

Title: Policing and Crime Bill – Overarching Impact Assessment IA No: HO0227 Lead department or agency: Home Office Other departments or agencies: HM Treasury Ministry of Justice Department for Transport	
	Date: 09/06 /2016
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
	Contact for enquiries: Lucy Lowton 0207 035 1837 lucy.lowton@homeoffice.gsi.gov.uk

Summary: Intervention and Options **RPC Opinion:** N/A

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
Not Quantified	N/Q	N/Q	Yes NA

What is the problem under consideration? Why is government intervention necessary?
The Policing and Crime Bill brings together provisions to support the Government’s manifesto commitments to “finish the job of police reform”, to “enable fire and police services to work more closely together and develop the role of our elected and accountable Police and Crime Commissioners” and to “overhaul the police complaints system”.
Where appropriate, individual impact assessments have been prepared for the main provisions within the Bill. These impact assessments provide greater detail on each problem under consideration, why intervention is necessary and the impact of each provision.

What are the policy objectives and the intended effects?
The Bill will contribute to the implementation of key policy commitments (see Evidence Base page 3 for the full list). The purpose of the Bill is to further improve the efficiency and effectiveness of police forces, including through closer collaboration with other emergency services; enhance the democratic accountability of police forces and fire and rescue services; build public confidence in policing; strengthen the protections for persons under investigation by, or who come into contact with, the police; ensure that the police and other law enforcement agencies have the powers they need to prevent, detect and investigate crime; and further safeguard children and vulnerable adults from sexual exploitation.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
Option 1 – Do nothing. Retain current position.
Option 2 – Introduce the Policing and Crime Bill which will reform policing to improve efficiency and effectiveness, public safety and enhance the protection of the vulnerable.
Option 2 is the preferred option.
(NB: In the normal way, the provisions of the Bill will be subject to post-legislative review, which will take place 3 to 5 years after Royal Assent.)

Will the policy be reviewed? It will be reviewed. If applicable, set review date: -					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO₂ equivalent change in greenhouse gas emissions? (Million tonnes CO₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs

Signed by the responsible Minister: Mike Penning **Date:** 09/06/2016

Summary: Analysis & Evidence

Policy Option 2

Description: *Introduce the Policing and Crime Bill*

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/Q
COSTS (£m)		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)
Low					
High					
Best Estimate		N/Q	N/Q		N/Q
<p>Description and scale of key monetised costs by ‘main affected groups’</p> <p>Monetised costs are detailed in individual impact assessments and presented in the evidence base below, total costs are not presented here. In summary, the Bill will mainly impact on the public sector – primarily the police and policing bodies; the criminal justice system including the courts service and Legal Aid Agency; and the Department of Health. A large number of the provisions introduce enabling powers (e.g. Emergency Services Collaboration, reforming powers of police staff and volunteers, changes to PACE to enable greater use of video link technology), for which it is expected that any resultant costs will only be incurred if these are outweighed by the benefits.</p>					
<p>Other key non-monetised costs by ‘main affected groups’</p> <p>A number of public bodies will be required to make administrative changes in relation to provisions in the Bill. These non-monetised costs are also detailed in individual impact assessments. Changes to the fees for section 5 firearms licensing will also impact on prohibited weapons licence holders such as registered firearms dealers, museums and gun clubs.</p>					
BENEFITS (£m)		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant		Total Benefit (Present Value)
Low		Optional	Optional		Optional
High		Optional	Optional		Optional
Best Estimate					
<p>Description and scale of key monetised benefits by ‘main affected groups’</p> <p>Full details of the key monetised benefits are detailed in individual impact assessments. There will be benefits to the police and policing bodies, the Home Office (and, in relation to firearms fees, the Scottish Government and Police Scotland). Alcohol premises licence holders will benefit from a more proportionate summary review process.</p>					
<p>Other key non-monetised benefits by ‘main affected groups’</p> <p>Non-monetised benefits by main affected groups are detailed in the individual impact assessments. Workforce reforms will enable chief constables to deploy their workforce more flexibly. There will be benefits to the emergency services from greater opportunities to collaborate. Firearms licence holders will benefit from greater certainty and consistency of the licence application process. The public will benefit from greater transparency and accountability through police integrity reforms.</p>					
Key assumptions/sensitivities/risks				Discount rate	3.5%
<p>The monetised and non-monetised costs and benefits are based on the key assumptions outlined in the individual impact assessments which contain a breakdown of the costs and benefits in further detail. The net present value of each policy, where estimated, is presented in Table 1 below. These have not been totalled because of the different approaches taken to assess the impacts of each policy, many of which are not monetised. A total figure would not accurately represent the impacts nor all of the caveats to the individual figures and is likely to mislead.</p>					

BUSINESS ASSESSMENT

Direct impact on business (Equivalent Annual) £m:			In scope of BIT?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	Yes, but assessed in separate IAs.	N/A

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

Background and rationale

The Policing and Crime Bill brings together provisions to support the Government's manifesto commitments to "finish the job of police reform", to "enable fire and police services to work more closely together and develop the role of our elected and accountable Police and Crime Commissioners" and to "overhaul the police complaints system". The provisions of the Bill are intended to deliver the following outcomes:

1. improving the efficiency and effectiveness of police forces, including through closer collaboration with other emergency services and maximising the use of technology;
2. strengthening the transparency and accountability of policing bodies and fire and rescue services;
3. ensuring that chief constables have the necessary flexibility to structure and manage their workforce to maximise operational efficiency and effectiveness;
4. ensuring that the police and other law enforcement agencies have the necessary powers to do their job effectively;
5. enhancing the protections for vulnerable persons who come into contact with the police and the rights of those subject to prolonged investigations;
6. improving the effectiveness of the alcohol licensing regime and strengthening firearms legislation to safeguard against criminal exploitation;
7. ensuring financial sanctions are properly enforced; and
8. strengthening the criminal law to further safeguard children and vulnerable adults from sexual exploitation.

Proposed measures

This overarching impact assessment has been developed to provide an overview of the main provisions of the Bill. The Bill will achieve the above listed priorities through:

- Placing a "duty of collaboration" between the three emergency services, giving police and crime commissioners (PCCs) the power to take over governance of a Fire and Rescue Authority, and allowing police and fire services to come together as one employer (Outcome 1);
- Strengthening the current inspection powers under the Fire and Rescue Services Act 2004 (Outcome 2);
- Reforming the police disciplinary and complaints systems, including changes to the Independent Police Complaints Commission (IPCC),

stronger roles for PCCs, and stronger protections for police whistle-blowers (Outcome 2);

- Extending the powers and remit of Her Majesty's Inspectorate of Constabulary (HMIC), including a power to acquire information from third parties and remit over contractors and PCC staff (Outcome 2);
- Reforming the powers of police staff and volunteers, allowing chief officers to designate them with all the powers of a constable save for certain reserved powers (Outcome 3);
- Police rank structure – removing the list of ranks from primary legislation, while retaining references to the ranks of constable and chief constable (Outcome 3);
- Updating the core purpose of the Police Federation for England and Wales and making it subject to the Freedom of Information Act 2000 (Outcome 2);
- National Police Chiefs' Council – replacing statutory references to ACPO (Outcome 2);
- Reforming pre-charge bail – providing for a presumption to release without bail, and initially limiting it to 28 days (Outcome 4);
- Introducing a new offence of breach of pre-charge bail conditions relating to travel where a person has been arrested for certain terrorist offences; (Outcome 4);
- Amending police powers so that DNA profiles and fingerprints can be retained from those convicted outside England and Wales, in the same way that as they can currently be retained from those convicted in England and Wales (Outcome 4);
- Changes to PACE to ensure that 17-year-olds are treated as children (Outcome 5);
- Changes to the Police and Criminal Evidence Act 1984 (PACE) to enable greater use of video link technology (Outcome 4);
- Waiver of duty to consult on certain changes to PACE Codes of Practice (Outcome 4);
- Amendments to police powers under the Mental Health Act 1983 in respect of persons experiencing a mental health crisis, including banning the use of police cells for the emergency detention of under-18s and reducing the maximum period of detention (Outcome 5);
- Extending of police enforcement powers on vessels operating at sea (Outcome 4);
- Closing a gap in cross-border powers of arrest so that a person who commits an offence in one UK jurisdiction and is then found in another jurisdiction can be arrested without a warrant by an officer from the jurisdiction in which the person is found (Outcome 4);
- Changes to the terms of office of Deputy PCCs to enable them to be eligible for appointment as an acting PCC in the event of the office of PCC falling vacant mid-term (Outcome 2);
- Enabling the name of a police area in England and Wales to be amended by way of regulations (Outcome 2);
- Firearms: fees for prohibited weapons licensing; strengthening legislation to safeguard against exploitation of the firearms licensing system by criminals; statutory guidance (Outcome 6);

- Alcohol licensing – powdered alcohol; clarifications to summary review process; changes to forfeiture/suspension of personal licences (Outcome 6);
- Strengthening penalties for breach of financial sanctions, including introduction of monetary penalties (Outcome 7);
- National Crime Agency (NCA) – to enable the NCA to enter into a collaboration agreement with one other policing body (rather than two other bodies, as now) (Outcome 1); and a fourth designation for NCA officers (powers of a general customs official) (Outcome 4);
- Strengthening powers to help with the early identification of foreign nationals in the criminal justice process (Outcome 4)
- Extension of powers to seize cancelled British passports in-country to cover foreign passports and other travel documents (Outcome 4);
- Confer lifelong anonymity on victims of forced marriage (Outcome 5);
- Child protection – closing a loophole so that live-streaming of child sexual abuse has the same punishments as recorded images (Outcome 8);
- Conferring a power on the Secretary of State for Transport to issue statutory guidance to public authorities on their taxi and private hire vehicle licensing functions in relation to safeguarding and the protection of children and vulnerable individuals (Outcome 8);
- Amending the Police Reform Act 2002 to reflect the definition of anti-social behaviour introduced by section 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (Outcome 4); and
- Restoring littering powers of Scottish local authorities under sections 92, 93 and 94 of the Environmental Protection Act 1990 (Outcome 4).

Other impact assessments

This document contains a consideration of the problem under consideration, rationale for intervention, policy objectives and impacts for all of the Bill's main provisions. Some of the provisions listed above have little or no direct financial implications and therefore require no standalone impact assessment. For those provisions with significant financial implications or that have an impact on business, individual impact assessments (summarised in this document) have been published alongside the Bill for:

- Reforms to bail before charge;
- Changes to the police disciplinary system;
- Changes to the police complaints system;
- Amendments to police powers under the Mental Health Act 1983;
- Firearms legislation;
- Firearms – fees;
- Alcohol licensing – powdered alcohol; and
- Alcohol licensing – changes to the summary review process.

Where estimated, the net present values from these impact assessments are presented in Table 1. A total net present value for the Bill has not been calculated as many of the measures only have non-monetised costs and

benefits, and also there are a number of caveats to the costs and benefits presented below which would not be reflected in an overall figure for the Bill.

Policy	Estimated Net Present Value (over 10 years, £m)	Non-monetised costs	Non-monetised benefits
Emergency Services Collaboration	N/A	Powers are enabling so impose no direct costs	Will enable joint working to achieve better value for money
Powers for fire inspection	N/A	Powers are enabling; costs to be worked up as detail of inspection regime is developed	Potential cost savings from shared good practice and continuous improvement. Greater transparency for public.
Reform of the Complaints system	67.5	Administrative costs of reforms to IPCC and to Home Office.	Potential savings to police from more effective resolution. Increased public confidence in the system
Reform of the Discipline System	-0.04	Small loss of productivity from officers who choose to resign/retire while under investigation. Travel costs to regionally-held appeal proceedings.	Ensures officers dismissed for serious misconduct are not able to join another force. Increased public confidence in the system
Reform corporate structure and governance of IPCC	N/A	Some one-off transitional costs relating to recruitment, branding and a period of 'dual running' of the existing and new structure.	Improved oversight of the police complaints system and increased efficiency of decision-making
Extend remit and powers of HMIC	N/A	Costs expected to be negligible. Small administration cost to police contractors/PCC staff in responding to HMIC requests for information.	Greater transparency to ensure public has accurate information, including PCC responses to inspection reports
Powers of police staff	N/A	No direct costs as	More flexible

and volunteers		powers are enabling. Forces may incur costs of training (and uniforms) for staff and volunteers.	workforce enabling chief officers to deploy their people more effectively.
Putting police rank structure in regulations	N/A	No direct costs.	Will enable early implementation of recommendations from College of Policing's review of rank structure.
Enshrine core purpose of Police Federation in legislation and subject it to FOI Act	N/A	Administration costs in responding to FOI requests. Costs expected to be minimal.	Increased accountability of Police Federation to its members and enhances ability to act in the public interest.
Replace statutory references to ACPO with NPCC	N/A	N/A	N/A
Reform pre-charge bail	-152.7	N/A	Increased accountability and scrutiny of pre-charge bail process and, if charging decisions are made earlier, reduced bail times.
Offence of breaching bail conditions relating to travel for certain terrorism offences	N/A	Additional costs to criminal justice system expected to be small.	Deterrent effect will help to reduce flight risk of suspected terrorists.
Put retention of DNA profiles and fingerprints on the basis of convictions outside England and Wales on the same basis as convictions in England and Wales	N/A	Could lead to some increase in the number of prosecutions, though this is not expected to be substantial	More rapid and effective identification of offenders because their DNA and fingerprints are held; improved public protection and reduction of further offending; reduce costs of re-sampling and re-fingerprinting required by existing legislation.
Changes to PACE to ensure that 17-year olds are treated as children	N/A	Costs for a guardian of 17-year olds in local authority care (e.g. a social worker)	Improved welfare of 17-year olds in custody

		to provide consent	
Changes to PACE to enable use of video-link technology	N/A	N/A	Savings of superintendent travel time and costs
Waiver of duty to consult on certain changes to PACE Codes of Practice	N/A	N/A	Will save a small amount of administrative time and enable Codes to be updated in a more timely manner
Amend police powers under Mental Health Act 1983	-80.4	N/A	Improved wellbeing for those detained under sections 135 and 136, enabling them to get the treatment they need as quickly as possible
Extend police powers in the maritime environment	N/A	Operational costs of using the powers in law enforcement activity – it is expected that forces will work with the existing resources they have	More effective law enforcement for offences committed at sea
Cross-border enforcement	N/A	The force making the arrest may include small additional cost of detaining suspect.	More effective law enforcement and saving of police time across UK jurisdictions.
Amend terms of office of deputy PCCs	N/A	Altering deputy PCC term of office will directly affect the deputy, and the Office of PCC, which bears the cost of employing them.	Greater continuity while a by-election is held
Enabling names of Police Areas to be changed by regulation	N/A	Associated costs of changes to branding (eg logos, insignia, websites, letterheads etc)	Better recognition of the community served by the force and PCC.
Firearms – strengthening legislation	N/A	Could lead to increased prosecutions and associated costs to criminal justice system.	Reduction in economic and social costs of homicides and injuries from criminal use of firearms.
Firearms – fees for prohibited weapons	0	N/A	New online application system

(section 5) licences			will make it quicker and easier to apply
Firearms – statutory guidance	N/A	No significant costs anticipated as guidance will clarify existing processes rather than create new ones.	Greater certainty for licence holders regarding the process and assessment criteria. Greater clarity for forces around the process.
Alcohol – ensure powdered alcohol is regulated under the Licensing Act 2003	N/A	Likely to affect a very small number of businesses (who wish to sell powdered alcohol and not any other alcohol products). Licence fees are set on a cost-recovery basis.	Clarity regarding the regulation of powdered alcohol
Alcohol – changes to summary reviews process	TBC	TBC	TBC
Alcohol – further amendments to the 2003 Act	N/A	N/A	Better enforcement of the licensing system
Stronger enforcement regime for breach Financial Sanctions – and reducing the time to their implementation	N/A	Could lead to additional costs to criminal justice system but a significant increase in prosecutions is not expected.	Stronger penalties increases likelihood of improved compliance
NCA – amend definition of collaboration agreement and extend powers that may be conferred on NCA officers.	N/A	N/A	Increased opportunities to enter collaboration agreements; NCA officers better enabled to fulfil their role.
Powers to enable early identification of foreign nationals in the criminal justice process	N/A	Additional costs to criminal justice system expected to be minimal.	Increased opportunities to identify and remove Foreign National Offenders earlier in the process
Power to seize cancelled foreign travel documents	N/A	Police and Immigration Officer time in searching for and retaining documents. Additional costs to	Increased disruption of “foreign fighters” travel plans leading to fewer individuals travelling to conflict zones to fight or

		criminal justice system expected to be minimal.	receive terrorist training.
Anonymity for victims of forced marriage	N/A	Could lead to increased number of cases; additional costs to criminal justice system expected to be small.	Improved support for victims, more effective law enforcement
Statutory guidance related to safeguarding for taxi/PHV licensing	N/A	Costs expected to be minimal as statutory guidance should help to clarify existing arrangements and share best practice.	Reduced risk of harm to children and vulnerable adults; greater clarity for local authorities.
Amend definition of sexual exploitation so that it covers live-streaming, as well as recorded images	N/A	Additional costs to criminal justice system expected to be minimal.	Increased clarity in the law – could save court time if cases concluded more quickly.
Amending Police Reform Act 2002 to reflect new definition of anti-social behaviour	N/A	N/A	N/A
Littering powers for Scottish authorities	N/A	N/A	N/A

Table 1: Note that these figures are subject to assumptions and caveats which can be found in the individual impact assessments.

