legislation, in the light of the discussions I have had in the course of my review.

5.11. The first issue will be the principle on which the legislation rests, that of compensation for those whose property is damaged in a riot. For the reasons given above, that principle should not be changed in new legislation. I have also argued that insurers should continue to be compensated for payments they have made, because of the potential impact which withdrawing that protection would have on small businesses in potential riot areas and the economic viability of the areas concerned. Compensation is, however, potentially very expensive, as the present case before the courts involving a distribution centre in Enfield owned by the Sony Corporation demonstrates. I make no comment on the outcome of that case save to note that it throws a powerful light on the importance of securing value for money in future compensation arrangements.

5.12. It has been said of the existing Act and its provision for compensation for insurers that, because it excludes compensation for consequential loss and for vehicles and provides for indemnity rather than “new for old”, the costs of riots are, in a sense, shared by the state, be it the police or Government, and insurers. Most insurance policies would provide for consequential loss, for the cost of damage to vehicles and for “new for old” (though not in the case of cars); insurers cannot then recover those payments under the Act, so they are sharing the overall cost. In considering the case for new legislation, it will be necessary to look at each of these criteria. But the principle of sharing the cost between the state and insurers has seemed to me to be a valuable one, bearing in mind both that the cost to the public purse of the 2011 riots may well exceed £100m and the argument that insurers have received premiums in respect of property damaged.

### *Capping compensation for insurers*

5.13. I have therefore considered and discussed with insurers, the police and others, the possibility of capping the compensation which insurers would be able to claim under new

legislation, just as re-insurers would cap the contribution they would make to an insurance company's liability for a major claim. The analogy between Government and re-insurer is by no means a complete one, not least because the Government makes no assessment of its potential liability in advance, and receives no premiums for its share of costs. But it is useful in demonstrating that it would be possible for the Government to meet part of the costs faced by insurers in the event of riots, without provoking a withdrawal from the market.

5.14. Capping of compensation for insurers could take a range of different forms:

- it might set a percentage, say 25% or 50%, as the limit of the compensation which the police, or Government, would pay in respect of claims paid by the insurers to their customers;
- it might put an absolute limit on any single claim which the police, or Government, would pay to an insurer, say £500,000, or £1m; or
- the limit might be set by reference to the size of the business insured, so that the insurer only receives compensation in respect of claims made by businesses with a turnover below the limit.

5.15. Each of these possibilities is worth considering. The percentage option is the one most like the model used by re-insurers. It is, however, subject to the risk that, if the percentage is set too low, insurers might decide to pass on the reduction to their customers; the higher the percentage the less the possible saving to the public purse. The option of an absolute cap would protect the public purse from high potential claims but might also provoke insurers to limit compensation to their customers in a way that would distort the market. Both of these options might result in withdrawal or partial withdrawal on the part of insurers from vulnerable small businesses in potential riot areas.

5.16. The third of these options seems to me to be the most promising, and most likely to meet the objective of securing continuing protection for small businesses in potential riot areas while limiting the cost to the public purse. It recognises that it is small businesses which are most likely to be vulnerable to a withdrawal of insurers, or to increases in the cost of insurance, and retains compensation for claims which insurers make in respect of them. There would be no reason for an insurer to change practice for insuring a small business in a potential riot area if their compensation was safe under new legislation. There should be no adverse impact on the insurability of a small business in vulnerable areas or on the economic viability of the areas.

5.17. A decision would need to be made about the level of the threshold below which compensation would be payable, and kept under regular review. Since the objective of the cap would be to protect small businesses, but not bigger ones, it might be sensible to set the level by reference to the definition of a "micro business" in EU law – turnover of less than 2m euros, a balance sheet total of less than 2m euros and less than ten employees. Given that small businesses sometimes make varying use of employees, for example to meet seasonal demand, it might be sensible to use just a relatively simple financial test, and to set a limit of, say, £2m for turnover. A £2m limit would protect the insurability of most small businesses but it would, of course, be possible to set it higher if the Government were

persuaded to do so. To keep the scheme as simple as possible and to avoid unnecessary perverse effects, it might be best to use one national limit, rather than to include regional variations. The limit should be reviewed each year.

5.18. The effect of a cap of this kind would be to remove the entitlement of insurers to compensation in respect of payments made to clients above the threshold. This might lead to higher charges for those clients, but is unlikely that it would do so for multiple stores whose premiums are set by reference to their portfolio of shops or businesses, not for individual businesses. It might mean higher insurance costs for single businesses above the threshold, the cliff-edge effect, but, provided that the threshold is not set too low, the business concerned will be better able to cope than one below the threshold. There will also be a judgement to make for an insurer who might risk losing the custom of such businesses to competitors less worried about the risk of riots.

5.19. The reaction of insurers with whom I have discussed the possibility of a cap of this kind has been encouraging. They would prefer no cap at all, but they recognise the need for Government to constrain the possible cost of riot compensation and that this cap is much better targeted to protect the insurability of small businesses in vulnerable areas and the economic viability of those areas than the other caps that might be considered. There is a risk that this approach would feed through into the general level of premiums; that is the inevitable consequence of any limitation on compensation for insurers. But it would be unlikely to have a significant impact given the relative low level of risk of riots set against insurers' total business portfolios.

5.20. The proposal for a cap of the kind described arises from the experience of the 2011 riots in which commercial businesses were the main targets of attack. Some residential properties were also damaged and could be a much bigger element in future riots. There is no reason why the same cap should not operate in relation to commercial owners of residential property, on the same arguments of insurability and affordability. The position of individuals who are owner-occupiers, or leaseholders or tenants, where relevant, is different, given that there is no ready equivalent to the concept of turnover. My recommendation is that insurers should continue to be compensated in relation to owner-occupiers, leaseholders and tenants of residential property without limit.

5.21. If this turnover-related cap is applied to compensation for insurance companies, it is reasonable to ask whether it should also be applied to those who make direct claims for compensation without reference to insurance cover. Most businesses of any size are insured and would be covered by their insurance in respect of riot damage. There may be some, however, who chose to self-insure; in other cases, a business may have a large excess and make a claim under the Riot (Damages) Act for that element which is not insured. I understand that some multiple stores did so following the August 2011 riots, though others chose not to. Given overall constraints on public expenditure, and the recommendation that I have made for capping compensation to insurers under new legislation, it seems to me reasonable to apply the same limitation to those who may claim directly from the police in future. No business with a threshold above the level used for limiting compensation to insurers should be entitled to claim compensation directly under the replacement for the Riot (Damages) Act.

