

Criminal Justice and Courts Bill

New Offence of Police Corruption (clause 25)

Background

1. Clause 25 makes it an offence for a police officer to exercise the powers and privileges of a constable in a way which is corrupt or otherwise improper. It supplements the existing common law offence of misconduct in public office.
2. On 6 March 2014, the Home Secretary made a statement to the House of Commons, setting out the findings of the Stephen Lawrence Independent Review, conducted by Mark Ellison QC. The Review found, amongst other things, that there had been allegations of corruption against officers involved in the investigation of the murder of Stephen Lawrence, and that these allegations had not been investigated thoroughly.

Case for change

3. Having considered the serious issues raised by Mark Ellison QC's Review, the Home Secretary went on in her statement to say:

“The current law on police corruption relies on the outdated common-law offence of misconduct in public office. It is untenable that we should be relying on such a legal basis to deal with serious issues of corruption in modern policing, so I shall table amendments to the Criminal Justice and Courts Bill to introduce a new offence of police corruption, supplementing the existing offence of misconduct in public office and focusing clearly on those who hold police powers.” [Hansard, 6 March 2014, Column 1065]
4. While the overwhelming majority of police officers act honestly and with integrity, the Government believes that the small minority of officers who act in a way which falls short of these standards must be made subject to the full force of the criminal law. The British public have every right to expect police officers, as the guardians of the law and the Queen's Peace, to conduct themselves to a higher standard than other public servants.
5. If police officers fail to conduct themselves to those high standards, it is right that we should seek to uphold that higher standard by means of the criminal law. We believe that the best way to do this is to create a new offence of police corruption, solely applicable to police officers, to sit alongside the existing, broader, common law offence. This will serve the dual purposes of punishing appropriately those who act corruptly and of deterring those who might consider such acts in the future.

The new offence

6. The new offence carves out of the existing common law offence of misconduct in public office cases where a police constable exercises his or her powers or privileges for either their own benefit or to the benefit or detriment of someone else, and that a reasonable person would not expect the power or privilege to be exercised for the purpose of achieving that benefit or detriment.
7. The definition of police constable for the purposes of the new offence includes officers of the 43 territorial police forces in England and Wales, including special constables, as well as officers of the British Transport Police, Ministry of Defence Police and Civil Nuclear Constabulary. The definition also includes officers of the National Crime Agency who have been designated as having the powers and privileges of a constable.
8. The offence extends to the whole of the UK and its territorial waters, but does not apply to officers of Police Scotland or the Police Service of Northern Ireland. In addition, it will not apply to officers of the National Crime Agency exercising police powers in Northern Ireland unless the Northern Ireland Assembly agrees to grant those officers the powers and privileges of a constable in Northern Ireland.
9. The offence is triable only on indictment, i.e. in the Crown Court (Sheriff Court or High Court in Scotland) and has a maximum penalty of 14 years' imprisonment, an unlimited fine, or both.

Parliamentary Progress

10. The offence was included in the Bill by way of amendment at Report Stage in the House of Commons on 17 June 2014. The offence was considered in Lords Committee and stood part of the Bill on 14 July; consideration at Lords Report is scheduled for 20 October.
11. The Justice Committee of the Scottish Parliament recommended on 7 October that the whole Parliament should agree to the Legislative Consent Motion tabled by the Scottish Government to extend the offence to NCA officers designated with police powers in Scotland. The legislative consent of the Northern Ireland Assembly is not required because of the requirement set out in the Bill for the Assembly to consent after Royal Assent to the application of the offence to NCA officers in Northern Ireland with police powers.