PART 1: EMERGENCY SERVICES COLLABORATION

The problem

Closer working between the emergency services can achieve better value for money for the taxpayer and more effective services. While there are some good examples of joint working around the country, the picture is patchy and there is considerable scope for doing more.

Sir Ken Knight's 2013 review of the fire and rescue service [*Facing the Future: Findings from the review of efficiencies and operations in fire and rescue authorities in England*](#) stated that “merging fire and rescue services with one or more of the other blue light services and/or sharing governance structures” could result in considerable gains. He highlighted that “if all authorities spending more than the average reduced their expenditure to the average, savings could amount to £196 million a year”. He stated that PCCs “could clarify accountability arrangements and ensure more direct visibility to the electorate” and he raised the prospect of PCCs taking on responsibility for fire and rescue services.

The Government wishes to enable greater collaboration and to enable local leaders to deliver more joined-up, efficient and effective services for local communities.

Rationale for intervention

Although there are good examples around the country of collaborative working between the emergency services, it is patchy and inconsistent. The Government believes closer working between the emergency services must become standard practice to deliver a more efficient and effective service for the public, and that the emergency services should be accountable to the communities they serve.

In September 2015, the Government consulted on a range of proposals to enable closer working between the emergency services. The response to the consultation was published in January 2016. Legislation is needed as current legislation does not provide for any of the measures outlined below to enable closer joint working.

Proposal

The Government was elected on a 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 Government’s goal is to improve the services the public receive through closer joint-working across all three emergency services.

The Government is taking forward legislation to:

- introduce a duty on all three emergency services to collaborate in the interests of efficiency and effectiveness;
- enable PCCs to take over the responsibilities of fire and rescue authorities, where a local case is made;
- where a PCC takes on the responsibilities of a fire and rescue authority, further enabling him or her to create a single employer for both police and fire staff;
- in areas where a PCC has not become responsible for fire and rescue services, enabling them to have representation on their local fire and rescue authority; and
- abolish the London Fire and Emergency Planning Authority and give the Mayor of London direct responsibility for the fire and rescue service in London.

Impact

The measures will impact on:

- a) PCCs in England
- b) Police forces in England
- c) HMIC
- d) IPCC
- e) Fire and rescue authorities in England
- f) Fire and rescue services in England
- g) NHS trusts which provide emergency ambulance services in England
- h) NHS Foundation trusts which provide emergency ambulance services in England
- i) Mayor of London
- j) London Fire and Emergency Planning Authority
- k) Greater London Authority
- l) Elected mayors who exercise the functions of a PCC.

The measures are designed to improve the level of joint working between the emergency services and to provide more efficient and effective services for the public, including in rural areas. The scale of costs and benefits will vary locally depending on the extent of joint working already taking place in the area, transitional costs and the ambition of the proposed collaboration. The changes do not directly result in costs or benefits but enable decisions to be made locally – any such decision would be based on a local assessment of the cost-benefit and value for money case.

The 2014 Overview of Collaboration in England and Walesⁱ provides examples of the sort of savings which can be made from collaboration between the emergency services, including the following examples:

- **Northamptonshire's** Interoperability Programme is working towards bringing the police and fire and, in the longer term, the NHS ambulance service ever closer together. Their achievements to date include joint delivery of training, fleet and logistics; co-location of premises; a fully integrated Prevention and Community Protection Team from police and fire;

and a joint operations team which plans all operational activity across the three emergency services. They expect this programme of work to contribute to the police savings of £21 million and the fire service £2 million, over four years.

- In **Hampshire**, the police and fire and rescue services are developing a shared HQ, a strategic command centre, co-located stations and shared training facilities, delivering annual savings for both services of around £1 million.

In the case of PCCs taking over the responsibilities of a Fire and Rescue Authority, PCCs will be required to publish a business case, setting out the expected costs and benefits, and consult locally on it, and they will need to demonstrate to the Home Secretary that the transfer would represent value for money.

The new duty to collaborate will impact the organisations a), b), e) to h) and l) above. The cost of keeping collaborative opportunities under review will impose negligible, if any, additional costs. The duty to implement any particular collaboration proposal will apply only where all parties are agreed it would be in the interests of efficiency or effectiveness, and will not therefore impact any party adversely.

Enabling PCCs to take over the governance of a fire and rescue service, or to put in place a single employer, will impact the organisations a) to f) above. As they are enabling powers and will apply only where it is in the interests of economy, efficiency and effectiveness, they will not introduce any new burden on the emergency services. There will be transitional costs involved in moving to a new governance model (for example, changing procedures and structures; streamlining premises and property contracts; and changing senior leadership roles and governance) but these will be factored into the required local business case.

Giving PCCs representation on Fire and Rescue Authorities will impact a) and e) above. It is an enabling power and will impose no new burden.

Abolishing LFEPAs will impact i) to k) above. Reform of decision making will enable savings to be found in headquarters functions and back office savings. These will take a number of forms:

- through closer working between the GLA group on the Mayor's shared service and collaborative procurement agenda as a result of fire and rescue being brought under Mayoral control;
- through savings in central support costs which have been inflated by LFEPAs seeking to operate outside of the GLA group and in opposition to the Mayor's policies; and
- through a more general slimming down of the current LFEPAs headquarters function, which greater Mayoral influence would help bring about.

The proposals require all PCCs to prepare a business case if they wish to take on responsibility for the fire and rescue service in their area or if they wish to create a single employer. PCCs are subject to the Public Sector Equality Duty and will need to ensure that this duty is discharged in the consultation process and will have to demonstrate that their business plans for greater collaboration promote equal opportunities for all. Any evaluation of the business cases will include an assessment of the consideration given to equality issues and the impact that any proposed changes will have on particular groups in the local area.

INSPECTION OF FIRE AND RESCUE AUTHORITIES

The problem

Powers for the inspection of fire and rescue authorities are provided for in section 28 of the Fire and Rescue Services Act 2004 (“the 2004 Act”). However, the inspection framework provided for in the 2004 Act is currently dormant. (Fire and rescue authorities were previously inspected by Her Majesty’s Fire Service Inspectorate, and then by the Audit Commission. The Audit Commission’s inspection regime ended in 2011.)

Sir Ken Knight in his 2013 report ‘Facing the Future’ noted that:

‘.....the fire and rescue service is out of step with other agencies by not having an independent inspectorate. As public bodies, fire and rescue authorities are financially audited, but an inspectorate would look more widely at the operational performance and effectiveness of the service.’

The National Audit Office in 2015 commented in relation to its report ‘Financial sustainability of fire and rescue services’ that:

‘Unlike in other emergency services there is no external inspection of fire and rescue authorities. DCLG now relies on local scrutiny – from local councillors, the public, and fire chiefs themselves – to safeguard service standards and value for money. Councillors can however lack technical independent support, while a lack of standardised data on response standards makes it hard for people to compare the performance of their local fire authority with others.’

The Secretary of State has a statutory duty to assure Parliament on the standards of fire and rescue authorities, but DCLG’s evidence to support these statements is limited. DCLG is almost entirely reliant on authorities to self-certify they are in compliance with their mandated duties.’

To meet these concerns the Home Secretary announced in her speech at a Reform event on 24 May 2016 her intention of creating a robust inspection framework for fire and rescue.

Powers for inspection already exist in section 28 of the 2004 Act. These powers however are limited, and rely upon the consent of the fire and rescue authority to gain access to buildings and information. They also do not place upon the inspectorate the requirements to produce frameworks for inspection to be approved, to respond to specific requests from the Secretary of State, to produce reports, or limit sensitive publication of sensitive information obtained. They also do not reflect the changing governance of fire and rescue authorities where provisions in the Bill foresee a greater role for PCCs acting as fire and rescue authorities.

Rationale for intervention

The powers for inspection already exist, but legislative changes are needed to strengthen the existing powers to reflect the changing way in which fire and rescue authorities deliver their functions, the need for greater transparency and accountability, and the development of new governance models.

Proposal

The Bill broadens the powers available to an inspectorate and the Secretary of State. It amends section 28 of the 2004 Act, to enable the creation of a chief fire inspector, to ensure that he or she produces a framework for inspection which must be approved by the Secretary of State, exclude inspections of functions which are the proper remit of the police and crime panel, and produce reports. The changes will enable fire inspectors to work with HMIC, and provide assistance to other public bodies where necessary. They also enable the inspectors to have access to premises and information, and provide restrictions on obtaining and using certain sensitive information.

Impact

Costs

At this stage the legislative changes create powers that will enable the creation of a new inspection regime. Detailed costings and understanding of the impacts will be developed in due course as detail of the inspection regime is developed, including the most appropriate manner in which the inspections should take place and their frequency.

Benefits

These provisions will enable greater transparency, as new and more detailed information will be available to assess the performance of fire and rescue authorities, and identify their efficiency and effectiveness. This will enable individual fire and rescue authorities to improve, and other fire and rescue authorities to build on the findings, helping to identify cost savings and drive continuous improvement. Greater transparency will enable local communities, elected members, government and Parliament to assess the performance of

individual fire and rescue authorities, as well as the overall state of fire and rescue authorities in England.

PART 2: POLICE COMPLAINTS, DISCIPLINE AND INSPECTION

POLICE COMPLAINTS

The problem

In 2013/14, 72% of people were dissatisfied with how their complaint was handled (Crime Survey for England and Wales, 2013/14). It took an average of 110 working days to finalise complaint cases in 2014/15, nearly two weeks longer than the average time in 2013/14 (101 working days)¹. Police officers who are the subject of complaints also lack faith in the system, and are reluctant to engage in what they view as an adversarial process. Anecdotal evidence and the number of officers and staff using external reporting routes suggests that police whistle-blowers lack confidence in the ability of the force system to protect their identity and this therefore prevents them from reporting.

Rationale for intervention

Reform of the complaints system has not kept pace with reforms to the rest of the policing landscape. In particular, the police complaints system does not reflect changes brought about through the introduction of PCCs. The regulatory framework for the complaints system is set out in primary legislation, hence legislative changes are required to implement the proposals.

Proposal

The Government held a public consultation between December 2014 and February 2015 on reforms to the complaints system and on protections to whistleblowers. In its response to the consultation, *Improving police integrity: reforming the police complaints and disciplinary systems (12 March 2015)*, the Government announced a package of reforms. The Government also held a public consultation between December 2015 and January 2016 on reform of the organisational structure and governance of the Independent Police Complaints Commission. In publishing its response, *Reforming the IPCC: structure and governance – summary of responses and next steps (7 March 2016)*, the Government announced its intentions to take forward legislation to implement governance reforms.

¹ https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/complaints_statistics_2014_15.pdf - page 6.

The full list of changes to the police complaints and whistle-blowing systems and IPCC governance are as follows:

The changes are as follows:

- i) Structural reform of the police complaints system.** This reform will strengthen the role of directly elected PCCs in the complaints system. PCCs will be able to choose between three models: Model A - Strengthened Oversight Role and Appeals (Mandatory); Model B - Receiving and Recording (Opt-In); and Model C - Single Point of Contact (Opt-In).
- ii) Reforming the central tenets of the complaints system.** This reform includes changes to the definition of a complaint, allowing forces to resolve issues outside of the complaints system where appropriate, ending the practice of non-recording complaints and changes to streamline the system.
- iii) Introduce a system of super-complaints.** Enable super-complaints to be made by organisations about trends and patterns of aspects of policing that might be significantly harming the interests of the public or undermining public confidence.
- iv) Reform the IPCC's Modes of Investigation (MOI) framework.** This proposal will remove the option for the IPCC to carry out managed and supervised investigations and replace them with a new MOI, "IPCC-directed investigations".
- v) Extend and clarify the powers of the IPCC** - including a power of initiative enabling the IPCC to launch an investigation without a referral from the police; the power to reinvestigate; enabling the IPCC to make determinations and recommend remedies.
- vi) Protections for whistle-blowers.** Allow the IPCC to conduct investigations into police whistle-blowing reports, including carrying out covert investigations to protect information and protect the identity of the police whistle-blower through the use of non disclosure agreements.
- vii) IPCC governance.** To reform the corporate structure and governance of the IPCC and rename the organisation as the Office for Police Conduct.

Impact

Overall, these reforms are expected to result in annual average costs of £8.1m and average annual benefits of £16.5m, meaning a net benefit of an average of £8.4m per year. It has not been possible to monetise all of the measures. More detail on the costs and benefits for each measure, monetised where it has been possible to do so, is provided below. Further detail is provided in the standalone Impact Assessment for these measures.

i) Structural Reform of the Police Complaints System

Costs

PCCs will incur costs in taking direct responsibility for dealing with reviews previously dealt with by Chief Constables, estimated to be £2.4m per year. The

changes could give rise to an increase in the number of reviews, resulting in estimated costs to PCCs of £120k per year.

The changes will require PCC staff to be able to use the existing IT system used to deal with complaints, which will require the extension of the IT license. It has not been possible to quantify this cost but it is likely to be relatively small.

Benefits

There will be savings to Chief Constables from PCCs taking on many of their appeals, estimated to be £2.4m per year (i.e. a transfer of this cost from Chief Constables to PCCs). Overall the changes should improve accountability and increase public confidence in the system.

ii) Reforming the central tenets of the complaints system

Costs

As all complaints will now be recorded, there will be a cost to PCCs of dealing with additional reviews against complaint outcomes, estimated to be £850,000 per year.

Police forces may need to deal with additional complaints if improvements in the quality of the complaints system leads to more complainants. The cost of this is estimated to be £2.8 million per year.

As a result of increased confidence in the complaints system, there will be a cost to PCCs of dealing with additional reviews, estimated to be £0.8 million per year. Similarly, there will be a cost to the IPCC of dealing with an additional 300-780 reviews, we have not been able to quantify this cost as the IPCC were unable to provide an estimate of the cost of a review.

Benefits

The IPCC will no longer have to deal with non-recording appeals, estimated to create savings for them of £1.1 million per year.

By giving greater power to PCCs and by giving greater discretion to forces in deciding the most appropriate way to handle complaints, police forces will be able to resolve a great number of formal complaints more quickly and will therefore not be required to carry out as many full investigations, resulting in savings of £12.5 million per year.

Police forces will also benefit from being able to resolve issues outside of the complaints system, which is likely to cost less than resolving a formal complaint.

iii) Introduce a system of super-complaints

Costs

The cost to HMIC of administering the super-complaints system is estimated to be £150,000 per year. There will also be a cost to the Home Office of setting up

and running a super-complaints designation system. As this is a totally new system, we have no way to estimate how many bodies will apply for “designated body” status and therefore the costs to the Home Office associated with this.

Benefits

The changes should enable more effective targeting of inspections and investigations. Independent organisations will be able to put forward a complaint on behalf of people who do not typically engage with the police complaints system.

iv) Reform the IPCC’s Modes of Investigation (MOI) framework

Costs

The cost to the IPCC of carrying out directed investigations is estimated to be £0.9m per year. It is also anticipated that there will be a cost to the IPCC of carrying out an increased number of independent investigations.

Benefits

The IPCC will no longer carry out supervised and managed investigations, estimated to save them £0.5m per year.

There will also be savings to the police from the IPCC carrying out an increased number of investigations independently.

v) Extend and clarify the powers of the IPCC

Costs

At this stage it has not been possible to quantify the costs, but extending its remit and powers may lead to additional costs if the IPCC decides to investigate a wider array of matters.

Benefits

It has not been possible to quantify the benefits but the power of initiative should provide savings to the IPCC as they do not require referrals from the police and can start investigations immediately. Enabling the IPCC to make determinations and suggest remedies based on complaints is expected to reduce the number of reviews and resubmission of complaints, which will reduce administrative costs. Providing the IPCC with the power to reinvestigate without having to go to court to have its previous findings quashed will result in savings for the IPCC.

Public confidence in the system should increase due to a perception that the system is more independent and can investigate with fewer delays.

vi) Protections for whistle-blowers

Costs

There will be a resource cost to the IPCC of the decision-making process by which they decide whether or not to launch an investigation, and for preliminary enquiries once this decision has been made. However, this cost is expected to

be minimal. There may also be a cost to the IPCC of investigating additional whistle-blowing reports if confidence in the system increases.