5.22. The three options for capping compensation to insurers under future legislation that I set out in paragraph 5.14 above are worth considering further. My recommendations are that:

- a cap on compensation to insurers for riot damage should be set by reference to the turnover of the business insured at an initial level of £2m;
- the cap should not apply to insurance compensation for residents whose properties or their contents are damaged in a riot; and
- a cap at the same level as is applied to compensation for insurers should apply to claims for compensation made directly by the commercial owners of property damaged in a riot.

### *Other changes to the legislation*

5.23. Some of the changes that could be made in introducing a replacement for the Riot (Damages) Act would not be controversial, including:

- modernising the language, removing out-of-date forms of words;
- including cars and other vehicles within the scope of compensation; and
- providing for interim payments to be made where appropriate and for any clarification that might be needed in differentiating between the handling of small and large claims.

5.24. I hope that there would be little controversy in making other changes which would make the administration of a future Act less prone to the problems experienced after the 2011 riots, in particular:

- providing for the Secretary of State to delegate responsibility for the administration of payments under the Act and decisions about those payments to a body established for the purpose, a Riot Claims Bureau or something similar, subject to audit arrangements which he or she would prescribe; and
- allowing flexibility for the delegated body to ignore payments made to victims by charities or other non-public sector bodies, at the request of the charity or other body concerned.

5.25. Other possible changes thrown into focus by the experience of the Riot (Damages) Act following the 2011 riots would be more controversial:

- allowing for claims for personal injury as a result of a riot;
- changing the indemnity principle on which claims for property damaged in a riot might be made; and
- providing for claims for consequential loss to be covered by the new legislation.

5.26. The first of these possibilities may be relatively straightforward to resolve, serious though such injuries may be. My understanding is that victims of personal injury are

entitled to make claims to the Criminal Injuries Compensation Authority following a riot, just as they would be following any other incident involving criminal action. There seems no good reason to provide for compensation for personal injury via a new Riot (Damages) Act as well. The second and third of these possibilities involve more difficult questions in the context of new legislation and have proved controversial among those with whom I have discussed them.

### *Indemnity or replacement value*

5.27. Compensation is paid under the existing Act to uninsured claimants, and to insurers claiming compensation, on an indemnity basis. The compensating authority looks at the age of the damaged goods or property and estimates its value accordingly. Most contemporary insurance policies, by contrast, provide for compensation on a “new for old” basis, so that the owner can buy a new replacement for the goods damaged. In some cases, there was no effective difference for claimants following the 2011 riots. A business which had lost new stock, and could provide evidence of its loss, could claim its replacement cost. In the case of buildings destroyed in the riots, compensation would provide for re-instatement, though not for betterment.

5.28. There were, however, cases where the indemnity principle produced results that are less easy to explain, as in the case of dry cleaning machines for which the indemnity value was reduced to reflect their age, but which could not be replaced on that basis because ten or twenty-year-old dry cleaning machines are not available to buy. A similar problem arose with window frames damaged in the riots. For residential victims of the riots, the value of their furniture, including beds and sofas, and other possessions, was estimated on the basis of their age rather than the cost of new equivalents. Such losses may be replaceable by furniture or other goods of comparable age, but it is not difficult to understand why those affected were unhappy with the assessments made.

5.29. Those affected by these assessments and their supporters were strongly of the view that the indemnity principle was unfair and that they should be compensated on a new for old basis as those insured are. That was not the practice followed under the existing Act, but could be with new legislation. This argument would not apply to cars and other vehicles if they were brought within the scope of a new Act, since standard insurance cover does not provided for them on a “new for old” basis. Those opposed to a change in the indemnity principle took the view that the state should not “reward” the choice not to insure by providing compensation on a more generous basis than it allows. There is no suggestion that anyone would deliberately choose this approach to replacing old possessions and the Riot (Damages) Act in any case denies compensation to anyone who played a part in causing the riot. But some of those I met considered that indemnity provided a reasonable basis for compensating the uninsured.

5.30. There is no obviously right answer here. To change the principle of compensation from indemnity to replacement would add to the potential public expenditure cost. My view is that innocent victims of riots should not face the added difficulties associated with finding second hand goods, whether they be beds or dry cleaning machines, to replace those they have lost. Providing for compensation to be paid on a replacement basis, rather than indemnity, would be consistent with modern insurance practice and the additional

cost would not have been significant following the 2011 riots. I recommend, therefore, that new legislation should provide for compensation to reflect the replacement cost of the property damaged (except in the case of cars and other vehicles).

### *Consequential loss*

5.31. The possibility that a new version of the Riot (Damages) Act might cover consequential loss (business interruption in the language of the insurance industry) is at least as difficult as the argument about the indemnity principle. The Northern Ireland Compensation scheme does provide for consequential loss, but that was introduced when the Troubles made commercial insurance almost impossible to obtain. That is not the case in mainland Britain, though I was told that insurance is more expensive in the areas most associated with riots, in particular Toxteth and Tottenham, than elsewhere.

5.32. The most obvious argument against including consequential loss in new legislation is the potential cost to the public purse. That potential cost should be much reduced if the proposals that I have made for capping compensation in respect of companies with a turnover below a set threshold are accepted, though they might still be significant. Association of British Insurers' statistics on compensation paid by insurers following the 2011 riots show that business interruption payments were £30m out of a total of £167m, 18% of the total on the most recent figures available (see Chapter 1). Since the scale of future riots cannot be predicted, it would not be possible to estimate with confidence what the costs of such a change might be in the event of future riots.

5.33. The rationale for including consequential loss in future compensation payments is that it may be as important for small businesses who have chosen not to insure as any losses they might sustain in damage to property. This might be the case for a business whose stock is a relatively small element of their outgoings compared to running costs, such as a hairdresser's. If they are unable to reopen for weeks or even months, perhaps because their property is part of a crime scene or because it is badly damaged, the costs of lost business may be much greater than the cost of damage to physical property. In such a case, the exclusion of consequential loss could leave the business unable to reopen even after the property was restored.

5.34. For many of those I spoke to in my review, consequential loss would be a step too far in a state-funded compensation scheme, even with the cap on compensation limiting it to too small businesses. Their view is that a business for which losses of this kind are likely to be critical, including hairdressers and similar businesses, should be expected to meet the costs of insuring for such a loss. After the riots in August 2011, the support provided by local authorities with DCLG funding and the charitable High Street Fund served the purpose of providing working capital to help many small businesses to carry on. Charitable funding cannot be guaranteed in the event of future riots, but it is reasonable to anticipate that similar funds might be available to help uninsured businesses. If their vulnerability to consequential loss is greater than the support they might receive from such funds, it seems to me to be reasonable to argue that they should have insurance.

5.35. I recommend that consequential loss should not be covered by the compensation arrangements provided by new legislation.

