

Policing and Crime Bill

Overview of the Bill

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1. In the last Parliament, the previous Government brought about major changes to policing to introduce greater accountability and transparency (through directly elected Police and Crime Commissioners (PCCs), an enhanced Independent Police Complaints Commission (IPCC) and strengthened inspectorate); increased capabilities (through the creation of the National Crime Agency (NCA)) and professionalism (through the establishment of the College of Policing); and a relentless focus on cutting crime (which is down by more than a quarter since 2010).
2. The Government was elected with a manifesto commitment to “finish the job of police reform”. The Policing and Crime Bill will support the transformation of policing and the fire service by:
 - Driving efficiency and better value for money by facilitating closer collaboration between the police, fire and rescue and emergency ambulance services, and maximising the ability of chief officers to make best use of the police officers, police staff and volunteers in their workforce.
 - Enhancing local accountability of the fire and rescue service by enabling directly elected PCCs to on take the functions and duties of fire and rescue authorities, and further to delegate fire functions to a single chief officer for police and fire, where a local case is made.
 - Strengthening public confidence and trust in the police by radically reforming and simplifying the police complaints and disciplinary systems, including by providing for an enhanced role for PCCs and the IPCC and greater protection for police whistle-blowers.
 - Ensuring the police and other law enforcement agencies have the powers they need to prevent and detect crime and protect children and young people from sexual exploitation.
 - Strengthening the protections for those under investigation by the police by ensuring that there is a proper balance between the rights of individuals and the need to protect the wider public.
 - Ensuring that those experiencing a mental health crisis receive the help they need, and that police cells are only used as places of safety in exceptional circumstances.
 - Reforming firearms and alcohol licensing laws to better protect the public by preventing criminals and terrorists from exploiting loopholes in the Firearms Acts and strengthening the ability of licensing authorities to take action against alcohol driven crime and disorder.
3. The key provisions in the Bill are set out below.

Part 1: Emergency Services Collaboration

Chapters 1 to 3: Collaboration Agreements, PCC-style FRAs and London Fire Commissioner

4. Chapters 1 to 3 of Part 1 of the Bill supports the implementation of the Government's manifesto commitment to "enable fire and police services to work more closely together and develop the role of our elected and accountable Police and Crime Commissioners". The provisions:
 - a) Introduce a duty to collaborate on the police, fire and rescue and emergency ambulance services, where doing so would improve their efficiency or effectiveness.
 - b) Enable PCCs to take on the functions and duties of fire and rescue authorities (FRAs), where a local case is made ("the governance model").
 - c) Further enable PCCs who take on the responsibilities of an FRA and mayors of combined authorities who exercise both police and fire functions to delegate fire and rescue functions to a single chief officer for police and fire, where a local case is made ("the single employer model").
 - d) In areas where a PCC has not become responsible for fire and rescue, enabling them to have representation on their local FRA with voting rights, where the FRA agrees; and
 - e) Abolish the London Fire and Emergency Planning Authority and give the Mayor of London direct responsibility for the fire and rescue service in London, with operational responsibility for the service being vested in the London Fire Commissioner.

Chapter 4: Inspection of fire and rescue services

5. The Government is committed to establishing a rigorous and independent inspection regime for fire and rescue in England. These provisions will strengthen the existing (currently dormant) inspection framework provided for in the Fire and Rescue Services Act 2004 ("the 2004 Act")
6. The 2004 Act will be amended to enable fire inspectors to enter premises, obtain information, and undertake joint inspections with HM Inspectors of Constabulary. These provisions will put beyond doubt the powers of inspectors to access the information they need to undertake a robust examination of fire and rescue services including, if necessary, without services' consent.
7. There is also provision for the Home Secretary to appoint a chief fire and rescue inspector for England, approve a framework of inspection and require inspectors to publish the reports of their inspections as well as an annual report to Parliament.
8. The provisions in Part 1 will apply to England only.