Benefits

The police force and general public should benefit if a greater number of whistle-blowers come forward. Due to greater anonymity for whistle-blowers, there should be a reduced number of employment tribunals which come about because whistle-blowers are subsequently treated unfairly. It has not been possible to quantify the impact but (based on anecdotal feedback) it is expected that there would be less than five such investigations per year.

vii) IPCC Governance

Costs

The revised governance arrangements directly affect only a relatively small number of the most senior posts in the organisation. The total number and cost of such posts is expected to remain broadly neutral, but with a different mix of both executive and non-executive positions and of public appointments and employee positions.

There will however be a number of transitional costs associated with replacing the existing Commission with the new Director General and reformed corporate structure. These costs include: recruitment and branding, and also salary costs during a period of “dual-running” of the existing and new structure. These one-off costs are estimated at £0.6m.

Benefits

The new organisational structure and governance arrangements address identified weaknesses in the current Commission structure, and the reforms will ensure that there is a single line of responsibility and accountability in the organisation, up to the Director General. The changes are expected to improve the overall efficiency of operational decision-making including oversight of the police complaints system and the carrying out of investigations.

POLICE DISCIPLINE

The problem

The Government commissioned Major General (Retd.) Chip Chapman to conduct a full independent review of the police disciplinary system. This was published in 2014 and the full review can be found at <https://www.gov.uk/government/publications/the-police-disciplinary-system-in-england-and-wales>.

The review identified weaknesses in the current system and made a series of recommendations intended to make the disciplinary system clearer, more independent and public-focused. The Government set out its response to the

Improving Police Integrity consultation in March 2015. The Government has already taken forward a number of reforms, including the introduction of disciplinary hearings in public for the first time and (from January 2016) the introduction of legally-qualified chairs for misconduct hearings. The measures in the Bill implement further reforms to the police disciplinary system.

Rationale for intervention

The regulatory framework for current police disciplinary system is set out in primary (and secondary) legislation. The Government is committed to implementing those recommendations from the Chapman review, which requires changes to primary legislation, in order to ensure the system is effective and maintains public confidence.

Proposal

The changes are as follows:

- (i) **Extension of disciplinary powers to former officers** – allowing disciplinary proceedings to continue after an officer has left a force;
- (ii) **List of persons struck off from policing and law enforcement activity** – creating a statutory list of people barred from serving with the police and law enforcement bodies;
- (iii) **Police (Discipline) Appeals Tribunals:** (a) changing the composition of the appeal panel; and (b) introducing changes to who appoints Police Appeals Tribunals to increase flexibility and enable collaboration;
- (iv) **IPCC Disciplinary Powers:** (a) Giving the IPCC the decision making power for Misconduct Case to answer decisions; and (b) requiring the IPCC to undertake all Chief Officer investigations;
- (v) **Power for the College of Policing to issue guidance on police discipline.**

Impact

- (i) **Extension of disciplinary powers to former officers**

Costs

There may be a small increase in the volume of cases requiring investigation relating to allegations which arise in the first 12 months following retirement or resignation as this will capture individuals in circumstances, post retirement or resignation, who have not previously been covered by the regulations. However, the volumes are expected to be low and it is not anticipated that there will be a significant overall increase in cost.

There will be a cost to police officers who choose to resign/retire in terms of lost wages, estimated as a total of £4.6 million a year.

While officers who choose to resign/retire are no longer productive, most officers under investigation are placed on restricted/suspended duties, so the additional loss of productivity is likely to be small.

Benefits

Currently officers under investigation are unable to resign or retire. This proposal would allow officers under investigation to resign or retire, and the investigation would continue even if they chose to do so. Police forces will therefore no longer need to pay the salary of all officers under investigation, resulting in estimated savings of £4.6 million per year.

(ii) List of persons struck off from policing and law enforcement activity

Costs

The maintenance of the struck-off list by the College of Policing will involve some IT systems changes for the recording of different categories of officers and staff. It has not been possible to quantify these but the cost will be met from the existing College of Policing budget.

There may be a small increase in administration for forces in providing details about police staff who have been dismissed (some but not all forces do this now) but it is anticipated that this will be minimal. All police forces go through vetting procedures when recruiting new staff, therefore the requirement to consult the struck-off list will not add significant costs to individual forces or law enforcement bodies.

Benefits

Police forces will benefit by ensuring that those who have been dismissed for serious misconduct are not able to enter another police force. Making the list public will enhance transparency and public accountability.

(iii) Police (Discipline) Appeals Tribunals (PATs): (a) changing the composition of the appeal panel; and (b) introducing changes to who appoints PATs to increase flexibility and enable collaboration.

Costs

The costs of administering individual panels are not expected to change. Where forces seek to collaborate and where PAT hearings are heard at a joint or regional level, this may increase travel costs to officers for appeal proceedings.

Benefits

Introduction of lay members into the police appeals panel should improve impartiality and public confidence in the appeals process. These benefits cannot be monetised.

(iv) IPCC Disciplinary Powers

Costs

There are no additional costs arising from the IPCC determining all case to answer decisions, as it will shorten the process of decision-making following IPCC investigations.

There may be costs to the IPCC for conducting more chief officer investigations. The number is likely to be small as the IPCC already investigate the majority of such cases. Assuming an additional six cases would give rise to an additional cost of £420,000 per year.

Benefits

Assuming the costs to PCCs of carrying out these investigations are similar to the costs faced by the IPCC, then the changes will mean estimated savings to PCCs of £420,000 per year.

v) Power for the College of Policing to issue guidance on police discipline

Costs

There will be a resource requirement to the College of Policing who will now be able to produce guidance on police discipline, estimated to be £80,000 in the first year and then £40,000 each subsequent year. The College has agreed to carry this out within its existing budget.

There will be familiarisation costs to all parties involved in the disciplinary process, including IPCC, police officers and staff and Professional Standards Departments in each force.

Benefits

There will be savings to the Home Office who will no longer need to produce guidance on police discipline, estimated to be £40,000 per year.

Overall, it is estimated that these changes (i) – (v) will have a net cost of £0.04 million over 10 years. This is because most of the monetised costs and benefits represent a transfer from one group to another, except for the issuing of guidance, where the first year costs to the College of Policing are estimated to exceed the savings to the Home Office.

Non-monetised benefits from the changes include a more independent, open and transparent system with greater consistency. This is likely to help improve public confidence in the system.

Her Majesty's Inspectorate of Constabulary (HMIC)

Transparency and the availability of independent information on the performance of police forces are vital elements of the accountability system for policing, and HMIC plays a central role. By ensuring that information is

available, it enables PCCs to effectively hold chief officers to account for the performance of a force, while also ensuring the public can hold their PCC to account. There are four measures relating to HMIC in the Bill:

i) Extending HMIC's remit and powers to require information and gain access to people and premises

The problem

HMIC is charged in statute (section 54(2) of the Police Act 1996 ("the 1996 Act")) with inspecting and reporting on the efficiency and effectiveness of police forces in England and Wales. In support of this remit, HMIC has powers (set out in Schedule 4A to the 1996 Act) to require information from a chief officer and access to force premises.

In recent years however, the way that policing is delivered has changed. Many forces now work in partnership with the private sector and almost all work in partnership with other local agencies to deliver policing in their force area. Furthermore, it will in some circumstances be possible for staff working in a PCC's office to be engaged directly to support the force and deliver policing functions, for example as part of the new complaints process.

HMIC's current remit and powers risk undermining the inspectorate's ability to report on the efficiency and effectiveness of a force that has entered into arrangements with a partner, private company or the PCC to deliver policing functions.

Rationale for intervention

HMIC's remit and powers need to reflect the changing way in which policing is delivered to ensure that it remains in a position to report on the efficiency and effectiveness of forces and take account of their local arrangements.

HMIC's remit and powers are set out in the 1996 Act. As such, the only way to ensure that these keep pace with the changes in how policing is delivered is to amend the existing legislation.

Proposal

The Bill broadens the interpretation of what constitutes a police force, under section 54 of the 1996 Act, to enable the inspectorate to inspect private contractors and PCC staff who are engaged to support the police force and are delivering policing functions.

The Bill also amends Schedule 4A to the 1996 Act to give HMIC a broad power to require information from any person or organisation, and to allow the inspectorate to gain access to relevant people and premises, for the purposes of a section 54 inspection.

The Bill also clarifies that those designated as police support volunteers and community support volunteers can be treated as members of police forces for the purposes of inspection.

Impact

Costs

As part of the PEEL programme, HMIC inspect every force on three main areas (efficiency, effectiveness and legitimacy) each year. The inspectorate also undertakes a limited number of thematic inspections, which generally involve a selection of forces, and joint inspections with other justice inspectorates and Ofsted.

It is not possible to forecast accurately how often the proposed powers will be used as it will depend entirely on the local context. The extent to which forces are engaged with the private sector, or indeed other local agencies, varies significantly and covers a wide range of functions. The extent to which PCC staff are engaged directly to support the force and deliver policing functions will also vary between force areas.

For the most part, however, it is anticipated that the information that HMIC is likely to require would be the type of management information that a force would already require from these bodies. It may be, however, that HMIC require the information to be presented in a different manner.

Benefits

These provisions are intended to ensure that HMIC's inspections and reports are able to fully take account of the local context and the way in which policing is delivered in the force area. It will ensure that the public has accurate information on how the force is performing, which in turn will better enable them to hold the chief constable and PCC to account. Enabling the public to hold PCCs and chief constables to account improves public engagement and confidence in local policing by giving them a direct voice through the ballot box.

- ii) **Requiring PCCs to respond to HMIC reports within 56 days, address each recommendation and copy their responses to HMIC**

The problem

Section 55(5) of the 1996 Act requires local policing bodies to prepare comments on published HMIC reports, publish these comments and those of the chief constable as they see fit, and send a copy of these comments to the Home Secretary.

There is, however, no time limit or any specific requirements as to what the response should cover. Consequently this has meant that some responses have been significantly delayed or failed to address the full range of issues raised by the inspectorate. Furthermore, although PCCs must copy their

responses to the Home Secretary, they are able to publish their responses in such a manner as they consider appropriate. As such, PCCs' responses to HMIC reports are not always readily accessible to the inspectorate, which means that it is not always aware of concerns or issues raised by PCCs.

Rationale for intervention

These measures will bring the legislation relating to responding to HMIC reports into line with that relating to the IPCC and coroners, and include provision to ensure that HMIC receives copies of PCCs' comments.

The requirements relating to PCCs' responses to HMIC reports are set out in legislation. As such, the only way to alter those requirements is to amend the relevant legislative provisions.

Proposal

The proposed amendment to section 55 of the 1996 Act would establish a specified time limit that would require local policing bodies to publish a response within 56 days which addresses each recommendation made. The proposed changes will also require PCCs to copy their response to HMIC reports to the inspectorate.

This would bring the requirements to respond to HMIC reports into line with the requirements relating to IPCC recommendations and coroners' 'actions to prevent other deaths notices.'

Impact

Costs

The cost of these changes will be negligible. PCCs are already required to prepare comments in response to HMIC reports and copy these to the Home Secretary. The intention is simply to clarify the timescales, expectations regarding content and to add HMIC to the copy list.

As many PCC responses to HMIC reports simply consist of a letter from the PCC to the Home Secretary, plus the fact that the publication dates, and often near-final content, are known to forces and PCCs in advance, it is not considered that the new time limit will impose additional costs.

Benefits

The proposed changes will ensure that PCCs' comments on HMIC reports are made available to the public in a timely fashion and ensure that the response addresses the full range of recommendations made. Copying the inspectorate into PCCs' responses will ensure that it is able to develop a general picture of PCCs' views and, where necessary, respond accordingly.

iii) Giving Her Majesty's Chief Inspector of Constabulary (HMCIC) the power to initiate inspections

The problem

Paragraph 2 of Schedule 4A to the 1996 Act requires HMCIC to prepare an inspection programme that sets out the inspections he proposes to carry out. The inspection programme must be approved by the Home Secretary and laid before Parliament; while the 1996 Act requires that this be done 'from time to time' it is, in practice, prepared annually.

Additionally, section 54(2B) and (2BA) of the 1996 Act enables the Home Secretary to at any time require and, local policing bodies to at any time request, the inspectors of constabulary to carry out an inspection of a police force, or a particular part of the force in question, or of particular matters or activities of that force.

There is currently no statutory ability for HMCIC to initiate inspections outside of the inspection programme or without a requirement from the Home Secretary or a request from a local policing body. This hinders the inspectorate's ability to respond promptly to emerging risks and concerns in a timely fashion.

Rationale for intervention

Legislation sets out the way in which HMCIC's inspection programme is agreed and who can commission it to undertake additional inspections. In order to allow HMCIC to initiate in-year inspections it is necessary to amend the relevant legislation to ensure that any such inspections have the appropriate statutory basis.

Proposal

The proposed provision will enable HMCIC to initiate inspection activity outside of the published inspection programme. This will make it possible for the inspectorate to react with more independence and with greater urgency to emerging risks.

The proposed provision does, however, require HMCIC to consult with the relevant PCC(s) for the area(s) in question before carrying out an inspection under the new provision.

Impact

Costs

The cost of this provision is expected to be negligible. Any inspection initiated by HMCIC would be expected to be carried out within the agreed HMCIC budget for that year. For this reason it is not expected to be a frequently used power, as it would require de-prioritisation of previously agreed work and it is expected that it would be used only where unexpected critical issues have

emerged. Examples in recent years would have included the inspections on whistle-blowing and integrity.

Benefits

It is intended that the ability for HMCIC to initiate inspections outside of the agreed inspection programme will enable it to respond more rapidly to emerging issues by avoiding unnecessary bureaucracy. Furthermore, while reprioritising resources away from other inspections may represent an opportunity cost, it is expected that this will only happen where the newly identified inspection is of greater public interest than those planned. As such, this should represent an overall benefit.

iv) Transferring the power to appoint Assistant Inspectors of Constabulary to HMCIC

The problem

Section 54(1) of the 1996 Act sets out that Her Majesty's Inspectors of Constabulary (including HMCIC) are Crown appointments made on the recommendation of the Home Secretary, with the agreement of the Treasury. Section 56 of the 1996 Act allows the Home Secretary to appoint assistant inspectors of constabulary (AICs).

As AICs are not Crown appointees, the Home Secretary does not need to be involved in the appointment process.

Rationale for intervention

Transferring this responsibility to HMCIC will further reinforce the inspectorate's independence and enable it to react more swiftly to recruitment needs.

As the responsibility for appointing AICs is set out in legislation, moving the responsibility from the Home Secretary to HMCIC requires amendments to the existing legislation.

Proposal

The proposed amendment to section 54 of the 1996 Act will allow HMCIC to appoint AICs and determine their salaries with the approval of the Treasury.

HMIs and HMCIC will remain crown appointments on the recommendation of the Home Secretary and with the consent of the Treasury.

Impact

Costs

The cost of this provision is expected to be negligible.

Benefits

The proposed changes will allow HMIC to ensure that it has the appropriate resources and expertise by enabling swifter responses to recruitment needs. This will allow HMIC to respond promptly to new priorities.

PART 3: POLICE WORKFORCE AND REPRESENTATIVE INSTITUTIONS

Powers of police staff and volunteers

The problem

The police workforce is not as flexible as it could be to tackle crime in England and Wales. Currently, volunteers can either have all of the powers of the constable, as a Special Constable, or have none of the powers, as a police support volunteer. There are also unnecessary limits on the powers that police staff may exercise.

Designated police staff, including PCSOs, investigating officers and detention and escort officers, have those powers set out in Schedule 4 to the Police Reform Act 2002. PCSOs' role is primarily one of engaging with the public, but they can also have powers to issue fixed penalty notices, confiscate alcohol or tobacco from minors and detain those suspected of a range of offences for thirty minutes to await a police officer. Investigating officers have a range of powers to support a criminal investigation, such as obtaining search warrants or production orders, while detention and escort officers have the necessary powers to enable them to deal with those in police custody.

Undesignated police staff, and Police Support Volunteers, have no powers but carry out a wide range of roles in support of their force. Examples include operating CCTV control rooms, staffing police station enquiry desks, taking telephone calls from the public and carrying out public engagement and crime prevention work in schools and at local fetes and carnivals.

The current system limits the role police staff and volunteers can play in supporting their local forces to fight crime. It also means that, instead of focusing on core policing activities, a proportion of a police constable's time is spent on routine duties that could be carried out by staff or volunteers, such as taking witness statements or fingerprints for elimination. Further, the unique powers of a constable are not set out in a single clear piece of legislation.