#### *Option 4 - A discretionary scheme to replace the Riot (Damages) Act*

5.36. It would be possible to replace the Riot (Damages) Act with a discretionary scheme whose criteria were not prescribed in statute and could be up-dated to meet contemporary circumstances without new legislation. It would be desirable to provide for such a scheme to be determined by the Secretary of State in an enabling Act at the same time as repealing the existing Act, both to reassure Parliament that the Government was not abandoning the principle of riot compensation and to limit its scope to riots. The alternative approach, of relying on the power to make ex-gratia payments, would be difficult to justify to Parliament and unnecessarily controversial if the decision to retain the principle of riot compensation is made.

5.37. A discretionary scheme looks very attractive to some interested parties when compared to legislation that has not been up-dated for 125 years. Just as those responsible for the 1886 Act could not anticipate the coming of cars, so we cannot know what might be needed in twenty years' time, let alone over a longer period. It might already be argued that our concept of property is becoming out-of-date, relying as it does on a physical content when intellectual property might be held on and lost from a computer damaged in a riot. Concepts like consequential loss were equally unthought-of in 1886; new concepts which we cannot now anticipate might be developed in the next few years. A discretionary scheme could, in principle, cope with such developments. It would also avoid tying down the Government to its present view on the range of issues discussed in this report.

5.38. Most of those in the insurance industry whom I consulted were not attracted by a discretionary scheme. They much prefer the element of certainty offered by a replacement Act, on which they can calculate their potential liability in the event of riots. Since most potential victims of future riots will be insured, this seems to me to be a relevant consideration. It would be counter-productive to decide to retain publicly-funded compensation for riots in order to protect the insurability of small businesses in potential riot areas, only to put that at risk by reducing insurers' capacity to calculate their liabilities.

5.39. It would be possible to legislate for a discretionary scheme and then to spell out the rules that would be followed, with a commitment to keep them under review on a regular basis, say every five years. That has the disadvantage that one Government cannot commit its successor and that a discretionary scheme is, by definition, more easily changed than a statutory one. In that respect, the very flexibility which a discretionary scheme could offer could also be its fundamental weakness. Many of the problems which beset the administration of the Riot (Damages) Act following the 2011 riots were the result of a lack of preparation. There is a significant risk that decisions on the implementation of a discretionary scheme following future riots would be made in the immediate aftermath of the riots, and uncertainty would again undermine its administration, however sensible the decision-making was at the time.

5.40. For these reasons, it seems to me preferable to accept the constraints imposed by changing primary legislation and introduce a new version of the Riot (Damages) Act which deals with the issues discussed in this report, and would allow those planning for the possibility of future riots to do so with a degree of certainty, rather than the flexibility, and uncertainty, offered by a discretionary scheme. I recommend that the option of a discretionary scheme is not pursued.

*Option 5 – A scheme like Pool Re to replace the Riot (Damages) Act*

5.41. Pool Re was developed following a number of terrorist attacks on the City of London in the 1990s. The level of risk became too great for individual insurers or re-insurers to cope with, so the scheme was devised to provide for the insurance industry to contribute to the accumulation of a reserve which would be used to support an individual insurer in the event of a terrorist attack, over a certain threshold; the reserve would provide cover up to another threshold, above which the Government would provide support. The scheme was a response to market failure in the face of potentially enormous costs.

5.42. The conditions which led to the development of Pool Re in the face of potential terrorist attacks are not relevant to riots. There has been no significant market failure and the likely costs in the event of future riots are not sufficient to generate the demand for a cooperative scheme like Pool Re. No-one in the insurance industry with whom I discussed the possibility thought that Pool Re was a relevant model. I see no case for pursuing it further.

## Chapter 6: The definition of a riot for the purposes of new legislation

6.1. The Riot (Damages) Act provides for compensation to be paid for damage to property by “persons riotously and tumultuously assembled together”. The word “tumultuously” is arguably more appropriate to 19th century legislation than it would be in the 21st century, though it is also used in the Northern Ireland Compensation Scheme, which refers to damage caused “unlawfully, maliciously or wantonly by three or more persons unlawfully, riotously or tumultuously gathered together”, and was enacted in 1977. For the purposes of the Public Order Act 1986, the crime of riot arises when “12 or more persons who are present together use or threaten unlawful violence for a common purpose ...”.

6.2. Many of those I met in my review were unhappy with the definition of a riot both on the grounds that the language was archaic and because they thought that the use of a numerical criterion was unhelpful. It was suggested that the lack of an effective definition made it harder for the police to identify those areas affected by the riots, a process which took more than two months in London following August 2011. The police told me that they find the present definition unhelpful.

6.3. The Metropolitan Police Service avoided an issue which had arisen in previous riots, when one part of a multi-storey building was judged to have been the scene of a riot, but not another where fewer than twelve people had been involved. Following the 2011 riots, the Metropolitan Police took the view that businesses in a street where a riot was occurring were covered by the definition whether or not there was evidence that twelve people had attacked every property. They won praise for this common-sense approach, though the definition of a riot area has been the subject of dispute in the court case quoted earlier. That case is still the subject of legal action and I make no comment on it here, save to note that a new definition might reduce the risk of legal disputes in future.

6.4. I heard many criticisms of the definition of a riot, but few suggestions as to how to improve it. There is little support for choosing a different number of people as a criterion. The Northern Ireland context is very different and the legislation there is, in any case, under review. If a number is to be used, twelve seems to be as good as any, but unnecessarily restrictive in determining whether a riot is taking place, and its geographical limits. It may be more helpful to give more discretion to those making the decision about a riot but to clarify the way in which such a decision might be made. It would be desirable to be clear who is responsible for the decision, which should be the Police and Crime Commissioner, or the Deputy Mayor in London; to involve in the decision-making process both police and non-police representatives to ensure that there is a balance of interests in reaching a decision; and to impose a time limit on the decision-making.

6.5. It is not part of my task to offer a new definition of a riot, nor am I qualified to do so. But it would be helpful to those administering a new Riot (Damages) Act in future to provide a means of determining whether a riot had taken place which worked better than the present wording seems to have done. Building on a way forward suggested to me by one senior police officer, I recommend that new legislation should provide for an approach that would:

- require those responsible for deciding whether a riot had taken place to have regard to the scale and geography of the disturbances;

- use the concept in the Public Order Act of people who are present together and use or threaten unlawful violence for a common purpose;
- give responsibility for deciding whether a riot had taken place to the Police and Crime Commissioner for the area concerned, the Deputy Mayor in London, who would be advised by the Chief Constable (or Commissioner of the Metropolitan Police) and by the chief executive of the local authority area affected and by a representative of the local community; and
- require that such decisions be taken within seven days of a disturbance taking place.