Part 2: Police discipline, complaints and inspection

Chapters 1 to 4: Police complaints, super-complaints, whistle-blowing and discipline

9. Chapters 1 to 4 of Part 2 of the Bill give effect to the Government's commitment to "overhaul the police complaints system". The key provisions:
- a) Strengthen PCCs' oversight role of the local complaints system, giving them an explicit responsibility for ensuring the effective and efficient delivery of the local police complaints system, and making PCCs the appellate body for those appeals currently heard by chief constables.
 - b) Enable PCCs to take on other functions within the complaints system, giving them the option of taking on responsibility for the front-end of the complaints system and responsibility for all duties regarding contact with the complainant.
 - c) Clarify the definition of a complaint – currently defined in section 12 of the Police Reform Act 2002 as 'any complaint about the conduct of a person serving with the police' – to one that defines a police complaint broadly as 'an expression of dissatisfaction with a force'.
 - d) Retain and clarify the focus on immediate resolution of customer-service issues where appropriate, before such issues become complaints.
 - e) Remove the non-recording categories (such as vexatious and out of time complaints) so that any issue that is not possible to resolve immediately or that the complainant wants recording, is recorded.
 - f) Remove the opaque categorisation for handling complaints – local resolution, local investigation, disapplication, discontinuance – and replacing this with statutory duties based on taking "reasonable and proportionate" action to resolve a complaint.
 - g) Streamline the complex appeal process so that there is one appeal point at the outcome of the complaint.
 - h) Extend the disciplinary regime to former officers where an allegation arose before they resigned or retired, or arose within a period of time following their resignation or retirement.
 - i) Create a statutory framework for the College of Policing to receive, hold, make available and, in some circumstances, publish details from a "police barred list" of former members of police forces, former special constables and former members of the civilian staff of police forces who have been dismissed or who would have been dismissed had they not resigned or retired.
 - j) Allow for regulations to be made to require the IPCC to investigate all chief officer misconduct allegations (including gross misconduct).

- k) Protect the identity of a whistle-blower by allowing the IPCC to control who in a police force is notified of an independent investigation and obtain information and evidence confidentially from those individuals (to enable covert investigations).
- l) Introduce a system of super-complaints to capture national or cross-force issues that are not otherwise captured by the existing complaints system, IPCC investigations or HMIC inspections.

Chapter 5: IPCC: re-naming and organisational change

10. Chapter 5 provides for a range of measures which will reform the structure and governance of the IPCC. These include:

- a) Creating a single executive head of the organisation - the Director General.
- b) Ensuring there is a clear division of roles and responsibilities between the Director General, non-executive members and executive members.
- c) Ensuring there is clarity on the respective roles of individuals in senior decision-making and governance positions. Under the new model, the Director General will have ultimate responsibility for decision-making on casework, he or she will manage the organisation, and will be its Accounting Officer. The non-executive members will play no role in individual casework decisions.
- d) The Office (in effect the board of the Office for Police Conduct) will consist of the Director General and at least six other members. Its functions will include ensuring that appropriate arrangements are in place to secure good governance and financial management of the organisation, and providing support and advice to the Director General in the exercise of his or her functions.
- e) Renaming the IPCC to the Office for Police Conduct (OPC). The corporate body of the OPC will be known as the Office.

Chapter 6: Inspection

11. Chapter 6 strengthens the role and independence of Her Majesty's Inspectorate of Constabulary (HMIC), by:

- a) Extending HMIC's remit to enable it to inspect private contractors and PCCs' staff who are engaged to support the police force and are delivering policing functions.

- b) Conferring on HMIC powers to acquire information from third parties and access to relevant people and premises.
- c) Enabling HM Chief Inspector of Constabulary (HMCIC) to initiate inspections that have not been included in the published inspection programme.
- d) Transferring the power to appoint Assistant Inspectors of Constabulary from the Home Secretary to HMCIC.
- e) Introducing a requirement on PCCs to respond to HMIC reports within 56 days, address each recommendation in a report, and copy the Inspectorate into their response.