There were 207,140 police workers in the 43 police forces on 31 March 2015². This figure includes:

- 126,818 officers (at all ranks)
- 63,719 police staff

² <https://www.gov.uk/government/publications/police-workforce-england-and-wales-31-march-2015/police-workforce-england-and-wales-31-march-2015>

- 12,331 PCSOs
- 4,254 designated officers.

In addition to the 207,140 police workers, there were 16,101 special constables in the 43 police forces on 31 March 2015.

National statistics are not collected on the number of other volunteers, but a study carried out in 2010 by the then National Policing Improvement Agency calculated the number of Police Support Volunteers (PSVs) at over 6,000 nationally, as well as over 7 million Neighbourhood Watch volunteers operating nationally.³

Rationale for intervention

Primary legislation is the only way to achieve the objective of creating a more flexible workforce by enabling chief officers to delegate their police staff and volunteers with appropriate powers.

Proposal

The Bill would amend the law to:

1. Give greater control to chief officers over the powers of their designated staff;
2. Preserve the current role of Police Community Support Officer;
3. Amalgamate the existing roles of Investigating Officer, Detention Officer and Escort Officer into a single role of Policing Support Officer;
4. Create a single list of the 'core' powers that would remain exclusive to police officers;
5. Create an order-making power for the Secretary of State to add to the list of powers which only police officers can have;
6. Enable chief officers for the first time to designate volunteers with powers, under the same suitability conditions as police staff, creating the roles of Police Community Support Volunteer and Policing Support Volunteer; and
7. Abolish the office of traffic warden.

Impact

Proposal 1: Give greater control to chief officers over the powers of their designated staff.

In the light of the pressures on the police, where forces have to consider a range of options to deal with the demands on their services, and as part of the

³ <http://www.npiadocuments.co.uk/volunteeringguidance.pdf>

wider work to reform the police, we want to give chief officers greater flexibility in the way they use their officers and staff. Enabling staff to take on a wider range of supporting roles will free up police officers to carry out their core policing role. Eliminating the current approach to designation will enable chief officers to designate their civilian staff with any of the powers of a police officer, apart from a list of 'core' powers. This will significantly support workforce flexibility and enable chief officers to make better use of civilian staff and volunteers, enabling designated staff to take on a broader range of functions in support of police officers.

Costs

The direct cost of the designation process is negligible as a proportion of the total running costs of a police force. Depending on the powers that chiefs decide to designate on their staff, there could be costs of training or additional equipment, but we would expect these to be outweighed by the enhanced flexibility of police staff rather than officers carrying out these functions. It will be a decision for chief officers.

Benefits

Enabling chief officers to designate their civilian staff with any of the powers of a police officer, apart from the list of 'core' powers set out in Schedule [j005s] to the Bill, will enhance workforce flexibility and permit chief officers to make better use of their civilian staff and volunteers, allowing them to take on a broader range of functions in support of police officers. Where chief officers choose to designate additional powers to police staff, this will consequently allow better use of police officer time too, enhancing the overall efficiency and effectiveness of a force.

This approach will therefore support the flexibility of police forces and enable chiefs to respond more nimbly and swiftly to emerging local problems. It would also signal Parliament's support and trust in the police as professionals and rightly placed to allocate powers appropriately.

It has not been possible to quantify the overall benefit of this measure as it is not possible to estimate the number of forces in which chief officers would wish to make use of this enabling power, nor the extent of uptake within each individual force. It is expected that chief officers would only choose to designate additional powers to police staff if they felt that there was a net benefit to the force of doing so.

Proposal 2: Preserve the current role of Police Community Support Officer.

There are currently 12,331 Police Community Support Officers. Increasing the powers available to PCSOs will increase their flexibility and therefore enhance the role of PCSOs.

Costs

Negligible. This is a preservation of the role of Community Support Officer and will entail no additional costs on top of current arrangements; indeed it will enhance the ability to deploy them flexibly.

Benefits

Enabling PCSOs to take on non-core policing tasks that can currently only be performed by police officers will allow police officers to focus on the tasks they are uniquely qualified to do. This is considered more fully under the other proposals.

Proposal 3: Amalgamate the existing roles of Investigating Officer, Detention Officer and Escort Officer into a single role of Policing Support Officer.

Under the Police Reform Act 2002, police staff can be designated to perform investigation, detention and escort functions, but to do this, they must be separately designated to perform each function.

Costs

Negligible

Benefits

This will simplify the legislative framework around designated police staff; where at present staff perform both detention and custody functions, they have to be designated separately. These reforms will reduce that administrative burden by allowing the necessary powers to be included in a single designation. While this will have a relatively minor impact, it is a simplification measure.

Proposal 4: Create a single list of the 'core' powers that would remain exclusive to police officers.

We will set out clearly for the first time those powers that are only available to police officers, including special constables. That list will include the most intrusive police powers that would continue to be the sole preserve of officers, such as arrest or stop and search. Chief officers would then have the flexibility to use their wider workforce more effectively by designating other powers onto staff and volunteers.

The current approach has a significant drawback that powers cannot be added except by way of primary legislation, which has happened on a number of occasions over the period since 2003. Reversing the process, so that chiefs can designate any power not expressly reserved to police officers, will avoid the need for legislation to add to the powers of designated officers. This approach will therefore support the flexibility of police forces and enable chiefs to respond more nimbly and swiftly to emerging local problems. It would also signal Parliament's support and trust in the police as professionals and rightly placed to allocate powers appropriately.

Costs

Negligible; there will be no change to the powers of police officers, so there will be no need for training or awareness measures for them.

Benefits

This reform will underline the importance of the office of the constable at the heart of policing in England and Wales.

Proposal 5: Create an order-making power for the Secretary of State to add to the list of powers which only police officers can have.

Costs

Negligible, as the power is only expected to be used infrequently.

Benefits

This will ensure any new, intrusive powers introduced are placed on the list or to respond to any future concerns over the use of any particular power.

Proposal 6: Enable chief officers for the first time to designate volunteers with powers, under the same suitability conditions as police staff, creating the roles of Police Community Support Volunteer and Policing Support Volunteer.

Costs

Lincolnshire Police force has piloted the role of the Volunteer Police Community Support Officer (VPCSO).

Based on a full course of 20 VPCSOs the cost of training is £350 per person (based on 10 days training). The cost of equipping the VPCSOs with the uniform and equipment Lincolnshire Police force has deemed appropriate is £620 per person (including Personal Protective Equipment).

At present the annual cost of maintaining a VPCSO is in the region of £158 per person. This covers travel and subsistence expense payments that might also need to be taken into consideration.

The only other major cost is the recruitment costs that most forces should be able to quantify based on the similarities with Special Constabulary recruitment.

It is important to note that these figures are indicative numbers from one police force who have piloted VPCSOs. It is not possible to cost this proposal precisely.

It has not been possible to quantify the overall costs of this measure as it is not possible to estimate the number of forces in which chief officers would wish to make use of this enabling power, nor the extent of uptake within each individual force. As with proposal 1, it is expected that chief officers would

only incur these costs if they have confidence that the benefit of enhanced efficiency or effectiveness of the force would be exceed the cost.

Benefits

Enabling volunteers to be designated in the same way as staff will give chief officers the ability to shape their workforce in the way they need to police their force areas; it will also enable individuals to volunteer for roles that potentially match their interests better where previously the community may have missed out on their services.

Volunteers will be able to carry out a wider range of tasks, freeing up police constables to focus on core policing activities. This means that police will spend more of their time on work they are paid to do, and volunteers will contribute to other police tasks at no additional cost other than the initial upfront costs of training and uniform. This approach will therefore support the flexibility of police forces and enable chiefs to respond more nimbly and swiftly to emerging local problems. It would also signal Parliament's support and trust in the police as professionals and rightly placed to allocate powers appropriately.

It has not been possible to quantify the benefits to police forces precisely. However, indicative information provided by Lincolnshire Police (the only force currently appointing Volunteer PCSOs) shows a return on investment for volunteers at £4.16 for every £1 invested in training and equipment. With expenditure being much reduced from year 2, the return on investment should increase in subsequent years.

Proposal 7: Abolish the office of traffic warden.

Parking enforcement was decriminalised in the 1990s, since when the number of traffic wardens employed by police forces, as distinct from parking enforcement officers employed by local authorities, has fallen to just 18 across the whole of England and Wales⁴.

Given the very small number of individuals designated solely as traffic wardens, who could either be re-designated as PCSOs to carry out the same duties, or could transfer to local authorities as happened in many previous cases, it would then be possible to abolish the office of traffic warden under the Road Traffic Acts.

Costs

Negligible; there are only 18 traffic wardens in England, and none in Wales; this is essentially a legislative simplification measure.

Benefits

A number of PCSOs tasked as 'Traffic PCSOs' are dual-designated as traffic wardens to enable them to direct traffic, which is a power of traffic wardens

⁴ Police Workforce Statistics, England and Wales: 31 March 2015: 10 in Sussex, 5 in Greater Manchester and one each in Hampshire, Northamptonshire and West Yorkshire.

but not of PCSOs⁵. The revised approach to designating police staff, where chief officers could designate their staff with any of the powers of a constable (except the core powers, none of which relate to traffic), will result in chiefs being able to designate their PCSOs directly with the necessary traffic direction powers, rather than needing to additionally designate them as traffic wardens. While this will have a relatively minor impact, not least because of the very small number of traffic wardens, it is a simplification measure.

POLICE RANK STRUCTURE

The problem

Presently the rank structure is set out in primary legislation (the 1996 Act) and the Police Reform and Social Responsibility Act 2011 provides that there must be at least one of each of the chief officer ranks in every police force. These arrangements inhibit the development of a more flexible and efficient workforce.

Rationale for intervention

In its leadership review published on 30 June 2015, the College of Policing recommended that the rank structure be reviewed so that it is more able to empower individuals, adapt to different situations and improve the flow of information and decision making throughout the chain of command. The review is being led by the National Police Chiefs' Council reporting to the College of Policing-led Leadership Review Oversight Group and is expected to report later in 2016.

Proposal

The Government proposes to amend legislation in order that the rank structure is set out in secondary legislation (subject to the affirmative procedure); the legislation would provide that the regulations must be prepared or approved by the College of Policing. In doing so, the ranks of constable and chief constable will continue to be provided for in primary legislation.

Impact

Amending legislation in this way will enable the College's recommendations to be implemented and provide flexibility for any future changes to the rank structure.

⁵ Sections 35 and 163, Road Traffic Act 1988, as applied by the Functions of Traffic Wardens Order 1970, as amended.

There is no direct impact from conducting the review or making this initial legislative change. The College will provide an assessment of the potential impacts of its recommendations for a new rank structure.

POLICE FEDERATION

The problem

The Police Federation for England and Wales (“the Police Federation”) represents the interests of police officers beneath the rank of superintendent (namely, constables, sergeants, inspectors and chief inspectors). Its purpose is enshrined in law in the 1996 Act.

An independent review of the Police Federation by Sir David Normington made 36 recommendations to improve its oversight and public accountability, including the adoption of a revised core purpose, which includes acting in the public interest. The Police Federation accepted all of the recommendations and publicly adopted a revised core purpose.

Rationale for intervention and proposal

The Government intends to enshrine the revised core purpose of the Police Federation in legislation and to subject the Police Federation to the Freedom of Information (FOI) Act 2000.

These legislative changes will ensure that it acts for the public good as well as the interests of its members, driving an increase in its openness, transparency and accountability.

Impact

The Police Federation has already publicly revised its core purpose, so there is no cost associated with making this legislative change. By implementing the Normington recommendations, the Police Federation has made changes to strengthen its oversight and increase the transparency of its activities to its membership, including publishing accounts on its website. These changes mean the Police Federation is well placed to carry out the obligations of a public authority under the FOI Act and it is therefore not anticipated that these obligations will pose any significant additional cost.

The non-monetised benefits will be in the increased openness and transparency of the Police Federation through the application of the FOI Act, enhancing its ability to act in the public interest and demonstrate increased accountability to its members.

NATIONAL POLICE CHIEFS' COUNCIL

The problem, rationale for intervention and proposal

Following the Independent Review of the Association of Chief Police Officers of England, Wales and Northern Ireland (ACPO) by Sir General Nick Parker, ACPO was dissolved and the National Police Chiefs' Council (NPCC) formed in its place. The Government will replace statutory references to ACPO with references to the NPCC. (Such references, for example, require the Home Secretary to consult ACPO before exercising various order- or regulation-making powers.)

Impact

There is no impact from these changes.

4: POLICE POWERS

PRE-CHARGE BAIL

The problem

A number of recent high-profile cases have resulted in individuals under investigation being subject to pre-charge bail for many months and even years, yet ultimately no charges being brought against them. These individuals have reported a strong feeling of injustice as a result of the lack of transparency or opportunity for representation or appeal in the process. There have also been a number of examples with damaging restrictive bail conditions imposed for a significant period of time.

Rationale for intervention

The proposals were announced by the Home Secretary on 23 March 2015 in her response to the Government's consultation *Pre-Charge Bail, A Consultation on the Introduction of Statutory Time Limits and Related Changes*. This consultation was complementary to that carried out by the College of Policing on the principles of pre-charge bail management, which published its report *Response to the Consultation on the Use of Pre-Charge Bail* on 11 December 2014.

Some issues can only be addressed through legislation, including placing a limit on pre-charge bail and enabling the courts to review the duration and/or conditions of pre-charge bail.

Proposal

The changes are intended to reform pre-charge bail in order to reduce both the number of individuals subject to, and the average duration of, pre-charge bail. They include:

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

Impact

The impacts listed here are based on a limit for pre-charge bail of 28 days and the requirement for senior police authorisation if an extension up to 3 months is required. Magistrate authorisation is then required at 3-month intervals for extensions beyond 3 months. A standalone IA published alongside this Bill considers the impact of other options to reform pre-charge bail.

It is estimated that, as a result of these changes, there could be 190,000 cases reviewed by superintendents and 91,000 cases brought to a magistrate's court for extension, resulting in costs of £3.8 million annually to the police and £5.8 million annually to the criminal justice system.

There are expected to be costs to the Legal Aid Agency in providing legal aid for a proportion of these pre-charge bail hearings, with an estimated annual cost of £9.4 million.

The main benefits are increased accountability and scrutiny of the pre-charge bail process, resulting in potential benefits for suspects released on bail, who may enjoy greater certainty and, if charging decisions are made earlier, reduced bail times.

BREACH OF PRE-CHARGE BAIL CONDITIONS RELATING TO TRAVEL

The problem

The problem relates to the issue of suspected terrorists absconding from pre-charge bail. At present, while the police can impose conditions on suspected terrorists absconding on pre-charge bail, the only response available in the event that these are breached is a return to custody. There is currently no

criminal sanction specifically for pre-charge bail conditions. This is not an option where custody time limits have already been reached.

Rationale for intervention

In most circumstances, the Government would not consider a criminal sanction appropriate. But in the current security environment, individuals whose terrorist-related activity has been disrupted by arrest in the UK may be motivated to attempt to go abroad. Their travel attempt may be disrupted, but they would currently face no sanction for the attempt. For those arrested on suspicion of a terrorist offence, the police require a new offence of breaching a travel restriction condition imposed under the terms of pre-charge bail.

Although other measures have been taken to improve border security, including the re-introduction of exit checks, legislation is required to enable the police to make use of criminal sanctions that would apply when suspected terrorists breach pre-charge bail conditions by attempting to abscond from the UK.

Proposal

The proposal is to introduce a new, narrow (hence proportionate) offence to enable criminal sanctions to be specifically placed on suspected terrorists if they abscond from pre-charge bail, thereby mitigating the risk of absconds in such cases, as well as presenting a deterrent. This will provide an additional option to the police's toolkit if the suspect had been arrested under PACE 1984 but, given the number of likely cases, have a virtually negligible negative impact on the criminal justice system.

The proposed offence will carry a maximum custodial sentence of 12 months' imprisonment and/or a fine (determined by the Court). It is triable either way. This will likely take effect in early 2017.

Impact

The objectives of this policy are to ensure that those suspected of terrorism-related activity who attempt to breach pre-charge bail conditions aimed at preventing flight are punished and face the appropriate penalty for their crime, to deter future incidents and to show the public clearly that this offending behaviour will be met with an appropriate penalty.

It is intended – and important – that public confidence is maintained in the ability of UK law enforcement agencies to disrupt those suspected of involvement in terrorism related offences in a timely and proportionate manner.

Given the specific nature of the offence, additional cases to Her Majesty's Courts and Tribunals Service (HMCTS) will be very limited, estimated at no more than 10 per year (as set out below). The investigation and court process dealing with the suspected breach of bail conditions would typically

be subsumed into the more significant trial against the more serious terrorism offence under investigation while the individual was originally on bail. Were a subject to be found not guilty of the original terrorism offence, it would be atypical for a jury to opt to criminalise them, particularly if they had not been charged at the point of absconding.