## Chapter 7: Conclusions and recommendations

7.1. The Riot (Damages) Act rests on the principle that the police are responsible for maintaining law and order and should be held to account if law and order breaks down and a resulting riot causes damage to property. The Police and Crime Commissioner (Deputy Mayor in London) is liable to pay damages to the owner of the property on a strict liability basis. Circumstances have changed since the Act was passed in 1886; in particular most business owners and residents are now insured. But the great majority of the people I met in the course of my review, including many in the police service and many of those responsible for the police believe that the principle of police accountability is still valid today and that this central provision of the Act should be retained, with the Government providing the funds if rioting breaks out in more than one police authority area. I agree with them.

**(1) I recommend that the principle of police accountability for riot damage should be retained in new legislation to replace the existing Act.**

7.2. The Riot (Damages) Act also provides that insurers who have made payments to their customers for damage caused in a riot should be compensated for those payments. This is a more controversial provision given that insurers charge premiums to their customers in order to finance their payments to them, and are in a sense “paid twice” if they receive compensation under the Act. Insurers say that the existence of the Act is taken into account in their calculations of premiums and that premiums would rise, or insurance might be withdrawn, from businesses in potential riot areas if the protection they receive from the Act were withdrawn. It is possible that new insurers would move in to replace those who withdraw in these circumstances. But there is a significant risk that it would become much harder for small businesses in potential riot areas to secure affordable insurance and that the economic viability of those areas would be weakened.

**(2) I recommend that insurers should continue to receive compensation under new legislation but that their compensation should be capped.**

7.3. The administration of the Riot (Damages) Act following the 2011 riots was criticised on the grounds that payments took much too long to be made, that too little was done to help affected small businesses, that claimants were treated insensitively and that the rules were applied too harshly in decisions about payments. On the other hand, it is fair to recognise that central and local Government and the private sector responded quickly and helped many of the victims of the riots to recover and that the staff of those bodies did their best to help. But payments were too long delayed; some of those most affected did not receive enough help and the compensation was inadequate to meet the losses of some victims. The main reasons for these failings were: a complete lack of preparation for the level of claims under the Act, a lack of relevant experience in those handling them and the out-of-date wording of the Act itself. Those failings must be addressed against the possibility that riots might again break out on a significant scale.

**(3) I recommend that preparations for the possibility that compensation will be payable under major riots in future are taken forward as soon as possible and that:**

- **(4) a riot claims bureau is developed by agreement between the Home Office and the insurance industry, to be staffed by experts in claims handling and loss**

**adjusting drawn from several companies, to be ready to start work immediately after a riot, with delegated power to decide claims;**

- **(5) a manual is prepared as soon as practicable to provide guidance on the type of claims that are likely to follow a riot, dealing with claimants unused to making claims and other issues;**
- **(6) local authorities should be asked to include within their emergency plans planning for a riot-recovery service to provide coordinated advice and support for the range of problems that may follow a riot targeted on those most in need of such support and available for as long as it is needed; and**
- **(7) the Government should commit itself to meet the costs of these operations, including the local authority costs in the aftermath of major riots.**

7.4. The Riot (Damages) Act is now 127 years old. Its wording made the administration of the compensation it provides for unnecessarily difficult following the 2011 riots; in some respects more expensive than it should be, in other respects inadequate for the needs of the victims of the riots. If my first two recommendations are accepted, new legislation should be introduced as soon as Parliamentary time allows. My next three recommendations relate to the cap which I recommend should be applied to compensation. New legislation should:

- **(8) cap compensation payable to insurers in future by reference to the turnover of the business insured, so that compensation is payable only in respect of payments made to small businesses;**
- **(9) apply the cap equally in relation to owners of commercial property and residential property. It should not be applicable for owner-occupiers, leaseholders or tenants of residential housing; and**
- **(10) apply the cap to compensation payable directly to victims of riots, that is to those who are uninsured, or to businesses which self-insure, and to excesses which are not covered by insurance.**

7.5. Other changes should be made to improve the operation of the Act and bring it up-to-date. New legislation should:

- **(11) modernise the language of the Riot (Damages) Act**
- **(12) include cars and other vehicles within the scope of compensation;**
- **(13) provide for interim payments to be made where appropriate and clarify powers to differentiate the handling of small and large claims as necessary;**
- **(14) provide for the Secretary of State to delegate responsibility for the administration of payments under the Act and decisions about those payments to a body established for the purpose, a Riot Claims Bureau or something similar, subject to audit arrangements to be prescribed;**
- **(15) allow flexibility for the delegated body to ignore payments made to victims of riots by charities or other non-public sector bodies at the request of the charity or other body concerned; and**

- **(16) provide for compensation to be paid in future on the basis of the replacement value of the property damaged, not indemnity (except in the case of vehicles).**

7.6. I have looked at the case for including personal injury within the compensation arrangements of new legislation. Since it is provided for through the Criminal Injuries Compensation Authority, there seems no need to provide specifically for such compensation in the event of a riot. I have also concluded that consequential loss (business interruption in the language of the insurance industry) should not be included. Businesses which might sustain losses of this kind that would be larger than the level of support provided by local authorities and the charitable High Street Fund after the 2011 riots should take out insurance and should not look to the state for compensation for consequential loss.

**(17) I recommend that personal injury and consequential loss should not be covered by new legislation.**

7.7. It would be possible to retain the principle of police accountability underlying the Riot (Damages) Act but replace the statutory approach which I have outlined with a discretionary scheme provided for in enabling legislation. A discretionary scheme would be much more flexible and able to deal with changes in society, technology and in policy on the issues discussed above, without requiring new legislation, or running the risk that the next Act would be left in place for 127 years. Its very flexibility would, however, deny the insurance industry the degree of certainty they say they need to calculate their potential liability, and make them excessively cautious about the possibility of riots. It would also undermine the degree of preparedness which is essential in planning for the possibility of future riots, since it would leave it open to the Government of the day to change the rules immediately after a riot.

**(18) I recommend that the option of a discretionary scheme is not pursued.**

7.8. One other possibility has been suggested as an alternative approach to compensation for riot damage on the model of the Pool Re scheme for insurance against terrorist attacks, which provides for cooperative support for individual insurers and, if necessary, Government support. The scheme was developed as a response to market failure in the face of potentially enormous costs as a result of terrorism. There has been no significant market failure in riot insurance and the costs are not such that the industry would see any value in a pooling arrangement.

