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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Wednesday 26 October 2016

3 pm

Prayers—read by the Lord Bishop of Portsmouth.

Medical Students

Question

3.06 pm

Asked by ***Lord Naseby***

To ask Her Majesty's Government whether they intend to review the number of students studying medicine.

Lord Naseby (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper and, in doing so, declare an interest in that my wife is a retired full-time GP practitioner.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, my right honourable friend the Health Secretary announced on 4 October that the Government plan to increase the number of medical school places by up to 25%. From September 2018, the Government will fund up to 1,500 additional medical school places each year. Students will be able to apply for the extra places from 2017 in order to take them up from the academic year 2018-19.

Lord Naseby: Is my noble friend clear that the Secretary of State is to be congratulated on beginning to grasp this nettle? In the last three years, we have lost 3,500 medical students, but the problem goes deeper, does it not? Today, 56% of the intake of medical students is female. Furthermore, 70% of female GPs today work part-time, and a recent survey by the King's Fund says that 90% of all medical students in training want to work part-time. Given that it costs £200,000 to train anybody as a medical practitioner, surely the time has come to consider a minimum full-time commitment of at least four years after qualification, similar to what they do in Singapore and, indeed, in our own Armed Forces.

Lord Prior of Brampton: My noble friend is absolutely right that more than 55% of those who go to medical school are now women; that is a fantastic change that has happened over the past 20 years. It is true that more women than men tend to work part-time, as they have children and bring them up, and that is taken into account in the planning done by HEE. When my right honourable friend the Health Secretary made his announcement, he said that we will be looking in our consultation at requiring people whom we have paid to go through medical school to give at least four years back to the NHS, which I think is reasonable. The figure is actually six years if you become an Army doctor, so four years is not unreasonable.

Lord Winston (Lab): My Lords, is the Minister aware that, although there may be enough people wanting to apply to medical school, many of the brightest and the best are now completely turned off doing medicine because of the relationship with the Secretary of State for Health? This is a very serious mistrust and, whether they are male or female, the brightest and best are often not applying. There is increasing evidence for this in most medical schools, and indeed in schools as well.

Lord Prior of Brampton: I respect the views of the noble Lord but I have looked very carefully at the number of applications coming into medical schools in 2016 compared with the previous year. In 2016, there were 20,100 applications for all medical schools, including in Scotland. The previous year the figure was 20,390, so there is no firm evidence to support the view that the noble Lord expresses. There were some rumours that St George's was having trouble filling its places. I have investigated that and understand that it was a result not of any lack of demand but of the fact that it wanted to wait until A-level results had come through so that it could choose the best candidates based on those results. So I do not think there is any evidence to substantiate the noble Lord's point.

Baroness Walmsley (LD): My Lords, one of the objectives in Health Education England's mandate is to reduce our dependency on temporary staff. However, the National Audit Office tells us that we are short of 50,000 clinicians, and that HEE is failing to be sufficiently proactive in addressing the,

"variations in workforce pressures in different parts of the country".

Is the noble Lord's department monitoring how well HEE is responding to these challenges?

Lord Prior of Brampton: My Lords, predicting the future requirement for doctors is extremely difficult. It is more a matter of prophesy than science. The fact that we are now going to fund an extra 1,500 doctor places a year, which is a 25% increase, should make a huge difference.

Lord Kakkar (CB): My Lords, I declare my interest as chairman of University College London Partners. Beyond undergraduate medical education, do the Government believe that there are sufficient opportunities for the established workforce to continue to develop itself to meet the changing needs of the population of our country?

Lord Prior of Brampton: That is a very big question, which is hard to answer. My personal view is that I do not think that the training we give to our young doctors in management, leadership and how to structure new models of care is sufficiently broad. You could argue that the curriculum at medical school is too narrow and should be broadened.

Baroness Gardner of Parkes (Con): Can the Minister tell me how many overseas doctors, particularly Commonwealth doctors—if he has a figure for that—are working in our National Health Service? On a separate

[Baroness Gardner of Parkes]
topic, what can be done to encourage people to go into some specialties that we are told do not attract doctors, which is why there are not sufficient numbers in them?