12. The provisions in Part 2 largely apply to England and Wales only.

Part 3: Police workforce and representative institutions

Chapter 1: Police workforce

13. This Chapter introduces a number of reforms relating to the police workforce. The provisions:

- a) Enable chief officers to designate a wider range of power on police staff and volunteers.
- b) Create a list of 'core' police powers, such as the power of arrest, that would remain exclusive to police officers.
- c) Abolish the office of traffic warden under the Road Traffic Acts.
- d) Allow the Home Secretary, in conjunction with the College of Policing, to amend the police rank structure by regulations.

Chapter 2: Representative institutions

14. Chapter 2 implements reforms of Police Federation for England and Wales recommended by the Normington Review. The provisions:

- a) Enshrine in statute the Police Federation's new core purpose which reflects the organisation's commitment to act in the public interest alongside its accountability to its members.
- b) Make the Police Federation subject to the Freedom of Information Act 2000.

15. In addition, this Chapter removes references in statute to the now-defunct Association of Chief Police Officers and replaces them with references to the

National Police Chiefs' Council (for example, in respect of provisions requiring the Home Secretary to consult specified persons before making regulations about certain policing matters).

16. The provisions in Part 3 apply to England and Wales only.

Part 4: Police powers

Chapter 1: Pre-charge bail

17. Chapter 1 reforms pre-charge bail including by:

- a) Providing for a presumption in favour of releasing a suspect without bail, with bail only being imposed when it is both necessary and proportionate.
- b) Setting a clear expectation that pre-charge bail should not last longer than 28 days, extendable to three months on the authority of a senior police officer in complex cases. In exceptional circumstances, the police will have to apply to a magistrates' court for an extension beyond three months.
- c) Providing that, in exceptionally complex cases, that is those dealt with by the Serious Fraud Office, the Central Casework Units of the Crown Prosecution Service and the Financial Conduct Authority, it will be possible to extend bail administratively to a total of six months before seeking the approval of the courts.

18. To ensure that there is an effective sanction against terrorist suspects who seek to flee the UK, clauses 67 and 68 create a new offence of breach of pre-charge bail conditions related to travel. This will apply where a person arrested on suspicion of committing a relevant terrorism offence is then released on pre-charge bail and subsequently breaches conditions of that bail aimed at preventing them from leaving, or attempting to leave, the UK.

Chapter 2: Retention of biometric material

19. Chapter 2 of Part 4 makes changes to the Police and Criminal Evidence Act 1984 (PACE) and the Terrorism Act 2000 with regards to the retention of DNA and fingerprints.

20. Clause 69 will allow DNA and fingerprints taken under the provisions in PACE to be retained on the basis of convictions outside of England and Wales in the same way as for convictions in England and Wales. These powers can only be applied in cases where the conviction elsewhere is also an offence in England and Wales.

21. Clause 70 makes similar provision in respect of persons arrested under section 41 of, or detained under Schedule 7 to, the Terrorism Act 2000.

Chapter 3: Powers under the Police and Criminal Evidence Act 1984

22. Chapter 2 makes a number of amendments to PACE, including to:

- a) Ensure that 17-year-olds are treated as children for all purpose whilst in police custody.
- b) Allow the police to make greater use of video-link technology, including when interviewing suspects and authorising the continued detention of a suspect for up to 36 hours.
- c) Enable more timely revisions to PACE codes of practice to better equip the police in their daily operational duties.

Chapter 4: Powers under the Mental Health Act 1983 (“the 1983 Act”)

23. This Chapter amends the police powers under sections 135 and 136 of the 1983 Act in respect of persons who are experiencing mental health problems, but have committed no crime; it will:

- a) Further reduce the use of police stations as a place of safety by providing that they can never be used in the case of under 18s, and making provision for their use to be restricted to exceptional circumstances in the case of adults.
- b) Provide a wider definition of “places of safety” to help increase local capacity and flexibility to respond to local needs.
- c) Enable the police to act promptly under the 1983 Act to protect individuals or the public from harm on private property (such as railway lines, work places and the rooftops of buildings), without the need to seek a warrant (a warrant will still be required for private dwellings).
- d) Reduce the maximum time period for which a person can be detained under section 135 or 136 from 72 hours to 24 hours (with the possibility of an extension to 36 hours in certain specified circumstances).
- e) Require the police to consult a health professional (where practicable) before detaining a person under section 136.
- f) Ensure that assessments can be conducted in private dwellings where these are designated as places of safety.
- g) Enable the police to conduct protective searches of a person subject to removal under section 135 or 136 to ensure they do not present an immediate danger to themselves or others.