**(19) I recommend that the option of a Pool Re scheme is not pursued.**

7.9. The definition of a riot for the purposes of the Riot (Damages) Act was itself the subject of controversy following the 2011 riots, because the wording of the Act is archaic, because numerical criterion for a riot laid down in the Public Order Act 1986 was considered unhelpful and because it took a long time to identify the area affected by the riots in London. The Metropolitan Police were praised for the common-sense approach they took to the definition once the areas had been identified but they, and others, consider that a better definition would be highly desirable. It is not part of my role to offer a new definition, but I recommend that new legislation should take a new approach:

- (20) to give explicit responsibility for decisions on whether a riot had taken place to the Police and Crime Commissioner (the Deputy Mayor in London) on the advice of the Chief Constable (or Commissioner of the Metropolitan Police), the chief executive of the local authority area affected and a representative of the local community; to require them to have regard to the geography and scale of the disturbances; to use the Public Order Act concept of people who are present together and use or threaten unlawful violence for a common purpose; and to require such decisions to be taken within seven days of the disturbance taking place.**

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# Riot (Damages) Act 1886

1886 CHAPTER 38 49 and 50 Vict

An Act to provide Compensation for Losses by Riots.

[25th June 1886]

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**Annotations:**

**Modifications etc. (not altering text)**

- C1 Preamble omitted under authority of [Statute Law Revision Act 1898 \(c. 22\)](#)
- C2 Act amended by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), s. 10(1)

**1 Short title.**

This Act may be cited for all purposes as the Riot (Damages) Act 1886.

**2 Compensation to persons for damage by riot.**

(1) Where a house, shop, or building in [<sup>F1</sup>a police area] has been injured or destroyed, or the property therein has been injured, stolen, or destroyed, by any persons riotously and tumultuously assembled together, such compensation as hereinafter mentioned shall be paid out of [<sup>F2</sup>the police fund] of [<sup>F1</sup>the area] to any person who has sustained loss by such injury, stealing, or destruction; but in fixing the amount of such compensation regard shall be had to the conduct of the said person, whether as respects the precautions taken by him or as respects his being a party or accessory to such riotous or tumultuous assembly, or as regards any provocation offered to the persons assembled or otherwise.

(2) Where any person having sustained such loss as aforesaid has received, by way of insurance or otherwise, any sum to recoup him, in whole or in part, for such loss, the compensation otherwise payable to him under this Act shall, if exceeding such sum, be reduced by the amount thereof, and in any other case shall not be paid to him, and the payer of such sum shall be entitled to compensation under this Act in respect of the sum so paid in like manner as if he had sustained the said loss, and any policy of insurance given by such payer shall continue in force as if he had made no such payment, and where such person was recouped as aforesaid otherwise than by payment of a sum, this enactment shall apply as if the value of such recoupment were a sum paid.

*Riot (Damages) Act 1886 (c. 38)*  
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**Annotations:**

**Amendments (Textual)**

- F1 Words in s. 2(1) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), Sch. 7 Pt. II para. 9
- F2 Words substituted by Police Act 1964 (c. 48), Sch. 9

**3 Mode of awarding compensation.**

(1) Claims for compensation under this Act shall be made to the [<sup>F3</sup>compensation authority] of the [<sup>F4</sup>police area] in which the injury, stealing, or destruction took place, and such [<sup>F3</sup>compensation authority] shall inquire into the truth thereof, and shall, if satisfied, fix such compensation as appears to them just.

(2) A Secretary of State may from time to time make, and when made, revoke and vary regulations respecting the time, manner, and conditions within, in, and under which claims for compensation under this Act are to be made, and all claims not made in accordance with such regulations may be excluded. Such regulations may also provide for the particulars to be stated in any claim, and for the verification of any claim, and of any facts incidental thereto, by statutory declarations, production of books, vouchers, and documents, entry of premises, and otherwise, and may also provide for any matter which under this Act can be prescribed, and for the [<sup>F3</sup>compensation authority] obtaining information and assistance for determining the said claims.

(3) The said regulations shall be published in the London Gazette, and every [<sup>F3</sup>compensation authority] shall cause the same to be published in their [<sup>F4</sup>police area], and copies thereof to be at all times sold to any applicant at a price not exceeding [<sup>F5</sup>2½p] for each copy.

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**Annotations:**

**Amendments (Textual)**

- F3 Words substituted by Police Act 1964 (c. 48), Sch. 9
- F4 Words in s. 3(1)(3) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), Sch. 7 Pt. II para. 10
- F5 Words substituted by virtue of Decimal Currency Act 1969 (c. 19), s. 10(1)

**4 Right of action to person aggrieved.**

(1) Where a claim to compensation has been made in accordance with the regulations, and the claimant is aggrieved by the refusal or failure of the [<sup>F6</sup>compensation authority] to fix compensation upon such claim, or by the amount of compensation fixed, he may bring an action against the [<sup>F6</sup>compensation authority] to recover compensation in respect of all or any of the matters mentioned in such claim and to an amount not exceeding that mentioned therein, but if in such action he fails to recover any compensation or an amount exceeding that fixed by the [<sup>F6</sup>compensation authority], he shall pay the costs of the police authority as between solicitor and client.

<sup>F7</sup>(2) .....

Riot (Damages) Act 1886 (c. 38)  
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**Annotations:**

**Amendments (Textual)**

- F6** Words substituted by [Police Act 1964 \(c. 48\)](#), [Sch. 9](#)
- F7** [S. 4\(2\)](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. I](#) Group1

**5 Payment of compensation and expenses, and raising of money.**

(1) Where any compensation under this Act has been fixed by or recovered in an action against the [<sup>F8</sup>compensation authority], that authority shall, on the prescribed conditions having been complied with, pay in the prescribed manner the amount of such compensation out of [<sup>F8</sup>the police fund, and shall also pay out of the said fund], all costs and expenses payable by them in or incidental to the execution of this Act; . . . <sup>F9</sup>

- (2) ..... **F10**
- (3) ..... **F11**
- (4) ..... **F12**

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**Annotations:**

**Amendments (Textual)**

- F8** Words substituted by [Police Act 1964 \(c. 48\)](#), [Sch. 9](#)
- F9** Words repealed by [Police Act 1964 \(c. 48\)](#), [Sch. 10 Pt. I](#)
- F10** [S. 5\(2\)](#) repealed by [Police Act 1964 \(c. 48\)](#), [Sch. 10 Pt. I](#)
- F11** [S. 5\(3\)](#) repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)
- F12** [S. 5\(4\)](#) repealed by [Police Act 1964 \(c. 48\)](#), [Sch. 10 Pt. I](#)

**6 Application of Act to wreck and machinery.**

This Act shall apply—

- (a) ..... **F13**
- (b) in the case of the injury or destruction, by persons riotously and tumultuously assembled together, of any machinery, whether fixed or movable, prepared for or employed in any manufacture, or agriculture, or any branch thereof, or of any erection or fixture about or belonging to such machinery, or of any steam engine or other engine for sinking, draining, or working any mine or quarry, or of any staith or erection used in conducting the business of any mine or quarry, or of any bridge, waggon-way, or trunk for conveying minerals or other product from any mine or quarry;

in like manner as if such . . . <sup>F14</sup> injury or destruction were an injury, stealing, or destruction in respect of which compensation is payable under the foregoing provisions of this Act . . .