Lord Prior of Brampton: My Lords, overseas doctors account for about 25% of the total number of doctors employed by the NHS, which is a very high number. I do not have the breakdown for the Commonwealth countries but it is an interesting question; I will research it and write to my noble friend. She is absolutely right that there are shortages in particular specialties. General practice and psychiatry are probably the two areas where there is the biggest shortage. HEE is determined to increase the intake in those areas. Certainly, the number of doctors going into GP specialty training this year is just over 3,000. That is an increase on last year but is still not enough.

Lord Clark of Windermere (Lab): My Lords, we welcome the increase, but is it sufficient to meet the problem? I understand that about 100,000 overseas doctors, including European doctors, work in the NHS. Given an extra 1,500 places a year, it will take many years to reach the target. Why do we not make a gesture to those overseas doctors working in the health service and offer them permanent residence here?

Lord Prior of Brampton: I think it will be helpful if I quote from the Health Secretary's speech at the Conservative Party conference, talking about overseas doctors. He said:

"They do a fantastic job and the NHS would fall over without them. When it comes to … EU nationals, we've been clear we want them to … stay post-Brexit".

Let us be absolutely clear: we want overseas doctors from the EU or elsewhere to stay here post-Brexit.

Baroness Masham of Ilton (CB): My Lords, how many medical students drop out during training? How many, when qualified, do not take up medicine and go into other specialties?

Lord Prior of Brampton: My Lords, the attrition rate for students at medical school is about 5%. Some of those leave for medical reasons and come back subsequently, so the figure will be less than 5%. I do not have the drop-out rate for doctors who are further advanced in their training but I will find out and write to the noble Baroness.

Industrial Strategy

Question

3.14 pm

Asked by ***Lord Haskel***

To ask Her Majesty's Government whether they have prepared their industrial strategy; and, if so, what it is.

Baroness Mobarik (Con): My Lords, we are in the process of developing an industrial strategy that will embrace the opportunities of our new global role and upgrade our economy so it works for everyone. We are working with the breadth of British industry, local leaders, innovators, employees and consumers to deliver a successful strategy and create the conditions for future success.

Lord Haskel (Lab): The Prime Minister, too, has called for an economy that works for everybody and for business to be more responsible. Does the Minister agree that Section 172 of the Companies Act 2006, which requires directors and managers to have regard to the interests of employees, customers and suppliers, as well as shareholders, does just that? However, this section has never been enforced, so will the Government include enforcement of Section 172 in their industrial strategy and so carry out the policies of the Prime Minister?

Baroness Mobarik: I assure the noble Lord that the Prime Minister has made it clear that this new industrial strategy will work for everyone. We are looking at exactly those kinds of issues, such as increasing the scrutiny of our large public and private companies and enabling more informed corporate decision-making. We need to give employees and stakeholders a stronger voice in company boardrooms and we will consult fully with business investors, employee representatives and other stakeholders on the best way to do this. We will welcome your Lordships' input.

Lord Cormack (Con): My Lords, I warmly congratulate my noble friend on her appearance on the Front Bench. It is the second time she has taken a Question and nobody was able to thank or congratulate her last time. Will she discuss with her ministerial colleagues the substance of this Question and say that, while we appreciate the general statements, we look for some detail soon?

Baroness Mobarik: I say to my noble friend that something like this cannot be done overnight. The Prime Minister is absolutely determined to get this right. She wants to lay out a proper industrial strategy, engaging with stakeholders across the country and making sure that we deliver a strategy that makes a difference, and that takes time. We have already started the process and we will develop it over the coming weeks and months. We plan to publish a Green Paper alongside the Autumn Statement which will consult widely with business, local leaders, investors and so on. As I said before, I encourage noble Lords to engage with this Green Paper.

