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House of Commons  
London  
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15 March 2016

**POLICING AND CRIME BILL:  
GOVERNMENT AMENDMENTS FOR COMMONS COMMITTEE**

I am writing to let members of the Public Bill Committee have details of the first tranche of Government amendments which I tabled on 14 March.

**Funding and council tax arrangements for PCC-style Fire and Rescue Authorities (amendments to Schedule 1)**

These amendments make provision for a variety of technical and transitional issues associated with the finance and council tax arrangements of new Police and Crime Commissioner (PCC)-style fire and rescue authorities (FRAs). They ensure that there will remain clear, transparent accounting arrangements for fire funding and that effective scrutiny and accountability arrangements are in place.

The effect of these amendments, taken together with the provisions of Schedule 1, are that there will continue to be two separate precepts and two separate central funding streams for policing and fire and that the money spent on each service will need to be accounted for separately. A new fire fund will be established and held by the PCC as FRA mirroring the existing arrangements for the police fund.

It will be possible for police or fire funds to be spent on matters of joint benefit, for example shared back office functions, but funding will only be able to be allocated for the purposes for which it was paid. New style PCC-style FRAs will be funded through the Local Government finance settlement in the same way as an existing FRA and will receive revenue support grant and funding through business rate retention. To ensure that they will also receive other forms of central grant funding, an amendment is made to section 33 of the Local Government Act 2003.

A number of amendments make provisions for the proper administration of financial matters by PCC-style FRAs and chief officers. A PCC-style FRA will be required to appoint a chief finance officer. The provisions make this a statutory post, but do not prohibit the same person occupying the chief finance officer post for both the PCC's policing and fire functions, or prohibit a PCC-style FRA and chief constable sharing a chief finance officer should this be considered to be appropriate locally. Amendments also apply the provisions in the Police Reform and Social Responsibility Act 2011 (the 2011 Act) for police and crime panels to scrutinise the appointment of a chief finance officer to appointments made by a PCC-style FRA of a chief finance officer for fire. Where the single employer model has been put in place there will be one chief finance officer responsible for the proper administration of the chief officer's financial affairs in respect of both policing and fire.

In relation to council tax, since the PCC-style FRA is to be a major precepting authority, the amendments make provisions for the consultation requirements of section 96 of the Police Act 1996 to apply in the same way as they apply to PCCs issuing a police precept. The amendments also deal with a range of transitional issues associated with the creation of new PCC-style FRAs. The amendment to paragraph 5 of Schedule 1 inserting new section 4EA of the Fire and Rescue Services Act 2004 enables provision to be made by the Secretary of State under a section 4A order for a PCC to be a shadow authority so that they can exercise preparatory functions in the lead up to assuming full responsibility for FRA functions in an area. This could include the setting of a fire precept for the area. It also allows an order under section 4A to make provision about council tax equalisation where a PCC's proposal involves the merger of two or more FRA areas.

A number of technical amendments are also required to ensure that functions which apply to PCCs under the 2011 Act will also apply to PCC-style FRAs. This includes a duty on the PCC-style FRA to exercise their functions efficiently and effectively, which reflects the PCC model and replaces the existing requirement in the Bill for a PCC style FRA to be a best value authority.

Finally, the amendments provide for chief officers under the single employer model to secure value for money in the exercise of their fire functions. Technical amendments ensure that the PCC-style FRA can hold the chief officer to account for all of their functions – both those that are delegated to them in an order under section 4F of Schedule 1 and those directly conferred by the Act.

### **London Fire Commissioner (amendments to Schedule 2)**

The amendments to Schedule 2 make a number of refinements to the detailed provisions governing the London Fire Commissioner and to ensure a consistent approach in the appointment of the Deputy Mayor for Fire as detailed in the explanatory statements.

### **Reform of the police complaints system (amendments to clauses 12 and 15 and Schedules 3 and 4)**

These amendments cover a variety of technical issues in relation to the police complaints system, for the most part clarifying how the reformed, simpler system should operate in specific circumstances.

A number of amendments relate to the new definition of a complaint as an 'expression of dissatisfaction with a police force' which is intended to make clear that the public can make complaints about customer service and policing practice, not just about the conduct of specific police officers. A number of consequential amendments are needed to Part 2 of the Police Reform Act 2002 (the 2002 Act) to ensure that it applies to this broader definition.

Clause 12 (Duty to keep complainant and other interested parties informed) consolidates and simplifies the requirements on those handling complaints to keep complainants and other interested parties up to date on the progress of resolving a complaint. A number of technical amendments are needed to ensure that this clause consolidates the existing arrangements and covers the range of scenarios when information should be provided to the complainant.

The majority of technical amendments are to Schedule 4 to the Bill which itself amends Schedule 3 to the 2002 Act. Schedule 4 provides for changes to the way complaints are recorded, the handling of complaints, investigations and reviews (formerly appeals). These include clarifications to the process of appointing and replacing those appointed to lead the new 'directed' investigations, under the direction and control of the Independent Police Complaints Commission (IPCC), and ensuring that the IPCC can conduct a 'directed' investigation as part of their new duty to investigate allegations relating to chief officers and when they re-open a previous investigation under clause 15. A number of amendments relate to the powers of the review body – whether it is a local policing body (that is, a PCC or the London equivalent) or the IPCC. Amendments clarify that the appropriate authority should provide a response to the local policing body when the latter makes a recommendation following a review, with a power for the Secretary of State to make regulations regarding when and how those responses should be provided. Amendments also provide that, when the local policing body or the IPCC reaches an outcome when considering a review, it will explain to the complainant and other interested persons its reasons for reaching that outcome.

### **Initiation of investigations by the IPCC (clause 14 stand part and new clause “*Initiation of investigations by IPCC*”)**

Currently the IPCC can only investigate a complaint, conduct matter or a Death or Serious Injury (DSI) matter following a referral from a police force or local policing body and, although it can require the force or body to refer a matter, this can take time and can delay critical decisions. Clause 14 enhances the IPCC's existing 'call-in' power by allowing the IPCC to request a referral, as they can now, but treating that matter as having been referred either when the force complies with the request or after a certain period of time has expired.

This will enable the IPCC to initiate investigations more quickly in the absence of a referral from a police force but the need to have a minimum period of time elapse before the IPCC can initiate its investigations could still mean unacceptable delays and does not fully address the perception that the IPCC is reliant on the police to permit it to begin its investigations. New clause *Initiation of investigations by IPCC* (which will replace the existing clause 14) will enable the IPCC to commence an investigation as soon as it becomes aware of a matter which it considers warrants an investigation, be it a complaint, conduct matter or DSI matter.

I am copying this letter to members of the Public Bill Committee and placing a copy on the Bill page on gov.uk.

A handwritten signature in black ink, appearing to read "Mike Penning". The signature is written in a cursive style and is positioned above a short horizontal line.

**Rt Hon Mike Penning MP**