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**Annotations:**

**Amendments (Textual)**

- F13** [S. 6\(a\)](#) repealed by [Merchant Shipping Act 1894 \(c. 60\)](#), [Sch. 22](#)
- F14** Words repealed by [Merchant Shipping Act 1894 \(c. 60\)](#), [Sch. 22](#)

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**7 As to claimants in the case of churches, public institutions, &c.**

For the purposes of this Act—

- (a) where a church or chapel has been injured or destroyed, or any property therein has been injured, stolen, or destroyed, the churchwardens or chapelwardens, if any, or, if there are none, the persons having the management of such church or chapel, or chapel, or the persons in whom the legal estate in the same is vested; and
- (b) Where a school, hospital, public institution, or public building, has been injured or destroyed, or any property therein has been injured, stolen, or destroyed, the persons having the control of such school, hospital, institution, or building, or the persons in whom the legal estate in the same is vested;

shall be deemed to be the persons who have sustained loss from such injury, stealing, or destruction, and claims may be made by any one or more of such persons in relation both to the building and to the property therein, and payment to any such claimant shall discharge the liability of the [F15 compensation authority] to pay compensation, but shall be without prejudice to the right of any person to recover the compensation from such payee.

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**Annotations:**

**Amendments (Textual)**

F15 Words substituted by [Police Act 1964 \(c. 48\)](#), [Sch. 9](#)

**8** ..... F16

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**Annotations:**

**Amendments (Textual)**

F16 [S. 8](#) repealed by [Police Act 1964 \(c. 48\)](#), [Sch. 10 Pt. I](#)

**9 Definitions.**

In this Act, unless the context otherwise requires—

The expression “person” includes a body of persons, corporate or unincorporate:

The expression “ [F17 police area]” [F18] and the expression “police fund” have the same meaning as in [F17 the Police Act 1996] and the expression “compensation authority” means—

F19 (a) .....

F20 (b) .....

(c) in relation to [F17 any F21 . . . police area], the police authority.]

The expression “house, shop, or building” includes any premises appurtenant to the same:

F22 . . .

..... F23

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**Annotations:**

**Amendments (Textual)**

- F17** Words in s. 9 substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), Sch. 7 Pt. II para. 11
- F18** Words substituted by Police Act 1964 (c. 48), Sch. 9
- F19** S. 9: para. (a) in definition of "compensation authority" repealed (1.4.1995) by 1994 c. 29, s. 93, Sch. 9 Pt. I; S.I. 1994/3262, art. 4(1), Sch.
- F20** S. 9: para. (b) in definition of "compensation authority" repealed (3.7.2000) by 1999 c. 29, s. 423, Sch. 34 Pt. VII; S.I. 2000/1648, art. 2, Sch.(with Sch. 12 para. 9(1))
- F21** S. 9: word in para. (c) in definition of "compensation authority" repealed (3.7.2000) by 1999 c. 29, s. 423, Sch. 34 Pt. VII; S.I. 2000/1648, art. 2, Sch.(with Sch. 12 para. 9(1))
- F22** Definition in s. 9 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. I Group 1
- F23** Definition of "Secretary of State" repealed by Statute Law Revision Act 1898 (c. 22)

<sup>F24</sup>10 .....

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**Annotations:**

**Amendments (Textual)**

- F24** S. 10 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. I Group 1

**11 Extent of Act.**

This Act shall not extend to Scotland or Ireland.

## Written Ministerial Statement

The Home Secretary has commissioned an independent review of the Riot (Damages) Act 1886. This will be led by Neil Kinghan and is expected to conclude by the end of September 2013.

The review will examine the existing criteria which determine when compensation is payable under the Riot (Damages) Act. This includes looking at key issues involving the definition of a riot, who should be liable and what level of entitlement should be afforded under the Act.

## Terms of Reference

- Review the existing criteria which determine when compensation is payable under the Act and provide an analysis of the impact of alternative options.
- Review the current liability arrangement under the Act placed on Police and Crime Commissioners (formerly Police Authorities) ensuring that the impact of any proposed legislative change on the key parties involved is rigorously analysed:
  - a) Police and Crime Commissioners (formerly Police Authorities), addressing specifically the changed legal status and relationship with the force and local area that Police and Crime Commissioners have;
  - b) Insurance Industry;
  - c) Government; and
  - d) Residents and businesses who claim compensation.
- Provide analysis of options for maintaining the Act, reforming the Act or repealing the Act and replacing it with alternative arrangements – whilst ensuring that these:
  - a) Protect the most vulnerable.
  - b) Do not encourage a greater number of people to not take out insurance.
  - c) Take account of affordability from the public purse.
- Provide an independent view on the claims handling process from the August 2011 riots and, if appropriate, recommend changes to be implemented in the event of any future widespread rioting.

## Annex C

### People met in the course of the review

This annex lists all the people I met in the course of my review, in one-to-one meetings, in group meetings and public meetings and on walkabouts in the riot-affected areas.

I am very grateful to all those who have given me their time and their thoughts in the course of my review. I am also very grateful for the first-class support I have had from Warren Hallett and Paul Rhodes of the Home Office, who organised and recorded my meetings very effectively throughout my review.

### Residents, businesses and community groups

#### London – Croydon

Trevor Reeves	House of Reeves, Croydon
Dale Rosario	Local resident, Croydon
Bushra Ahmed	Local resident and business-owner, Croydon
K Paramanathan	JK Gold & Fashion House, Croydon
Mumtaz Hassan	Owns a dry-cleaning business
Abdul Waheed	Business-owner, Croydon
Mohammad Baig	Business-owner, Croydon
Mical	Local resident, Croydon
Fabion	Local resident, Croydon
Sadie Campbell	Local resident, Croydon

#### London – Ealing

Mr and Mrs Khurmy	SPAR, Ealing
Polka Rastovic	Crispin Wine Bar, Ealing
Adrian Mills	Thai Tho, Ealing
Mr and Mrs Mortimer	EG Ward, Ealing
Mr and Mrs Peace	Electric Coffee Co., Ealing
Michael Rajczak	Business owner, Ealing
Maciej Roiewski	Business owner Ealing
Aftad Hussain	Green Mango Café, Ealing
Mohammad Khan	Ealing Cobblers, Ealing

Lydia D Mulinde	Divine Jewellery, Ealing
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### London – Enfield

Mark Rudling	Enfield Business & Retailers Association
Erdal Mehmet	Chair, Enfield Town Business Association / G Mantella Jewellers
Chris Theodoulou	Marie Clare Salon, Enfield
Paul Cooper	Fast Signs, Enfield
Mr Shah	Pharmacy, Enfield