Chapters 5 and 6: Maritime enforcement

24. Chapters 5 and 6 build on the maritime enforcement powers available to the police and others in respect of drug trafficking and modern slavery offences committed at sea, by providing the police, National Crime Agency and Border Force with the necessary powers to investigate all crimes that take place on vessels where the courts in England and Wales or Scotland have jurisdiction. This will include powers to stop, board, divert, detain and search vessels, and powers of arrest and seizure.

Chapter 7: Cross-border enforcement

25. Chapter 7 of Part 4 makes changes to Part 10 of the Criminal Justice and Public Order Act 1994 (“the 1994 Act”) which makes provision for powers of cross-border arrest.

26. The provisions:

- a) close a gap in the cross-border arrest powers to ensure that a person who commits an offence in one UK jurisdiction and is then found in another UK jurisdiction can be arrested without a warrant by an officer from the jurisdiction in which the person is found;
- b) provides for ancillary powers for police officers in England and Wales and Northern Ireland to enter a property in which a suspect is located in order to affect an arrest under sections 136 and 137 of the 1994 Act;
- c) update Part 10 of the 1994 Act to reflect changes to PACE and the Police and Criminal Evidence (Northern Ireland) Order 1989.

27. The provisions in Part 4 largely apply to England and Wales only, with some exceptions: clauses 67 and 68 of Chapter 1 apply to England and Wales and Northern Ireland, clause 70 in Chapter 2 and the provisions in Chapter 7 apply to the whole of the UK, while Chapter 6 applies primarily to Scotland.

Part 5: Police and Crime Commissioners and police areas

28. Part 5 extends the term of office of Deputy PCCs so that, in the event of a PCC vacancy occurring (through death or resignation), their term automatically ends upon a new PCC taking office rather than, as now, upon the former PCC ceasing to hold office. This will enable a Deputy PCC to be appointed, by the Police and Crime Panel, as the Acting PCC pending the outcome of a by-election.

29. This Part also enables the Home Secretary to change the name of a police force area outside London by regulations.

30. These provisions apply to England and Wales only.

Part 6: Firearms

31. Part 6 amends the Firearms Acts, including to implement recommendations made by the Law Commission; the amendments:

- a) Define what constitutes a “lethal barrelled weapon”, an “antique firearm” and the “component parts” of a firearm.
- b) Create a new offence of possession of articles with intent to use them to unlawfully convert an imitation firearm into a live firing weapon.
- c) Make it an offence to transfer, sell or gift within the European Union, the ownership of a deactivated firearm that does not comply with EU deactivation standards.
- d) Make provision for the charging of fees for an authorisation to possess prohibited weapons.
- e) Confer power on the Home Secretary to issue statutory guidance to chief officers of police on the exercise of their licensing functions under the Firearms Acts.

32. These provisions apply to England and Wales, and Scotland.

Part 7: Alcohol: licensing

33. Part 7 makes various amendments to the Licensing Act 2003 to:

- a) Clarify the definition of “alcohol” to ensure that it includes powdered and vaporised alcohol.
- b) Clarify the summary review process following serious crime or serious disorder at licensed premises.
- c) Give licensing authorities the power to revoke or suspend personal licences if the licensee is convicted of a relevant offence.
- d) Update the list of offences, a conviction for which may be grounds to refuse or revoke a personal licence, including additional sexual, violent and terrorism-related offences.