The offence is not intended to apply to the totality of cases where pre-charge bail conditions are used. There are believed to be 404,000 individuals on pre-charge bail over the course of a twelve-month period.⁶ It would be disproportionate and overly costly to apply the offence in all these situations. However, with a focus on terrorism cases (specifically offences set out in section 41 of the Terrorism Act 2008) and only those cases where a risk of flight is identified, the numbers are anticipated to be low.

On average 250 individuals are arrested on suspicion of terrorism related offences per year⁷.

Of those, approximately one-third (~80 individuals) are placed on pre-charge bail, while the rest are either charged or released without charge.

These arrests covered activity ranging from planning to travel to Syria with an intention to undergo terrorism training to offences including making extremist statements online. Offences at the lower end of the scale – and the most common – may not have such conditions applied. Therefore, only a smaller proportion (approximately 40%) will have had commensurate conditions placed upon them by to prevent them from absconding from the UK (including not to leave the UK's jurisdiction and not to be in possession of travel documents). This leaves approximately 30 such cases per year.

We would expect the existence of this offence to deter suspects and there are then levels of assumptions which reduce that figure down further as follows:

1. that the conditions are breached;
2. that those who breach the conditions are successfully arrested;
3. that those remaining cases run independently of the more significant investigations (that is, not concurrently), trials (and custodial sentences, where appropriate) relating to the original terrorism offenses.

A figure of 0 – 10 cases per year is therefore expected. Therefore the costs for these rare cases would be subsumed into current Government departmental budgets.

⁶ These figures relate to all offences, not just those under the Terrorism Acts.

⁷ The average number of arrests per year, for suspected terrorism-related offences (under s.41 TACT and PACE/other) over the last 4 years (2011/12 to 2014/15) is **247**. This figure can be updated when the 2015/16 data are published in June.

RETENTION OF DNA PROFILES AND FINGERPRINTS

The problem

At present DNA profiles and fingerprints can be retained on the basis of convictions for any recordable offence in England and Wales, but can only be retained on the basis of convictions elsewhere only under restrictive conditions. These are that the conviction must be for one of a number of 'qualifying' (mainly serious sexual and violent) offences, and that the DNA and fingerprints must be taken specifically in relation to that conviction rather than it being possible to retain DNA and fingerprints taken for another purpose.

For example, A is arrested for theft, his DNA and fingerprints are taken, proceedings for that offence are dropped, but it is found he has a previous conviction for theft in England and Wales. The DNA profile and fingerprints taken for the arrest offence can be retained because of the previous conviction. For B, the same circumstances apply except that in this case he has a previous conviction outside England or Wales for theft. B's DNA profiles and fingerprints cannot be retained as theft is not a 'qualifying' offence. For C, the same circumstances apply except that he has a previous conviction outside England or Wales for rape. As this is one of the specified serious offences, the police have the power to take and retain C's DNA and fingerprints, but they cannot use the DNA profile and fingerprints taken for the arrest offence, rather they have to take a new set. Because of the time taken to get information from other states, the person will usually have been released before any convictions are known, so the police will have to decide whether to locate, re-arrest, re-sample and re-fingerprint the person, or not to exercise the power.

Rationale for intervention

The current situation both poses risks to public protection and results in unnecessary costs to the police. In cases where the police either do not have the power to retain a person's DNA and fingerprints or cannot practically exercise it because re-sampling is required, it is likely to be more difficult to link offenders to crimes they may commit in future. In cases where the police do decide to retake the DNA and fingerprints, they incur costs in locating, re-arresting, re-sampling and re-fingerprinting the person which could be avoided if they could simply retain the DNA and fingerprints already taken. The Biometrics Commissioner stated in his first Annual Report that the current position is 'an obviously unsatisfactory state of affairs which might well be putting the UK public at unnecessary risk'.

Proposal

The Bill amends PACE so that police powers to retain DNA and fingerprints on the basis of convictions outside England and Wales are put on the same basis as the powers to retain them on the basis of convictions in England and Wales.

Impact

If DNA profiles and fingerprints are retained which would otherwise have been deleted because of the limits on police powers described above, it is expected there will be some increase in the number of matches obtained to DNA and fingerprints found at crime scenes. However in the context of the total size of the DNA and fingerprint databases, the increase in matches is likely to be small.

A DNA or fingerprint match may result in an investigation and prosecution that would not otherwise have taken place, and in this respect it may result in an increase in costs. However it may also mean that an investigation and prosecution which would have taken place even in the absence of a match proceeds more quickly because a subject has been identified. Also, a DNA or fingerprint match may strengthen the prosecution's case and result in the accused pleading guilty where they would not otherwise have done so, and thus reduce the costs of prosecution. In addition, a DNA or fingerprint match may result in a conviction which results in the offender being imprisoned or deported, and thus prevented from committing further offences, and the costs of these avoided.

As stated above, at present the police cannot use DNA and fingerprints obtained on arrest where the investigation of the arrest offence is stopped, but the person has a conviction for a serious offence outside England and Wales. If the police judge that holding the person's biometrics is essential for public protection reasons, they have to search for, re-sample and re-fingerprint the person. If the proposed change is made, these search and re-sampling costs will be avoided.

CHANGES TO PACE TO ENSURE THAT 17-YEAR-OLDS ARE TREATED AS CHILDREN

The problem

Some provisions of PACE currently treat 17 year olds as adults. As a result they do not benefit from additional safeguards that apply to children. A government review of the way that 17-year-olds were treated under the provisions of PACE concluded that 17-year-olds should be treated in the same way as 10- to 16-year-olds under all of the relevant provisions.

Rationale for intervention

Changes to the law are required in order to provide legislative consistency and provide appropriate safeguards for 17-year olds while in police custody.

Proposal

The Bill amends PACE so that 17-year-olds are treated the same as 10- to 16-year-olds under all of its provisions. In particular, the amendments include:

- Ensuring an appropriate adult is present for drug sample taking;
- Ensuring appropriate consent is granted by both the 17-year-old and parent/ legal guardian for a range of interventions, including intimate searches; and
- The ability to impose conditional bail to ensure the welfare and interests of the 17-year-old.

Impact

The Criminal Justice and Courts Act 2015 provided for 17-year-olds to be transferred to overnight accommodation in local authority care instead of remaining in police custody, when charged and denied bail. (The costs associated with this change were set out in the [impact assessment for that Act.](#)) There are therefore no additional costs in terms of overnight accommodation associated with these changes.

There are costs associated with the requirement for a guardian, such as a social worker, to provide consent for 17-year-olds in local authority care. It has not been possible to quantify these costs but the number of such incidents and therefore costs are expected to be small.

The changes are designed to ensure that 17-year-olds are treated appropriately at all times. Affected 17-year-olds are likely to receive non pecuniary benefits in terms of their general welfare and mental well-being by being treated in an appropriate manner reflective of their status as children. There will also be benefits in terms of greater consistency with other legislation concerning 17-year-olds. This will also be a human rights enhancing measure.

CHANGES TO PACE TO ENABLE GREATER USE OF VIDEO LINK TECHNOLOGY

The problem

The police are required to authorise extensions of detentions and interview suspects in person. Similarly, the issue of warrants of further detention require the suspect to appear before the court in person. On occasions it may be necessary for a suspect detained at a police station in a particular force area to be interviewed by an officer who, at the time the officer wishes to proceed with the interview, is in a location a significant distance away.

These issues can cause significant delays to the investigation process and incur travel and escort costs.

Rationale for intervention and proposal

Conducting such authorisations and interviews ‘in person’ ensures that the officer can both see and hear the suspect, which can now be facilitated through technology. The Government proposes to allow the police to take advantage of video link technology in order to make better use of their time, speeding up the investigation process and making efficiencies.

The Bill amends PACE to reflect these changes in technological capability to enable:

- Suspects to be interviewed remotely (and attend applications for warrants of further detention) via video link;
- Superintendents to authorise extension of detentions remotely.

The existing safeguards applicable to the conduct and recording of ‘face to face’ interviews will be modified and extended to these cases by revisions to the PACE Codes.

Impact

Costs

There are no costs directly associated with these changes as they are designed to enable the police to take advantage of video link technology where it is already available. It is expected that forces would incur additional costs only where they deemed the benefits of the procured technology to outweigh the costs involved in buying and supporting the equipment.

Benefits

There would be savings in terms of avoiding the costs incurred by superintendents who would otherwise have to attend in person. In particular officers from rural forces can find themselves faced with significant journeys (of three, four or five hours in some cases). An estimate of the costs currently incurred by superintendents attending in person to undertake extension of detentions indicated that in one year these amounted to approximately £860,000 in the value of officer time and £138,000 in travel costs.

Hourly average cost of Chief Superintendent/Superintendent	Estimated No of chief supers/supers involved in reviewing detainees	Annual average time spent travelling to reviews (per super)	Annual total cost of time travelling to reviews
£50*	750**	23 hrs**	£860K

Estimated cost of travel, per mile	Estimated No of chief supers/supers involved in reviewing detainees	Annual average distance travelled to reviews	Annual total cost of travel to reviews
£0.40***	750**	459 miles**	£138K

[*Estimate provided by National Policing Lead for Custody. **Estimates based on data gathered via a survey of superintendent ranks, October 2014. ***Estimate based on Home Office standard mileage rate.

These figures represent an estimated maximum saving that could be achieved if all travel were avoided through the use of video-technology – around £1 million per year. The total benefit will depend on the proportion of these costs that can be avoided through the use of video-technology, which it has not been possible to quantify.

This proposal may allow some forces to reduce their overall cover commitments during anti-social hours and weekends. The requirement to travel to authorise extension of detentions is a consideration when forces assess the number of superintending ranks they need available at weekends.

WAIVER OF DUTY TO CONSULT ON CERTAIN CHANGES TO PACE CODES OF PRACTICE

The problem, rationale for intervention and proposal

The Home Secretary is obliged to issue Codes of Practice under sections 60, 60A and 66 of PACE. Section 67(4) of PACE places a duty on the Home Secretary to consult with relevant policing stakeholders before she issues a code, or any revision of a code, regardless of the nature of such revisions. This includes consequential amendments where changes to a definition made in other legislation need to be reflected in the Code. An amendment to the Bill will remove this formal requirement to consult.

Impact

There are no costs associated with the change. Removing the formal requirement to consult will save a small amount of administration time and reduce the burden on stakeholders. Another expected benefit is that it will enable the Codes to be updated in a more timely manner and to be more responsive to the operational needs of the police.

AMENDMENTS TO POLICE POWERS UNDER THE MENTAL HEALTH ACT 1983

The problem

The police have powers under sections 135 and 136 of the Mental Health Act 1983 (“the 1983 Act”) to remove a person who is believed to be suffering from a mental disorder and is in need of immediate care or control to a place of safety for the purposes of a mental health assessment. Section 135(1) warrants provide police officers with a power of entry to private premises for the purposes of removing the person to a place of safety, while section 136 is an emergency power which allows for the removal of a person who is in a public place to a place of safety.

Between March and November 2014, the Home Office and Department of Health jointly undertook a review of the operation of sections 135 and 136 of the 1983 Act, in order to improve the outcomes for people in mental health crisis who may be detained under these provisions.⁸

The review highlighted the over-use of police cells as places of safety, especially for children and young people, and there is evidence that this has a serious impact on the vulnerable people being detained, who often felt the experience was criminalising. Furthermore, there were concerns about the amount of police time and resources being taken up with dealing with people with mental health problems.

Rationale for intervention

Section 135(6) of the 1983 Act includes police stations as a place of safety for people detained under section 135 or 136. Other places of safety comprise local authority social services residential accommodation, a hospital, a care home or any other suitable place if the occupier is willing to receive the patient. The current legislation is supplemented by statutory guidance for practitioners – the Mental Health Act Code of Practice, the revision of which came into effect on 1 April 2015⁹ – that makes clear that a police station should only be used as a place of safety (for a person of any age) in ‘exceptional circumstances’.

However, there are concerns that police stations are still being used too often as a place of safety. Police data indicates that, in some areas, police stations are being used in almost 50% of section 136 cases. It is widely acknowledged by the police and their partners that police stations are used more frequently than would be expected if the Code of Practice was being followed.

In the review, practitioners widely cited a lack of available health-based places of safety as one of the main barriers to reducing the use of police cells. Health-based places of safety have often declined to admit patients on the grounds of violent behaviour, a (real or perceived) threat of violence or intoxication through drink or drugs. The Mental Health Act Code of Practice states that intoxication should not disqualify a person from being detained under section 136 or from being admitted to a health-based place of safety. Concerns have also been raised by health professionals that the police sometimes detain people under section 136 who, following a mental health assessment, are released without any further action taken. This typically happens when the decision to detain a person is not informed by the advice of a health professional.

There is no explicit definition of ‘exceptional circumstances’ in legislation, which has led to the use of police stations as the ‘fall-back’ place of safety

⁸ Review of the operation of sections 135 and 136 of the Mental Health Act 1983
<https://www.gov.uk/government/consultations/review-of-the-operation-of-sections-135-and-136-of-the-mental-health-act>

⁹ <https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

when other places of safety more appropriate to the detainee's medical needs are not available for the reasons above.

Sections 135 and 136 currently allow a person to be detained up to a maximum period of 72 hours, this was raised as a key concern in the review. Long periods of time spent in custody are widely seen as often unnecessarily adding to the patient's distress, and further criminalising them. It has been widely noted that the 72 hour maximum period is out of line with the 24 hour period allowed for detaining a person under arrest for a criminal offence. Also, the majority of EU countries with comparable mental health legislation permit detention up to a maximum of 24 hours.

Proposal

The measures provide for the following changes:

- Eliminating the use of police stations as places of safety for children and young people aged under 18 detained under section 135 or 136.
- Ensuring that police stations are only used as a place of safety for adults if the person's behaviour is so extreme they cannot otherwise be safely managed.
- Enabling police and health partners to use anywhere which is considered suitable and safe as a place of safety.
- Enabling section 136 to apply anywhere except a private home (including railway lines, private vehicles, hospital wards, rooftops of buildings, and hotel rooms). This ensures that people who are in mental health crisis can be promptly taken to a place of safety.
- Ensuring detentions under section 135 and 136 do not exceed 24 hours unless there are clinical/medical reasons for a delay, so that a person's fundamental rights are not restricted for longer than is absolutely necessary.
- Requiring the police to consult a suitable health professional prior to detaining a person under section 136 provided it is feasible and possible to do so (for example if neither the police officer nor the person is put at risk by waiting for a clinical opinion).
- Clarifying that assessment under section 135 can take place in the home.
- Introducing a police power to carry out protective searches of detainees subject to section 135 or 136(2) or (4).

Impact

Costs

Additional beds will be required to provide health-based places of safety as an alternative to police cells. It is estimated that around 33 additional beds could be required. In the first year this is estimated to cost £15.2 million, which includes one-off capital costs. In the following year the ongoing costs are estimated to be £10.1 million (then rising slightly each year to allow for population growth, reaching £10.7 million in 2025).

There are also costs to the police of remaining at the health-based place of safety while the detainee is booked in, estimated at £260,000 per year.

Reducing the maximum length of detention from 72 to 24 hours is expected to increase the number of occasions that a second health professional is called out, estimated to be a cost of £173,000 per year.

Benefits

The associated reduction in the use of police custody is estimated to save the police £930,000 per year from reduced cell use and £930,000 per year from reduced police time, representing an annual saving of approximately £1.9m per year.

The enabling power to amend the list of possible places of safety under section 135(6) so that anywhere which is considered suitable and safe can be a place of safety imposes no costs. It is assumed that any new local arrangements created as a result of the provision are done so on a local value for money basis.

Enabling section 136 to apply anywhere but a private home will enable people in crisis to get the treatment they need as quickly as possible. Further, the proposal to amend the list of possible places of safety could lead to an increased number of people detained in health-based or alternative places of safety but it has not been possible to quantify this.

Overall, there is evidence to suggest that detainment in police custody can deteriorate the mental condition and reduce the well-being of those experiencing mental health crises. The reduction in the use of police custody can therefore be expected to improve the wellbeing of those detained under sections 135 and 136.

POLICE POWERS IN THE MARITIME ENVIRONMENT

The problem

Currently, section 30 of the 1996 Act limits police jurisdiction to UK territorial waters, which is 12 nautical miles from the UK shore. This can hamper the effective disruption of criminal activity in the maritime context, where our law enforcement agencies are not always able to act when a crime has taken place on ships around the UK.

Rationale for intervention

The Modern Slavery Act 2015 enabled the police, National Crime Agency and Border Force to stop, board, investigate and take further action against certain vessels at sea that they suspect of either human trafficking; slavery, servitude, and forced or compulsory labour. However, a broader solution is needed for

situations where the Modern Slavery Act 2015 (“the 2015 Act”) would not apply.