### London – Hackney

Mr Chawla	Owns a business in Mare Street, Hackney
Nicola Benjamin	Local resident, Hackney
Ms Lola	Local resident, Hackney

### London – Tottenham (Haringey)

Herman Irish	Paralegal training organisation, Tottenham
Steven Moore	Paradise Gems, Tottenham
Peter and Helen Phelan	The Ship (pub), Tottenham
Amir Golesokni	Electronic Centre, Tottenham
Niche Mpala Mufwankolo	Pride of Tottenham (pub), Tottenham
Moaz Nanjuwany	Chair, Tottenham Traders Partnership
Derek Lewis	Tottenham Trading Partnership member
Matthew and Rachel Ho	Tottenham Trading Partnership members
Christine Patterson	Tottenham Trading Partnership member
Mark Panton	Tottenham Trading Partnership member
Patrick Smillie	Tottenham Trading Partnership member
Ed Spring	Tottenham Trading Partnership member
Tracy Tempest	Tottenham Trading Partnership member
Mehmet and Kazim Kilic	Tottenham Trading Partnership members
Mr Amir	Tottenham Trading Partnership member
Lia-Clera Gomez	Tottenham Trading Partnership member
Sukhie Dhillon	Tottenham Trading Partnership member
Nick and Alex Olikeri	Tottenham Trading Partnership members

Mr Jamie	Tottenham Trading Partnership member
David Sims	Tottenham Trading Partnership member
Janet Cooke	Tottenham Trading Partnership member
Haylee Kirnon	Tottenham Trading Partnership member
Nickey Price	Tottenham Trading Partnership member
Ali Tut	Tottenham Trading Partnership member
Bob Sullivan	Tottenham Trading Partnership member
C Uyanneh	Tottenham Trading Partnership member
Joyce Rosser	Tottenham Trading Partnership member

### London – Walworth (Southwark)

Patrick Blunt	Business Extra, Walworth
Richard Rees	Local resident, Walworth
Sophie Barnes	Southwark News

### London – Wandsworth

Scott Thwaytes	ShopStop, Clapham Junction
Antony Laban	Lavender Hill Traders Association
Alex Leigh	McDonalds, Clapham Junction

### Birmingham

Pritesh Pattni	Total Service Station, Birmingham
Gary Chantrey	Trident Housing Association, Birmingham

### Liverpool

Farhad Ahmed	Director, Muslim Enterprise Development, Toxteth, Merseyside
Mr Mashun	Project Co-ordinator, Muslim Enterprise Development, Toxteth, Merseyside
Abdul Ahmed	Merseyside Yemeni Community Association
Paul Chapman	Liverpool Vision
Moe Ahmed	Broadsters, Toxteth
Carol Hassabella	Hair By Carol Hasaballa, Toxteth

## Manchester

Neil Mutter	Alfred E. Mutter Limited, Jewellers & Pawnbrokers, Manchester
Victoria Gill	Pretty Green, Manchester
Lori Soule	Diesel, Manchester
Ian Kinsella	Bang & Olufsen, Manchester
Vaughan Allen	Chief Executive, City Co, Manchester
Duncan Turner	Maintenance Services Manager, University of Manchester
Paul Greenlees	University Security Staff, University of Manchester

## Salford

Mrs Sathwilkar	RMS Technologies, Salford
Debbie Illingworth	Praxis, Managing Agent of Salford Shopping City
Arif Abuji	Superpound, Salford
Assistant Manager (name unknown)	Lloyds Pharmacy
Assistant Manager (name unknown)	Favourite Spot
Mr Newman	Market Hall, Salford

## Council Members and Officers

### London Borough of Croydon Council

Councillor Mike Fisher	Leader of the Council
Councillor Steve O'Connell	Kenley Ward, Croydon
Councillor Donna Gray	Bensham Manor Ward, Croydon
Councillor Stuart Collins	Broad Green Ward, Croydon
Nathan Elvery	Chief Executive
Nick Watson	Regeneration Manager

### London Borough of Ealing Council

Councillor Julian Bell	Leader of the Council
Keith Townsend	Director of Environment Customer Services

Keith Fraser	Head of Scrutiny and Committees
Chris Begley	Former Acting Head of Civil Protection
Lemuel Dickie-Johnson	Economic Regeneration Project Officer
Mathieu Rogers	Economic Regeneration Project Manager

### London Borough of Enfield Council

Rob Leak	Chief Executive
Paul Walker	Assistant Director, Planning & Economic Development
Asmat Hussain	Assistant Director, Legal Services
Richard Tyler	Assistant Director, Finance
Steve Hodgson	Assistant Director, Community Safety
Judy Flight	Head of Business & Economic Development

### London Royal Borough of Greenwich

Mary Ney (written submission)	Chief Executive
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### London Borough of Hackney Council

Ian Lewis	Deputy Chief Executive
Andrew Sissons	Head of Regeneration Delivery
Councillor Ben Hayhurst	Hackney Central Ward, Hackney

### London Borough of Haringey Council

Councillor Claire Kober	Leader of the Council
Councillor Pauline Gibson	Noel Park Ward, Haringey
Nick Walkley	Chief Executive
Bill Guy	Chair of Tottenham Green Ward
Patrick Jones	Tottenham Regeneration Programme Team
Gemma Aked	Tottenham Town Centre Growth Manager
Diane McCormack	Council Officer
Sabina McGing	Council Officer

### London Borough of Southwark Council

Jonathon Toy	Head of Community Safety and Enforcement
Elaine Gunn	Strategy and Partnerships Team

### London Borough of Wandsworth Council

Councillor James Cousins	Shaftesbury Ward, Wandsworth
Stewart Low	Community Safety Officer
Lorinda Freint	Clapham Junction Town Centre Manager
Kevin Power	Operational Services Officer
Sharon Wright	Waste Management Officer
John Ruske	Business Support Officer
Nick Smales	Economic Development Officer

### London Assembly

John Biggs	Chair of the Budget and Performance Committee
Steve Wright	Scrutiny Manager
William Robert	Budget and Performance Advisor
Ross Jardine	Project Officer

### London Councils

John O'Brien	Chief Executive
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### Birmingham City Council

Dr Mashuq Ally	Assistant Director, Equalities / Human Resources
Nigel Godfrey	Planning and Regeneration
Trudi Maybury	Community Safety Partnership
Mariola Smallman	Birmingham Resilience Team

### Liverpool City Council

Councillor Steve Mundy	Cabinet Member for Neighbourhoods
Ged Fitzgerald	Chief Executive

Colleen Martin	Assistant Director - Supporting Communities
Tim Povall	Head of Finance
Jeanette McLoughlin	City Solicitor
Joanna Konieczna	Council Officer
Christine Williams	Council Officer
Jill Summers	Council Officer