34. These provisions apply to England and Wales only.

Part 8: Financial sanctions

35. Part 8 strengthens the arrangements for implementing and enforcing EU, UN and other financial sanctions. The provisions:

- a) Increase the maximum penalty for breaches of financial sanctions from two to seven years' imprisonment.
- b) Introduce a framework for administrative monetary penalties for breaches of financial sanctions where action short of prosecution is appropriate.
- c) Include breaches of financial sanctions in the list of offences to which Deferred Prosecution Agreements and Serious Crime Prevention Orders apply.
- d) Ensures that the UK meets its UN obligations by implementing UN-mandated sanctions without delay.

36. These provisions generally apply to the whole of the UK.

Part 9: Miscellaneous and general

National Crime Agency powers

37. Part 9 makes two changes to the legislation governing the NCA to reflect experience of the first two years of operation. First, it enables the NCA to enter into a collaboration agreement with one or more police forces, rather than, as now, two or more such forces. Second, it enables the Director General of the NCA and NCA officers to be designated with the powers of a general customs official as well as, as now, the powers of a constable, immigration officer and an officer of Revenue and Customs. This will ensure that NCA officers can be designated with any new powers relating to customs matters necessary to fulfil their crime reduction function, including combating drug trafficking and the smuggling of firearms or other prohibited goods. The NCA operates on a UK-wide basis.

Requirement to confirm nationality

38. In addition, Part 9 facilitates the early identification of foreign nationals by conferring on the police and immigration officers in England, Wales and Northern Ireland the power to require a person to provide their nationality following arrest and to require suspected foreign nationals to produce their nationality document(s). The courts in England and Wales will also have a statutory power to require defendants in criminal proceedings to provide to the court their name, date of birth and nationality. A failure to comply with these requirements, without reasonable excuse, will be an offence. Identifying foreign national offenders early, including by obtaining relevant documents such as passports, is crucial to speeding up removal at a later stage.

Seizure etc. of travel documents

39. To disrupt the travel plans of would-be foreign fighters, Part 9 also extends existing powers to search for and seize a cancelled passports and other travel documents. Police and immigration officers will be able to search for and seize an invalid foreign travel document in-country, in the same way they can currently search for and seize cancelled British and foreign travel documents at a port and cancelled British passports in-country.
40. Police officers (but not immigration officers) will also have powers to enter premises for the purpose of searching for a cancelled foreign travel document or a British passport cancelled using the Royal Prerogative public interest criteria, in relation to national security.
41. These provisions will apply to the whole of the UK.

Forced marriage: anonymity for victims

42. Part 9 further makes provision for victims of forced marriage to be granted lifelong anonymity. These provisions are similar to those introduced for victims of Female Genital Mutilation in the Serious Crime Act 2015.
43. Forced marriage is predominantly an abuse which takes place within the family/community and as a result, we know that victims can be reluctant to report this crime to the police or to give evidence in court. At present, victims of forced marriage may be granted anonymity in certain circumstances and at the discretion of the court. A guarantee of anonymity would encourage more victims to come forward and would increase referrals to the Crown Prosecution Service, ultimately ensuring that more perpetrators are brought to justice.
44. These provisions will apply to England and Wales only.

Protection of children and vulnerable adults: child sexual exploitation

45. Part 9 also amends the Sexual Offences Act 2003 to ensure that the behaviour surrounding the live streaming, or transmission by any other means of images of child sexual abuse (as well as recorded images) is caught by the offences of causing or inciting child sexual exploitation, controlling a child in relation to his or her sexual exploitation, and arranging or facilitating the sexual exploitation of a child. This provision applies to England and Wales only.

Protection of children and vulnerable adults: licensing functions under taxi and PHV legislation

46. As a result of a series of child sexual exploitation cases linked closely to taxi and private hire vehicle (PHVs) drivers, Part 9 puts enables the Secretary of State for Transport to issue statutory guidance to local taxi and PHV licensing authorities in relation to the safeguarding of children and vulnerable adults.

47. Local licensing authorities will be under a duty to have regard to the statutory guidance when undertaking their taxi and PHV licensing functions.

**Home Office
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