Proposal

The measures will provide the police with the power to investigate all crimes that take place on vessels within and outside of the territorial waters of England and Wales. (Reciprocal provisions are also made for Scotland.) The changes will extend the police’s powers to cover the following:

- UK ships anywhere on the high seas (‘international waters’), in the territorial waters of another state (with permission from the relevant state), and in England and Wales and Scotland waters;
- stateless vessels in England and Wales and Scotland waters and international waters;
- foreign vessels in England and Wales and Scotland waters and international waters subject to the same authorisation requirements as in section 35(5) and (6) of the 2015 Act; and
- ships registered in the Isle of Man, any of the Channel Islands or a British overseas territory in England and Wales and Scotland waters and international waters subject to the same authorisation requirements as in section 35(5) and (6) of the 2015 Act.

Impact

Costs

The exercise of the new powers is an operational matter for the chief officer of each force – and as such there is discretion in terms of the extent of the use of the powers. The powers will enable the police to investigate serious offences that may take place from time to time on the high seas. The number each year is expected to be small and therefore costs related to this measure are not expected to be significant.

Use of the powers themselves could incur costs, in the sense that the law enforcement operation to stop, divert, board or search a vessel would incur costs. However, these powers are simply allowing law enforcement to act more effectively to pursue criminals. The police would typically be carrying on an investigation in any case and these powers would enable the police to intervene more quickly than otherwise.

It is expected that forces will continue to work with the resources they have and with partners with maritime assets (for example, Border Force) without any need to invest in new equipment.

Benefits

Being able to act effectively and swiftly for offences committed at sea may bring operations to a close sooner, thereby saving police time and resources. Failing to intervene because of inadequate powers carries non-quantifiable costs around further victimisation, and in certain circumstances could put victims' lives at risk. If these powers enable law enforcement authorities to tackle organised criminal operations more effectively, there could be wider social and economic benefits associated with any wider disruption of associated organised crime.

CROSS-BORDER ENFORCEMENT

The problem

In Part 10 of the Criminal Justice and Public Order Act 1994 ("the 1994 Act"), sections 136 to 139 set out the existing cross-border powers of arrest and supporting powers to enter and search premises within the three UK jurisdictions. Section 136 provides that, where a warrant for the arrest of a person has been issued in any of the jurisdictions of England and Wales, Northern Ireland and Scotland, the person can be arrested in any other jurisdiction by a police officer from either the jurisdiction where the offence was committed or the jurisdiction in which the person is found. Section 137 provides that a constable from one jurisdiction can, without a warrant, arrest (or in the case of Scottish constables, "detain") a person in a jurisdiction other than their own 'home' jurisdiction, if that constable has reasonable grounds for suspecting that the person has committed or attempted an offence in the constable's 'home' jurisdiction. The provisions do not, however, allow a constable in one jurisdiction to arrest a person suspected of having committed an offence in another jurisdiction where no warrant for their arrest has been issued. This means that a suspect whose immediate arrest without warrant is sought in the jurisdiction investigating the offence may evade arrest simply by crossing the boundary into another UK jurisdiction. In addition, there are currently no explicit provisions to allow police officers from England and Wales or Northern Ireland to enter and search premises to make an arrest when exercising any cross border power of arrest, with or without warrant, for offences committed in England and Wales or in Northern Ireland.

Rationale for intervention

Legislation is required to close the gaps in the current powers by extending the cross-border powers to arrest without a warrant and to provide powers to enter and search premises in the exercise of any cross-border power of arrest conferred by Part 10 of the 1994 Act in urgent cases.

Proposal

The provisions in the Bill will introduce a new power of arrest without warrant (by inserting new section 137A into the 1994 Act) to ensure that a person who commits an offence in one UK jurisdiction and is then found in another UK jurisdiction can be immediately arrested without a warrant by an officer from

the jurisdiction in which they are found and then detained to enable their transfer to the jurisdiction investigating the offence.

The new provisions also amend the existing provisions in sections 136 and 137 by including a requirement that the offence for which the suspect is arrested is an indictable offence specified in regulations made under the 1994 Act and that the suspect's arrest under the new power without delay is necessary to enable the existing powers to be exercised.

The Bill also provides for and clarifies ancillary powers for police officers from each of the three jurisdictions to enter and search premises to exercise the cross-border powers of arrest with and without a warrant. As with sections 136 and 137 of the 1994 Act, the ancillary powers that apply when arresting the person under new section 137A depend on the jurisdiction in which the offence was committed.

For any offence committed in England and Wales or in Northern Ireland, a new section 137E gives police officers from England and Wales and Northern Ireland making an arrest (with or without warrant) in Northern Ireland or England and Wales, power to enter and search premises where they have reasonable grounds to believe that the suspect is. If the arrest is under section 136 or 137, the offence must be an indictable offence or one of a small number of summary offences, if the arrest is under new section 137A, it must be a specified indictable offence. Other amendments give police officers from England and Wales or Northern Ireland making arrests (with or without warrant) in Scotland, the same powers of entry and search to make the arrest as a Scottish constable would have had if the offence had been committed in Scotland.

For offences committed in Scotland, provisions in new section 137A give police officers from England and Wales and Northern Ireland arresting a person without warrant in England and Wales or Northern Ireland, the same powers of entry and search to make the arrest as a Scottish constable would have had if making the arrest in Scotland. Sections 136 and 137 of the 1994 Act already provide that, in respect of arrests (with or without warrant) for offences committed in Scotland, an arresting officer has the same powers of entry and search in England and Wales and Northern Ireland for the purpose of a section 136 or 137 arrest as a Scottish constable would have had if executing the warrant or making the arrest in Scotland.

Impact

Extending the cross-border power of arrest without the need for a warrant and providing an explicit power of entry to effect the arrest allows the police the three UK jurisdictions to take more effective and efficient action to secure the arrest of suspected offenders who cross borders to evade arrest.

This is achieved by enabling officers from one jurisdiction to proactively support their colleagues by taking prompt action to arrest and detain suspects to enable their transfer to the jurisdiction responsible for investigating the

offence. In cases where an arrest warrant is not issued (this applies to the vast majority of serious crime investigations), it avoids the current, not uncommon, position whereby investigating officers travel to another jurisdiction only to discover that the suspect they seek is no longer available to be arrested. It will reduce the number of occasions when an individual whose arrest is urgently sought in one jurisdiction comes to notice in another jurisdiction and the police can do nothing other than inform their colleagues that the suspect they seek has been seen.

Anecdotally it is estimated that each month, there are around four or five cross-border arrests involving suspects being arrested in Scotland and brought back to England and Wales. It is not known how many unsuccessful trips are made but, anecdotally, it is not uncommon for forces to make two, or possibly three, visits before the suspect they seek is found.

The improved effectiveness and efficiency of cross-border law enforcement will provide savings for police investigations. Some additional costs would be incurred by the police in the arresting jurisdiction in making the arrest and detaining the suspect pending collection by the investigating force. However, the powers are expected to be used on a relatively small number of occasions and, after deducting the costs involved in the alternative current arrangements which still require the suspect to be detained in another jurisdiction (albeit for a shorter time) whilst transport is arranged, the *additional* costs are not expected to be significant.

In serious cases, the savings to the investigation are likely to be significant and overall, across all three jurisdictions, the expectation is that there will be savings for the police.

PART 5: POLICE AND CRIME COMMISSIONERS (PCCs)

TERM OF OFFICE OF DEPUTY PCCs

The problem and rationale for intervention

A PCC may appoint a deputy, although there is no requirement for them to do so. This has led to just over half of PCCs employing a deputy. The primary legislation currently ties the term of a deputy PCC to the term of the appointing PCC. This means that if a PCC vacancy arises mid-term (if a PCC resigns or dies) then the deputy's appointment ceases at that point. This means the deputy would no longer fulfil the necessary requirement of being a member of the PCC's office to qualify for appointment as an acting commissioner.

Furthermore, a deputy PCC who is appointed Acting PCC (following the occurrence of a vacancy in the office of PCC) is disqualified from standing for

election as PCC in a subsequent by-election under section 51 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”).

Proposal

The Bill amends the term of office of any deputy PCCs so that, in the event of a by-election, their term automatically ends upon a new PCC taking office, rather than upon the former PCC ceasing to hold office. It also amends the 2011 Act so that a Deputy PCC who is appointed as Acting PCC can be eligible to be elected as PCC without having to cease being a member of staff of a PCC.

Impact

This will directly impact upon deputy PCCs, whose term of office will be altered. It will also impact upon the Office of the PCC, which bears the cost of employing the deputy PCC.

The benefits are greater continuity while a by-election is held, enabling the deputy to fulfil the acting commissioner role if the Police and Crime Panel chose to appoint them to that position. It also removes the disincentive to deputy PCCs who wish to run for election as PCC in taking up the role of Acting PCC in the event of a vacancy.

NAMES OF POLICE AREAS

The problem

The areas (outside of London) within England and Wales for which there must be a police force are set out in Schedule 1 to the 1996 Act. This means that changing the name of a police force area requires a change to primary legislation.

Rationale for intervention

A PCC’s title must use the name of the police area as set out in Schedule 1. On rare occasions, PCCs and forces may wish to change the name of their police area in order to best reflect the geography of their area and the communities they serve. Allowing the names of police areas to be changed by regulations (where desirable) will avoid the possibility of the need for repeated changes to legislation through different primary legislative vehicles.

Proposal

The Bill will enable the name of a police area in England and Wales to be amended by secondary legislation.

Impact

There are no direct costs arising from the legislative change. There may be indirect costs arising from associated changes to insignia and marketing materials (e.g. badges, websites, letterheads etc). It is expected that PCCs and forces will consider the value-for-money case before deciding to change the name of their police area, and will meet any costs arising from their

existing budgets. The benefit is in terms of providing better recognition of the community which the PCC and force serves.

PART 6: FIREARMS

FIREARMS – STRENGTHENING LEGISLATION

The problem

Concerns were raised by law enforcement agencies that firearms legislation is open to abuse by those intent on criminal activity. In particular they have seen an increase in the criminal use of antique firearms and reactivated firearms.

This view is supported through firearms recovered and submitted to the National Ballistics Intelligence Service (NABIS) which show that obsolete calibre antique firearms are increasingly being used by UK criminals and that the criminal market is producing suitable ammunition for these firearms – more recently from kits and instructions bought online.

Law enforcement and other criminal justice agencies, shooting organisations and the trade/industry have also complained that the law is fragmented, unclear and imposes unnecessary costs and burdens.

Rationale for intervention

The Home Office asked the Law Commission to conduct a scoping review of firearms law to identify areas within legislation which were causing unnecessary difficulties for law enforcement agencies and legitimate holders of firearms with a view to clarifying and simplifying the law and making it easier to understand and use.

The Law Commission commenced a review of firearms legislation in January 2015 and identified key areas where the legislation would benefit from amendment to close loopholes due to public safety concerns, leading to the proposals below.

Proposal

The changes will strengthen firearms legislation as follows:

- Defining an ‘antique firearm’;
- Creating a new offence to criminalise those in possession of articles with intent to use them in the unlawful conversion of imitation firearms;
- Creating new offences of the sale or gift of defectively deactivated weapons;
- Defining a ‘component part’; and
- Defining lethality.

Impact

The changes and the new offence could lead to an increase in prosecutions, involving increased police time, court time, expert witness time and an increase in the number of prison sentences. Clarifying the legal ambiguity should however also lead to shorter and more uncontested cases. The effect on prosecutions cannot be fully predicted so it is not possible to quantify the effects.

There will also be potential costs in the form of administration costs and devaluation of firearms to collectors and business from the reforms on antique firearms and deactivated weapons.

Since NABIS was established in 2008, 423 obsolete calibre firearms have been recovered and submitted to NABIS; of these 98 were from firearms surrenders (where firearms were voluntarily handed in to the police) but 325 were recovered in criminal circumstances such as an arrest or execution of a search warrant.

With regard to deactivated weapons, there is also evidence from NABIS to suggest that poorly deactivated firearms are being “reactivated” and used in crime. The proportion of criminal shootings that involve reactivated firearms rose over the three years from 1 March 2012 to 31 March 2015, currently accounting for 5% of such shootings¹⁰.

The Home Office estimates the economic and social costs of a homicide to be £1.9 million while the total health-related cost of an injury, including both emotional and physical impacts, is estimated at £9,200. To give a sense of the current scale, the Law Commission has estimated that firearms within the scope of these reforms are responsible for approximately 4 fatalities and 150 serious injuries (that is, those requiring hospital treatment) per year. These estimates are an aggregation of the annual fatality rates for the different firearms within scope which have been calculated using various statistics and data sources available¹¹.

FIREARMS - FEES

The problem and rationale for intervention

Currently the Home Office (and Scottish Government) issues prohibited (section 5) firearms licences to relevant businesses, such as arms manufacturers, free of charge. Providing this licensing service imposes a cost on the Home Office, the Scottish Government and the police. This cost is currently fully subsidised by the

¹⁰ Law Commission Firearms Symposium, 8 September 2015

¹¹ While the Law Commission Impact Assessment also includes estimates relating to deactivated firearms, these have been excluded from the figures as they are out of the scope of this Impact Assessment.

taxpayer. This is out of line with the position set out in HM Treasury's 'Managing Public Money' guidance. Government intervention is needed in the first instance to amend the Firearms Act 1968 to introduce an enabling power to charge for prohibited firearms licences. The Home Office (and Scottish Government) also issue firearms licences to museums and shooting clubs, for which a fee is charged. However these fees were last increased in 1995 and no longer cover the full cost of the service.

Proposal

The measures will enable new fees to be introduced in order to recover the costs associated with issuing prohibited firearm licences, and amend existing powers to charge for museum firearm and shooting club licences, bringing the service in line with HM Treasury guidelines on managing public money. The level of the fees for each licensee group will be set in secondary legislation at a later date.

Impact

The Bill will enable full cost recovery for the licensing of prohibited firearms under section 5 of the Firearms Act 1968, and for issuing firearms licences to museums and shooting clubs. The fees, if set at full cost recovery, would meet the estimated costs incurred by the public bodies involved the licensing activity as follows: Home Office - £570,000 per year; police - £78,000 per year; Scottish Government - £42,000 per year; Police Scotland - £6,000 per year.

FIREARMS - STATUTORY GUIDANCE

The problem

The Home Office currently issues non-statutory guidance to police forces on firearms licensing. The guidance provides interpretation of the legislation, and ensures the right balance is struck between public safety and the rights of licence holders. It addresses key issues such as how evidence of domestic violence and high risk medical conditions in licence holders should be dealt with.

As part of their inspection into firearms licensing in police forces, Her Majesty's Inspectorate of Constabulary (HMIC) assessed whether police forces are following the Home Office guidance. Their report, published on the 15 September 2015¹², found that forces were frequently not following the guidance, resulting in inconsistent application of the law and in some cases risks to public safety and unfair treatment of licence holders. HMIC (and further anecdotal evidence from forces) also highlighted that the lack of statutory weight attached to current guidance results in inconsistencies in the Crown Court appeal process (which allows applicants to challenge a decision

¹² <https://www.justiceinspectorates.gov.uk/hmic/our-work/firearms-licensing>

to refuse or revoke their licence). HMIC recommended introducing new rules for police forces with due statutory weight to address these issues.

Rationale for intervention

Legislation is necessary to ensure forces follow guidance on key principles around firearms licensing. HMIC have identified that current non-statutory guidance is frequently not followed resulting in inconsistency and risks to public safety and licence holders.

Proposal

The Government proposes introducing a power for the Secretary of State to issue statutory guidance to police forces on their firearms licensing functions. The new guidance will set out key principles on firearms licensing, which all forces in England, Wales and Scotland must follow. Some of the wider material in existing Home Office guidance, where it is appropriate for forces to have a greater level of discretion, will remain on a non statutory footing. This is an enabling power, with the new statutory guidance to be developed in consultation with stakeholders in due course. Final guidance will be published and come into effect following Royal Assent of the Bill. At this stage, it is envisaged that the guidance will focus primarily around the process and criteria for assessing the suitability of licence holders.

Impact

New statutory guidance will impact police forces and holders of licences issued by the police in England, Wales and Scotland. The main groups of relevant licence holders are listed below. Figures are for England and Wales only, and show the number of firearm and shotgun certificates issued. The number of businesses or individuals will be lower as some have more than one certificate:

- Registered firearms dealers: 3,400
- Farmers: 66,500
- Zoo keepers: 200
- Game keepers: 3,900
- Vets: 1,700
- Individuals (recreational shooters): 663,800¹³

Data on farmers, zoo keepers, game keepers and vets was taken from the National Firearms Licensing Management Database in June 2014. Data on dealers and individuals is from Home Office statistics on firearms licensing 2014-15¹⁴.