### Wirral Borough Council

David Ball	Acting Head of Strategic Development and Regeneration
Councillor Brian Kenny	Birkenhead and Tranmere Ward
Councillor Jean Stapleton	Birkenhead and Tranmere Ward

### Manchester City Council

Julie Price	Head of Revenues, Benefits and Shared Services
Jessica Bowles	Head of City Policy
Lisa Richards	Corporate Insurance Manager
Angela Whitehead	City Centre Delivery Manager
Lucy Kennon	Council Officer

### Salford City Council

Ruth Shields	Business Customer Liaison Officer
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## Police & Crime Commissioners, Chief Constables and Officers

### The Mayor's Office for Policing and Crime

Stephen Greenhalgh	Deputy Mayor for Policing and Crime
Martin Tunstall	Private Secretary for Deputy Mayor for Policing and Crime
Annabel Cowell	Head of Strategic Finance and Resource Management
Bob Atkins	Former Chief Finance Officer

### Metropolitan Police Service

Craig Mackey	Deputy Commissioner
Hugh Giles	Director, Legal Services
Franca Oliffe	Head of Legal Services
Niall Brannigan	Senior Lawyer, Legal Services
David Musker	Borough Commander of Croydon
Sandra Looby	OCU Commander for the Palace of Westminster (Former Borough Commander of Haringey)

### Greater Manchester

Russell Bernstein	Chief Executive, Office of Police and Crime Commissioner
Alison Connelly	Head of Governance and Policy, OPCC
Marie Richardson	Strategic Support Officer, OPCC
Sgt Nick Young	Greater Manchester Police

### Merseyside

Jane Kennedy	Police and Crime Commissioner
Jon Murphy	Chief Constable, Merseyside Police
Ian Evans	Chief Executive, Office of Police and Crime Commissioner
John Riley	Chief Finance Officer, OPCC
Caroline Ashcroft	Force Solicitor, Merseyside Police

### Surrey Police

Lynne Owens	Chief Constable, formerly Assistant Commissioner, Metropolitan Police
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### West Midlands

Bob Jones	Police and Crime Commissioner
Chris Sims	Chief Constable, West Midlands Police
Mike Williams	Chief Finance Officer, OPCC

### Insurance, financial services and private sector organisations

Sir William Castell	Chairman, The Wellcome Trust
Kay Horne	Former Business Connector, BITC for Tottenham
Aidan Kerr	Head of Property and Health Insurance, Association of British Insurers
James Dalton	Head of Motor and Liability, Association of British Insurers
Mark Shepherd	Policy Adviser on Property, Association of British Insurers
Tony Boorman	Deputy Chief Ombudsman, Financial Ombudsman Service
Mark Neale	Chief Executive, Financial Services Compensation Scheme
Emma Glover	Chief Executive Associate, Financial Services Compensation Scheme
Ted Boucher	Insurance Adviser, Financial Services Compensation Scheme
Karl Jefferies	Insurance Manager, Financial Services Compensation Scheme
Andrew Homewood	Director, Non Marine, Charles Taylor Adjusting
Malcolm Hyde	Executive Director, Chartered Institute of Loss Adjustors
Stephanie Pollitt	Senior Policy Advisor, British Property Federation
Suzanne Kearney	Head of Liability, Davies Group
Mike Still	Managing Director, UK and Ireland, Marsh
Steve Atkins	Chief Executive, Pool Re
Trevor Marley	Head of Underwriting, P&C Treaty, Swiss Re Services Limited
Nicola Stacey	Head of UK Property Underwriting, Swiss Re Services Limited
Mark Henderson	Director, Business Improvement, Cunningham Lindsey UK
David Damsell	Head of Corporate and Major Incident Team, Crawford & Company Adjustors (UK) Limited

Graham Trudgill	Executive Director, British Insurance Brokers Association
David Meur	Genavco Insurance Limited , British Insurance Brokers Association
Vivienne Hexter	Technical Consultant, Aon Ltd, British Insurance Brokers Association
Mike Hallam	Technical Services Manager, British Insurance Brokers Association
David Watkins	Technical Claims Manager, Allianz Insurance
Catherine Dixon	Head of Property Insurance, Allianz Insurance
Laura Sanders	Commercial Claims, LV Insurance
Rebecca Rogers	Commercial Claims, LV Insurance
Tony McMahon	RSA Insurance
John Parvin	Major Loss Property Claims Manager, Zurich Insurance
Paul Redington	Major Loss Property Claims Manager, Zurich Insurance
Ian Harvey	Head of Technical Claims, Aviva Insurance
David J Williams	Managing Director, Underwriting, AXA Insurance
Graham White	Head of Underwriting, Lloyds Banking Group - General Insurance
Irene Davies-Foo	Technical Property Class Lead, Direct Line Group

### Members of Parliament and Peers

Baroness Sherlock	Riots Communities and Victims Panel member
Steve Reed	MP for Croydon North
Angie Bray	MP for Ealing Central and Acton
Jane Ellison	MP for Battersea
David Lammy	MP for Tottenham
Daisy Goodman	David Lammy's office - caseworker
Senay Nihart	David Lammy's office - caseworker

## Government

### Home Office

Damian Green	Minister of State for Policing and Criminal Justice
Stephen Rimmer	Director General, Crime and Policing Group
Helen Kilpatrick	Director General, Financial & Commercial Group
Ziggy MacDonald	Director of Finance & Strategy
Stephen Webb	Director of Corporate Services, National Crime Agency (Former Director of Finance & Strategy)
Sarah Severn	Head of Public Order Unit
Kevin Finch	Police Funding Policy Officer
Darren Smith	Police Funding Policy Officer
Emma Waite	Strategy, Skills and Planning Policy Officer
Michael Grimwood	Police Workforce & Efficiency Policy Officer
Lucan Herberg	Senior Lawyer, Legal Advisers Branch
Lee Farrington	Former Secretariat, The Riots Communities and Victims Panel

### Department for Communities and Local Government

James Cruddas	Deputy Director, Resilience and Emergencies Management
Charlie Chappell	Head of the Strategy, Programme and Assurance Team

### Department for Business, Innovation & Skills

Stephen Webster	Assistant Director, Local Growth Policy and Delivery
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### HM Treasury

James Ashton-Bell	Catastrophe, Insurance Sector, Financial Services
Sandra Dewhurst	Catastrophe, Insurance Sector, Financial Services

Philippa Baker	Home Office Funding lead
James Milton	Home Office Funding lead

**Cabinet Office (Civil Contingencies Secretariat)**

Peter Tallantire	Head of the Readiness and Response Team
Nick Brown	Recovery Workstream Manager

**Department of Justice Northern Ireland (Compensation Services)**

Marcella McKnight	Head of Compensation Services
Paul Bullick	Compensation Services Officer
Adrienne Finney	Compensation Services Officer