¹³ This figure is based on the number of certificates on issue as at 31 March 2015 (736,100) minus the number of certificates issued to businesses (farmers, zoo and game keepers and vets). The figure will include a small number of other business types not accounted for above. Dealers are not counted in the number of certificate holders so have not been subtracted.

¹⁴ <https://www.gov.uk/government/publications/firearm-and-shotgun-certificates-in-england-and-wales-financial-year-ending-march-2015/firearm-and-shotgun-certificates-in-england-and-wales-financial-year-ending-march-2015>

The provision in the Bill is an enabling one and will not have a direct impact. There may be impacts arising from the detail of the guidance itself. These will be assessed in consultation with stakeholders once draft guidance has been developed.

At this stage, we do not expect any significant costs to affected groups because guidance is likely to clarify existing processes rather than create new ones or additional burdens. There is likely to be a non-monetised benefit to licence holders arising from greater certainty and consistency around the process and criteria by which firearms licensing applications are assessed. There is likely to be a non monetised benefit to police forces arising from greater clarity around the processes they must follow, and more consistent appeal outcomes.

PART 7: ALCOHOL: LICENSING

The amendments to the Licensing Act 2003 (“the 2003 Act”) are designed to make the licensing system more effective in preventing crime and disorder. The provisions will ensure powdered and vaporised alcohol are brought within the regulatory regime provided for in the 2003 Act; clarify the summary review process; enable licensing authorities and the courts to act swiftly when those operating licensed premises are involved in crime, and prevent abuse of the licensing system. There are five provisions:

- i) Powdered and vaporised alcohol;
- ii) Summary reviews and arrangements for interim steps;
- iii) Powers for licensing authorities to revoke or suspend personal licences if the licensee is convicted of a relevant offence;
- iv) Update the list of relevant offences; and
- v) Remove the requirement for guidance to be laid before Parliament when it is updated.

i) Powdered and vaporised alcohol

The problem and rationale for intervention

Powdered alcohol was authorised for sale in the USA in March 2015, although as far as is known it is not yet on sale in the USA or anywhere else. The Government is not aware of any intention to sell it in the UK. Alcohol is defined in the 2003 Act as “spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor”. Powdered alcohol needs to be included in the legal definition of alcohol in order to put it beyond doubt that the sale of powdered alcohol is to be regulated under the 2003 Act. If this is not made clear, and powdered alcohol arrives in the UK, there would be a risk that it may be sold by unlicensed premises, and would therefore be uncontrolled. Vaporised alcohol is already sold in a few licensed premises as a novelty product. The Government is not aware of anywhere selling it without a licence. The licensed trade and licensing authorities are treating vaporised

alcohol in the same way as liquid alcohol, but the Government wishes to put this beyond doubt.

Proposal

The proposal is to clarify the law to ensure that powdered and vaporised alcohol are regulated under the 2003 Act.

Impact

It has not been possible to monetise the costs and benefits of these measures as it is not possible to predict the likely demand, supply or price of powdered alcohol. The only group of businesses upon which this measure will have an impact will be those who wish to only sell powdered (and/or vaporised) alcohol and not any other alcohol products. Licensed premises will be able to add this to their stock much as they would add a new type of spirit or wine. Any increase in licence applications as a result of the changes would be covered by the fees, which are set on a cost recovery basis to cover the costs to licensing authorities. The number of such businesses is estimated to be small.

ii) Summary reviews and arrangements for interim steps

The problem

The police can apply for a summary review of a premises licence under section 53A of the 2003 Act, if it is associated with serious crime or serious disorder. The licensing authority must consider the application within 48 hours and impose 'interim steps' if necessary. There is ambiguity over whether interim steps remain in place or lapse automatically after the review hearing and before the review decision comes into effect (21 days later if no appeal is lodged, or once the appeal is disposed of). There is also ambiguity about whether the licensing authority has the power to withdraw or amend the interim steps at the review hearing. This ambiguity can result in unfairness for businesses or could allow unsuitable premises to continue operating freely for long periods.

Rationale for intervention

Practitioners consider that the current legislation is ambiguous and this has led to conflicting decisions in interpreting the law. Clarifying sections 53A-53C of the 2003 Act will help protect the public from premises associated with serious crime and disorder while ensuring businesses are treated fairly, and reduce unnecessary demand on the police.

Proposal

The measures will clarify the law by requiring the licensing authority to review interim steps at the hearing and decide what steps should remain or be put in

place pending appeal, or expiry of 21 day period to lodge an appeal. Post hearing, both sides would have a right to a summary appeal to a magistrate's court.

Impact

The changes are not expected to create any additional costs. Because the changes mean more proportionate steps are taken, there will be a lessened impact on businesses overall and it is estimated there will be an overall saving to businesses of approximately £400,000 per year.

The changes will help ensure the public is protected from premises associated with serious crime and serious disorder without a disproportionate impact on business.

iii) Powers for licensing authorities to revoke or suspend personal licences if the licensee is convicted of a relevant offence

The problem

Licensing authorities administer licences under the 2003 Act, including personal licences which allow a person to be a Designated Premises Supervisor and to authorise the sale of alcohol on a licensed premises.

The decision to grant a personal licence rests with the licensing authority, however they have no power to suspend or revoke the licence when there is a problem. Currently a personal licence may be suspended or forfeited by a court on conviction of a relevant offence. However, the evidence suggests that the courts are not routinely exercising their powers in this regard; often because they are not aware that an offender holds a personal licence (only 16 personal licences were suspended or forfeited in 2013/14). Licensing statistics show that there were 570,044 personal licences in force at the end of March 2014.

Rationale for intervention

There needs to be an effective system for taking action when personal licence holders are convicted of relevant offences. Giving this power to licensing authorities will help overcome the problem whereby the court is unaware that the defendant holds a personal licence. The only way to provide licensing authorities with this power is to amend the 2003 Act via primary legislation.

Proposal

The Bill will give licensing authorities the power to revoke or suspend personal licences if the licensee is convicted of a relevant offence. Courts will retain their existing powers, but licensing authorities will also be able to consider suspension or revocation. Where a decision is made to suspend or revoke a licence, the licence holder will have the opportunity to make representations

to the licensing committee, and will have a right to appeal to a magistrates' court.

Licensing authorities will be able to revoke or suspend personal licences of their own accord, without the need for the process to be triggered by an application from an interested party, a referral from the court or a declaration from the licence holder that he or she has been convicted of a relevant offence.

Impact

This measure is not expected to have a significant impact on licensing authorities. There will be a simple process to revoke or suspend a licence, while ensuring fairness for the licence holder. This power will be used proportionately in cases where it is clear to the licensing authority that allowing the individual to hold a personal licence is inappropriate.

iv) Update the list of relevant offences

The problem

Schedule 4 to the 2003 Act lists 'relevant offences', a conviction for which could be grounds for refusing a new personal licence, or for suspending or revoking an existing licence. There are a number of offences which are not on the list, a conviction for which may be considered inappropriate for that person to hold a personal licence.

Rationale for intervention

It is important to maintain an up to date list of relevant offences within the 2003 Act to ensure licences are not held by those who may pose a risk to the public. For example, those convicted of violent, sexual or firearms offences.

Proposal

To add the following offences to the list of relevant offences:

- the sexual offences listed in Schedule 3 to the Sexual Offences Act 2003;
- the violent and sexual offences listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003;
- the manufacture, importation and sale of realistic imitation firearms contrary to section 36 of the Violent Crime Reduction Act 2006;
- using someone to mind a weapon contrary to section 28 of the Violent Crime Reduction Act 2006; and
- the terrorism-related offences listed in section 41 of the Counter-terrorism Act 2008.

Impact

Updating the list of relevant offences will allow better enforcement of the existing system. It is unlikely to have a significant impact on the number of licences which are revoked or suspended. The impact on the courts and on licensing authorities is therefore minimal.

v) Remove the requirement for guidance to be laid before Parliament when it is updated

The problem

Section 182 of the 2003 Act requires the Secretary of State to issue guidance to licensing authorities on the discharge of their functions under the Act, and that the guidance must be laid before Parliament and is subject to the negative procedure every time it is updated.

Rationale for intervention

The licensing framework set out in the 2003 Act has been in place for ten years and is therefore well established. The requirement to lay revised guidance before Parliament is at odds with many other statutory guidance provisions. Removing the requirement will make it easier to update the guidance each time changes are made to the 2003 Act.

Proposal

To amend the 2003 Act to remove the requirement for guidance to be laid before Parliament when it is updated. The guidance will retain its statutory status.

Impact

The guidance has been updated numerous times since it was first issued and there have been no comments made by Members of Parliament or peers during the parliamentary process. We therefore consider that this change will have no negative impact.

Licensing authorities will benefit from the change because it will mean the guidance can be updated more quickly than presently following legislative change.

PART 8: FINANCIAL SANCTIONS

The problem

Financial sanctions are an important foreign policy and national security tool. However, the implementation of UN sanctions in the UK is delayed, on

average, by 4.1 weeks due to EU processes. Further, persons found guilty of a breach of financial sanctions are only liable to imprisonment for a maximum of two years. The delay in implementation and comparatively low penalties available are undermining the effectiveness of these measures.

Rationale for intervention

Legislating to remove the delay in implementation is necessary to prevent asset flight, comply with international obligations and protect the UK from reputational risk.

Legislation for the change in penalties will ensure consistency with the Terrorist Asset Freezing etc Act 2010 and ensure that breaches are prioritised by law enforcement as a serious crime. Extending the range of enforcement tools will bring the UK in line with the approach taken in other G7 countries, while increasing the risk of detection is likely to improve compliance by the private sector.

Proposal

To deal with the delay in implementation, it is proposed to allow new UN listings and amendments to existing listings to take immediate effect in the UK for a period of 30 days or until the relevant EU regulation is adopted, whichever is sooner. Where the listings form part of an entirely new sanctions regime, there will be the option to extend this period up to a further 30 days. The Bill will enable these provisions to be extended to the British Overseas Territories and Crown Dependencies through an Order in Council subject to any necessary modifications.

To provide a more flexible, effective and proportionate toolkit of enforcement measures for financial sanctions breaches, it is proposed to:

- Increase criminal penalties from two years' to seven years' imprisonment on conviction on indictment and from three months up to a maximum of six months' (in Scotland, 12 months) on summary convictions;
- Extend the application of Deferred Prosecution Agreements (DPAs) and Serious Crime Prevention Orders (SCPOs) to breaches of financial sanctions;
- Create a monetary penalty regime which will be administered by HM Treasury.

Impact

Reducing the delay in implementation will provide UK businesses more quickly with certainty of their legal obligations and reduce their legal risk when dealing with attempted asset flight between UN listing and UK implementation. No additional burdens will be created by this measure.

The increase in the extent and range of enforcement powers for breaches of financial sanctions may increase burdens on law enforcement agencies, the courts and the private sector to a small degree, but this impact is necessary to secure the fullest possible contribution by financial sanctions to foreign policy and national security objectives.

Law enforcement agencies have been increasing their focus on financial sanctions enforcement since 2013 within existing budgets. While increased prioritisation of such cases due to their reclassification as serious crime will require some reallocation of budgets, this is not envisaged to be significant and HM Treasury will keep this under review through normal spending processes. (In 2015 there were fifteen instances of monetary penalties imposed by the Office of Foreign Asset Control for breaches against US financial sanctions, incurring fines between \$23,000 and \$329m. By comparison, the UK is not expected to exceed this number.)

When the maximum penalty for financial sanctions breaches was seven years' imprisonment, there was only one prosecution and this resulted in custodial sentences for three people of 21 months and 9 months. A significant increase in prosecutions or prisoner numbers is not anticipated as a result of returning the penalty to this level, especially in light of the wider enforcement tools being created concurrently.

The extension of DPAs and SCPOs and the creation of monetary penalties may result in a small increase use of court time. However, it is expected that these responses, along with prosecutions, will be reserved for cases where the conduct is egregious, results in significant harm and/or involves repeat failures. The majority of instances of poor compliance will continue to be dealt with by way of warning letters and requests for improved compliance.

For individuals and businesses in the private sector, the increased risk of detection and enforcement options should move some from a position of non-compliance with financial sanctions to a position of compliance, which is an existing obligation. While this may incur some costs, as HM Treasury publishes a freely accessible list of sanction targets on its website and through free email updates, this cost should be minimal. The fact that a person did not know or have reasonable cause to suspect that they were dealing with a person or entity subject to sanctions will remain a defence to all enforcement measures.

PART 9: MISCELLANEOUS AND GENERAL

NATIONAL CRIME AGENCY (NCA)

There are two provisions relating to the NCA:

- i) Amending the definition of collaboration agreements between the NCA and other law enforcement bodies; and
- ii) Extending the powers that may be conferred on NCA officers.

i) Collaboration agreements

The problem

Current legislation provides for the Director General of the NCA to enter into a collaboration agreement with two (or more) policing bodies. This limits the opportunities for collaboration.

Rationale for intervention

The only way to deliver the required changes is to amend existing primary legislation.

Proposal

The Bill will enable the Director General to enter into a collaboration agreement with one other policing body.

Impact

There are no direct costs associated with this change. The change will provide more opportunities for the Director General of the NCA to enter into collaboration agreements where it is beneficial to do so.

ii) Extending the powers that may be conferred on NCA officers

The problem

The ability to confer powers on NCA officers is provided for in the Crime and Courts Act 2013. Presently NCA officers can be designated with the powers of a constable, an officer of Revenue and Customs and an immigration officer. However, they cannot presently be conferred with the powers of a general customs official, limiting their ability to tackle crime at the border. For example recent powers to deal with drug cutting agents were provided to general customs officials, not officers of Revenue and Customs.

Rationale for intervention

Adding the designation of a general customs official requires an amendment to primary legislation.

Proposal

The Bill will ensure that new powers conferred on a general customs official are also conferred on a NCA Officer.

Impact

There are no costs associated with this change. The change will ensure that NCA officers have the powers they need to fulfil their law enforcement role more effectively.

STRENGTHENING POWERS IN RELATION TO FOREIGN NATIONAL OFFENDERS

The measures relating to Foreign National Offenders (FNOs) comprise:

- A) Powers for the police and immigration officers to obtain nationality information;
- B) Requirement on defendants to state name, date of birth and nationality to the court.

A) Powers for the police and immigration officers to obtain nationality information

The problem

Seizing and recording an identity document is the single most important element in helping to remove foreign criminals, therefore it is important that identity is established as quickly as possible in the criminal justice process. This ensures that overseas criminal records checks are done with the correct country of origin and, in cases where serious offending is revealed, can allow the Home Office to consider deportation action even in cases where an individual is released without charge.

The National Audit Office has flagged the importance of early identification in the criminal justice process. Missing opportunities to establish the nationality of individuals at the earliest possible point causes significant delays later in the process when the Home Office wishes to deport FNOs and illegal migrants from the United Kingdom:

“Identifying FNOs early, including obtaining relevant documents such as passports is crucial to speeding up removal at a later stage and managing the risk posed by the FNO while in prison. But police officers often do not undertake the checks and searches needed when they suspect someone of being a foreign national. We estimate that £70 million could be saved each year if all early identification opportunities were seized and acted upon.”

NAO report October 2014

The Government wishes to introduce measures which will provide the police and immigration officers with more opportunities to identify the nationality of suspected FNOs, and obtain documents from them where they are not carried on the person.

Rationale for intervention

The police and immigration authorities already work together to achieve both criminal and immigration outcomes, wherever possible. Operation Nexus, involving the police and Immigration Enforcement working together, for

example, is a positive example of inter-agency cooperation. However, the Government recognises that not enough nationality documents are being seized, and that the link between the police and immigration where documents are seized is not functioning as effectively as it should. This is why the Immigration Act 2016 places a new duty on the police (and other public bodies) to provide nationality documents to Immigration Enforcement on request.

There are *already* powers available for officers to search premises for identity documents. However, searches are a resource intensive and arguably speculative exercise. To ask officers to do so in every case would be a disproportionate use of valuable police resources. New powers are required to give the police greater flexibility and more opportunities to obtain documents from suspected foreign nationals where they do not have them on their person. The burden should be placed on the suspect to provide documents in situations where the police are unable to conduct a premises search under existing immigration powers.

Proposal

The Government therefore intends to introduce powers to enable the police and immigration officers to require:

- an arrested person to provide their nationality;
- suspected Foreign National Offenders to produce their nationality document(s) within 72 hours of their release following arrest.

Failure to comply with either requirement would be a criminal offence.

Impacts

These measures will impact:

- A) Police forces in England and Wales, Police Scotland, Police Service of Northern Ireland
- B) HMCTS (and equivalent in Scotland and Northern Ireland)
- C) Crown Prosecution Service (and equivalents)
- D) ACRO Criminal Records Office
- E) National Offender Management Service (NOMS) (and equivalents)

Police

The new powers to require nationality on arrest will add some new administrative burdens to the arrest/custody process, but limited to the extent of asking only a few questions of the suspect. A number of forces do this already, and new custody IT system upgrades¹⁵ in some force areas will shortly prompt officers to ask questions on nationality. The legal requirement

¹⁵ Not all forces use the same system, and these upgrades will therefore not be available to all forces.

will reinforce the need to undertake what should become a business-as-usual function.

The requirement to produce a document to the police places the emphasis on the suspected FNO to prove their identity. This will *reduce* the need to undertake a section 44 search of someone's premises for a nationality document. Discussions with the relevant National Police Chiefs' Council leads are under way to work through the detail of how this measure will be implemented.

Criminal justice system

There will be additional costs to the criminal justice system from these provisions. The police may undertake more criminal records checks and NOMS may be required to undertake more full and proper risk assessments of FNOs leading to more FNOs being prioritised for early removal if they are otherwise not deportable. It has not been possible to quantify this. The sanction/s of non-compliance with these new requirements will be concurrent to the main offence/s so it is assumed will not take up significant additional court time. It is also assumed that any prosecution of the new proposed offence will be considered in the same court as the underlying offence (akin to the Bail Act provisions for failure to surrender). This will avoid the cost of referrals between the Crown Court and a magistrates' court. It is not possible to determine the likely number of prosecutions that will arise from these new offences. It is also unlikely in the extreme that a situation will arise where refusal to state nationality and/or produce a document will be the main offence under consideration by the court (e.g. in situations where the suspect is not charged for the offence for which they were arrested).

Estimated benefits

The NAO have estimated that £70 million could be saved each year¹⁶ if all early identification opportunities were seized and acted upon in the early stages of the criminal justice process (i.e. police and courts).

Deporting more FNOs is likely to bring a financial benefit in terms of reducing the recidivism costs of repeat offenders. It has not been possible to quantify this.

B) Requirement on defendants to state name, date of birth and nationality to the court

The problem

Establishing nationality at the earliest opportunity post-arrest is critical to the early removal of FNOs. There is a need to create more opportunities in the criminal justice system to ensure this information is captured accurately.

¹⁶ Managing and removing foreign national offenders, NAO, 2014

Rationale for intervention

Currently there is no requirement in statute for defendants appearing in court to provide their name, date of birth and nationality. The practice of the court is to confirm with the defendant before the hearing the details given on his or her case file, which include name, date of birth and address. There is a need to ensure that the Government has accurate information about the identity of a foreign national so that, if they are sentenced to custody, they can be considered for removal from the UK.

Proposal

The proposal is to create a statutory duty for all defendants to give their name, date of birth and nationality when requested by the court. The court may require this at any stage of the process. The information will be given to a court official at their request, orally or in writing. The court will be required to ask for this information. The information will need to be initially collected at the earliest stages of the court process.

This will be coupled with a new offence of failing to provide the information or providing false or incomplete information without reasonable excuse and will be summary only with a maximum penalty of six months custody and/or a fine.

Impact

There will be costs arising to the Criminal Justice System and its agencies from this policy from the new process and the associated criminal offences.

New process

There will be costs to HMCTS in relation to administering the process ensuring that there is a formalised procedure, recording the information obtained in court and providing this information to the police. We are not yet able to quantify these costs. There may also be potential additional costs for the Police or the Home Office arising from any inconsistency in the information. There should not be additional costs arising from introducing IT systems to HMCTS or the police, as these are already in place.

Offences

Any prosecutions for the proposed new offence would have cost implications for criminal justice agencies (annual costs).

It has not been possible to estimate the number of prosecutions; however, we would not expect a large number. We have, therefore, estimated a cost per

defendant proceeded against. The estimated cost¹⁷ to the criminal justice system per defendant proceeded against could be up to around £9,400 at 2014/15 prices if all defendants prosecuted were sentenced to the maximum of six months in custody. The bulk of this estimated cost per case (up to around £8,700) would fall to NOMS, with the remainder falling to the CPS, Her HMCTS and to the Legal Aid Agency.

Benefits

The potential benefits could arise from receiving more accurate data from defendants, which will help the management of offenders through the system. The main benefit would be in assisting the Home Office with the early identification of foreign national offenders which will help with the removals process.

POWER TO SEIZE CANCELLED FOREIGN TRAVEL DOCUMENTS AWAY FROM A PORT

Problem

Current legislation allows any invalid travel document to be seized at a port (by a constable, or an Immigration or Customs Officer). Away from a port, only a British passport that has been cancelled on public interest grounds may be seized, and only provided the Home Secretary has given permission for the power to be used. There is no power to seize a cancelled foreign passport away from a port.

This issue has become more pressing recently because of the numbers of EU citizens travelling to conflict zones such as Syria, to fight or receive terrorist training (“foreign fighters”). The cancellation of travel documents is an important tool in the fight against this phenomenon.

The EU encourages Member States to inform each other, using the Second Generation Schengen Information System (SIS II) when they have cancelled a document in these circumstances, in order that the document may be seized if another Member State’s authorities encounter it. At present, though, the police (or Immigration Enforcement) would have no power to seize such a document unless they encountered it at a port. This means the holder of the document would be able to retain it and could use it to facilitate travel to a conflict zone.

Rationale for intervention

Legislation is needed to ensure the police have the powers they need to seize cancelled travel documents away from ports.

Proposal

¹⁷ All costs are weighted to account for the court where the case is heard, the proportion sentenced and the disposals given. The cost provided is an estimated average cost of a proceeding from the beginning of that proceeding to the end of the case (whether the offender is found guilty or not and accounting for the range of disposals possible).

The Bill amends the existing police power to search for and seize a cancelled British passport away from a port in the following ways:

- i) Extending it to all invalid travel documents, not just British passports;
- ii) Extending the power to search for and seize an invalid travel document to an Immigration Officer as well as to a constable;
- iii) Providing a constable (only) with a power to enter premises to search for an invalid (British or foreign) travel document;
- iv) Removing the requirement for the Home Secretary to authorise seizure of a cancelled British passport.

The Bill also extends the existing criminal offence of intentionally obstructing, or seeking to frustrate, a search for a cancelled British passport to a search for any invalid travel document.

Impact

Costs

The police and Immigration Enforcement would need to devote resources to exercising this power, although we do not expect it to be used frequently. Only a minority of the cancelled travel documents are likely to be used to travel to the UK, and we expect the majority of these to be picked up at the border (where Police, Customs or Immigration Officers can already seize them). It would mostly be used if a travel document was cancelled after its bearer entered the UK, or if the bearer entered via the Republic of Ireland, which does not currently use SIS II.

Any costs are likely to be minimal and could be met from existing police budgets. Given the rationale for intervention, these costs are marginal relative to potential risk arising from a do nothing option.

The extension of the search and seizure power from British Passports cancelled under the Royal Prerogative to all invalid travel documents will mainly affect foreign nationals, but that is because British nationals can already have their cancelled passports seized under existing powers. The legal position that the amendment will create will therefore not discriminate against foreign nationals, or any other group protected under the Equality Act 2010. Furthermore, the decision to search for or seize a passport must be triggered by a reasonable belief that the person is in possession of an invalid travel document. It could not be triggered by the person's race or other protected characteristics.

Benefits

These measures will make it more difficult for actual or would-be "foreign fighters" to travel to conflict zones to fight or receive training, and therefore reduce the risk these people may pose to the UK or other countries should they return, having acquired skills and experience in terrorism.

ANONYMITY FOR VICTIMS OF FORCED MARRIAGE

The problem

Forcing someone into marriage is a criminal offence in England and Wales under section 121 of the Anti-social Behaviour, Crime and Policing Act 2014.

A forced marriage is a marriage in which one or both spouses do not (or, in the case of some adults with learning or physical disabilities or mental incapacity, cannot) consent to the marriage and violence, threats or any other form of coercion is involved. Coercion may include emotional force, physical force or the threat of physical force and financial pressure.

To date, there has been one successful prosecution under the new offence.

At present, in certain circumstances, where a victim of forced marriage decides to pursue a prosecution, he or she may be granted anonymity at the discretion of the court. The position differs, depending on the age of the victim and in which court proceedings take place.

Rationale for intervention

Forced marriage is predominantly an abuse which takes place within the family setting, which means that victims and those at risk may be reluctant to come forward.

The knowledge that a victim would remain anonymous is likely to encourage those who have suffered this crime to report offences and increase their confidence in the criminal justice system, resulting in increased reporting of what is a sensitive and underreported crime.

Proposal

The Bill confers anonymity on all (alleged or proven) victims of forced marriage from the point of investigation onwards. It will be an offence to publish information which could result in the identification of a victim.

Impact

Costs

Providing victim anonymity is expected to increase the number of victims coming forward, which may increase the number of prosecutions for forced marriage. Additional forced marriage cases entering the Criminal Justice System (CJS) would have resource implications for the CJS agencies, including the Crown Prosecution Service, Ministry of Justice (including Courts service), the Legal Aid Agency and National Offender Management Service (prisons).

Given the inherent uncertainty regarding the prevalence of forced marriage, it has not been possible to estimate the number of additional prosecutions this measure may result in. As the first prosecution for forced marriage was in June 2015, it has also been difficult to estimate how these cases will progress through the CJS.

Given the seriousness of the offence, it has been assumed that:

- All cases would be tried in Crown Court;
- 50% of defendants would be found guilty;
- All convicted offenders would be sentenced to immediate custody;
- The average custodial sentence length given would be seven years.

Based on the above, it is estimated that each additional prosecution would cost the CJS around £60,000¹⁸. This excludes costs to the police of investigating additional allegations. It has not been possible to estimate the costs to the police, as the length of investigations is highly uncertain.

Benefits

Ensuring victim anonymity is expected to increase the number of victims coming forward and therefore the number of victims who can be supported. It is also possible that victims who would have come forward without this measure in place will now additionally benefit from it. Finally, there is a possibility that by increasing the number of victims who are identified and therefore defendants who are successfully prosecuted, that overall levels of forced marriage will decrease. Due to a lack of evidence on either the number of additional cases of forced marriage that will be prevented or the specific benefits to the victims, no attempt has been made to quantify these benefits.

TAXIS AND PRIVATE HIRE VEHICLES – STATUTORY GUIDANCE

The problem

The Department for Transport (DfT) currently issues non-statutory guidance to local and other public authorities on the licensing of taxi and private hire vehicles (PHVs) to assist local authorities in the development of their own licensing functions. It addresses a number of key issues including accessibility, vehicle type, drivers, quantity restrictions and taxi fares.

After cases of child sexual exploitation in places including Rotherham and Oxfordshire, independent reports were commissioned. Both the Jay¹⁹ and Casey Reports²⁰ into child sexual exploitation noted the prominent role played by taxi drivers in a large number of cases of abuse. The Casey Report in

¹⁸ This figure comes from the MoJ estimate of the cost of an FGM case which is based on the same assumptions.

¹⁹ Independent Inquiry into Child Sexual Exploitation in Rotherham 1997 -2013 by Alexis Jay OBE

²⁰ Report of Inspection of Rotherham Metropolitan Borough Council by Dame Louise Casey

particular uncovered what was described as “weak and ineffective arrangements for taxi licensing which leave the public at risk”.

Rationale for intervention

After the failings highlighted in the Jay and Casey Reports, legislation is necessary to ensure local authorities adhere to guidance on key principles relating to licensing where it affects safeguarding and the protection of children and vulnerable individuals.

Proposal

The Government proposes introducing a power for the Secretary of State for Transport to issue statutory guidance to public authorities on their taxi and PHV licensing functions in relation to safeguarding and the protection of children and vulnerable adults. The new guidance will set out key principles relating to safeguarding and the protection of children and vulnerable adults, which all public authorities must have due regard to when undertaking their licensing functions. Other parts of the guidance, namely those pieces which have no relation to safeguarding such as the specifications on vehicle types, will remain on a non-statutory footing. The new statutory guidance will be developed in conjunction with relevant parties through consultation. This will be developed alongside a routine update of the entire best practice guidance. The revised guidance will be published later in 2016. The elements of the guidance relating to safeguarding will be made statutory following Royal Assent of the Bill. Though the guidance in its entirety aims to cover the full breadth of taxi and private hire licensing issues, it is envisaged that the statutory part will focus predominantly on the process and criteria for assessing the suitability of drivers, with the specific goal of preventing harm to children and vulnerable individuals.

Impact

New statutory guidance will impact public authorities across England and Wales. (The Wales Bill, currently before Parliament, provided for the devolution of taxi and PHV licensing in Wales.) Figures are for England only, and show that as of 2015 there were 242,000 licensed taxi and PHVs.

The provision in this Bill is an enabling one and will not, of itself, have a direct impact. The statutory guidance is expected to ensure greater consistency in the application of best licensing practice. It will be subject to consultation with all relevant stakeholders including the local licensing authorities themselves.

At this stage, we do not expect any significant costs to affected groups over and above existing process, as this guidance aims to clarify and share best practice for local authorities across England and Wales. There is an expected non-monetised benefit to the public arising from greater safety and security within the taxi and private hire industry, specifically for children and vulnerable individuals. There is likely to be a non-monetised benefit for local authorities arising from greater clarity and detail for licensing, particularly in relation to the

safeguarding of children and vulnerable people. The potential impacts will be kept under review as the detail of the guidance is developed throughout the consultation.

CHILD SEXUAL EXPLOITATION: STREAMING INDECENT IMAGES

The problem

The definition of 'sexual exploitation' as given in section 51 of the Sexual Offences Act 2003 currently covers situations where indecent images of a child are recorded, as a result there is ambiguity over whether the live-streaming of images is captured by this definition.

Rationale for intervention

Government intervention is required to address any lack of clarity in the current law and to ensure that the child sexual exploitation offences cover the appropriate behaviour.

Proposal

The changes will amend section 51 of the Sexual Offences Act 2003 to modify the definition of sexual exploitation, which applies to the offences at sections 48 to 50 of the Act, so that it covers situations where indecent images of a child are streamed or otherwise transmitted as well as where they are recorded.

Impact

Any additional costs to the criminal justice system are expected to be minimal. Expanding the definition of child sexual exploitation to include situations where indecent images of children are streamed or otherwise transmitted is not expected to result in additional cases, which would not have otherwise been prosecuted under existing legislation. The potential benefits arising from this stem from increasing clarity in the law – which could save time in court if a case is concluded more quickly.

ANTI-SOCIAL BEHAVIOUR

The problem

The Anti-social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") sets out a new definition of anti-social behaviour, which recognises both non-housing related and housing related anti-social behaviour. However, the legislation relating to the power available to accredited persons (such as police community support officers) to require a person to give their name and address was not amended to reflect this new definition.

Rationale for intervention

Amending the legislation will provide clarity and remove any possible contradiction between the powers of police constables and accredited persons.

Proposal

The Bill amends the Police Reform Act 2002 to reflect the definition of anti-social behaviour introduced by section 2 of the 2014 Act.

Impact

It is not anticipated that there will be any changes to the volumes of incidents that police community support officers or accredited persons are required to deal with and hence there are no costs associated with the change.

POWERS OF LITTER AUTHORITIES IN SCOTLAND

The problem

The 2014 Act introduced a range of new powers to tackle anti-social behaviour. These replaced a number of existing ones, including the power to serve litter abatement notices and street litter control notices under the relevant provisions of the Environmental Protection Act 1990. The intention was that the Community Protection Notice, introduced by the 2014 Act, would replace these notices in dealing with littering issues in England and Wales. The relevant provisions of the Environmental Protection Act were repealed by paragraph 21 of Schedule 11 to the 2014 Act. The intention was that this repeal should apply to England and Wales only. However, the unintended effect of section 184(8) of the 2014 Act was that the repeal inadvertently extended to Scotland. The Community Protection Notice is not available in Scotland, so this repeal has left a gap in the powers available in Scotland to tackle littering.

Rationale for intervention

The inadvertent repeal of the power to serve litter abatement notices and street litter control notices in Scotland has left a gap in the powers available there to tackle littering. Legislation is therefore required to restore the position in Scotland to that which applied prior to this repeal taking place.

Proposal

The purpose of the provisions is to recreate the power to serve litter abatement notices and street litter control notices in Scotland. It is not possible to simply 'repeal a repeal', and so it is therefore necessary to recreate the original powers.

Impact

There are no new costs associated with this measure. The new provision simply re-establishes the position in Scotland as it applied before the inadvertent repeal of these powers took effect in 2014. There will be no additional impact beyond that.

ⁱ National overview of collaboration (2014)