Lord Monks (Lab): My Lords—

Lord Fox (LD): My Lords—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, it is the turn of the Liberal Democrats and then we shall hear from the Labour Benches.

Lord Fox: My Lords, I declare an interest in GKN and Smiths Group. At this week's Science and Technology Select Committee, the Science Minister from the other place was unable to describe to us what the intention

of an industrial strategy would be. Given that the last Parliament put in place a long-term industrial strategy, what role will that play in this long-term industrial strategy, and can the Minister explain to us what it is?

Baroness Mobarik: As I said, we are consulting on it just now, and it will not happen overnight. However, I can say that we will focus on our strengths. That does not mean to say that we are just picking out winners. We are tailoring our approach to the needs of different sectors and looking at our proven strengths—a cornerstone of good strategy—and this country has no shortage of those, such as our world-beating aerospace and automotive industries. We recognise that we must continue to support our successful industries and build upon the significant progress that has been made through the existing sector strategies. However, we need to create an economy where new entrants can come in, new businesses can be created, and new companies can challenge incumbents.

Lord Monks: My Lords, in a recent statement, the Prime Minister specifically mentioned worker representation on company boards of directors, and she is receiving support from some surprising quarters—not just the TUC but Legal & General, Aberdeen Asset Management and others in the investment community. Perhaps I may press the Minister a little further to say exactly how and when this particular exercise will be carried out, with the Government giving effect to the Prime Minister's wishes.

Baroness Mobarik: This will be part of the Green Paper. However, I do not want to pre-empt public debate on the discussion document that we will be publishing later this year inviting views on a range of options for strengthening corporate governance, including strengthening shareholder powers on executive pay and giving a stronger voice to employees and other stakeholders on company boards.

Lord Elton (Con): My Lords, does my noble friend realise how welcome it is to many of us to find that we are reverting to the well-proven means of producing good policy, which is to have a Green Paper and a White Paper and then to do it?

Baroness Mobarik: I agree with my noble friend.

Lord Ashdown of Norton-sub-Hamdon (LD): My Lords, I draw the Minister's attention to the fact that, following the more than 250 job losses in Yeovil, I recently wrote to the Secretary of State asking whether the preservation of Britain's only stand-alone production capacity for helicopters in Yeovil would be part of a national strategy. He has not yet replied. Can she tell me whether it will be or not?

Baroness Mobarik: I cannot give any specifics on that, other than to repeat that we are looking at all our sectors and at the whole industrial strategy. We are looking at various methods of improving how we do things to build an economy that works for everyone the length and breadth of the country.

Royal Yacht
Question

3.22 pm

Asked by ***Lord Forsyth of Drumlean***

To ask Her Majesty's Government what consideration they are giving to commissioning a new Royal Yacht.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, the Government have no requirement for a royal yacht and are therefore giving no consideration at the current time to the commissioning of one.

Lord Forsyth of Drumlean (Con): My Lords, that is a very disappointing Answer. When I was Secretary of State, I hosted a dinner on the royal yacht in Toronto to which we invited the top industrialists, who flew thousands of miles to be there. I did not think they were coming to see me. Given that more than 100 Back-Bench Conservative MPs, the present Foreign Secretary and a former Foreign Secretary have all expressed support for a privately funded royal yacht, will my noble friend not at least agree to spend the money raised by the *Daily Telegraph* on a privately funded cost-benefit analysis? What possible objection could there be to the Government giving their full support to that?

Earl Howe: My Lords, I am sure that my noble friend underestimates his pulling power. If private enterprise, however defined, believed that there was a business case for a new royal yacht, we would of course look at it, but we would still be left with the question of who would pay for the vessel. Given that no government department has a need for a royal yacht, it is hard to see how any public funding could be justified.

Lord Anderson of Swansea (Lab): My Lords, a number of Conservative Members in the other place have made the interesting suggestion that the costs of a new royal yacht should come out of the aid budget. Will the Minister reject that immediately?

Earl Howe: Yes, my Lords. No government funding has been proposed by any government department.

Lord Watts (Lab): My Lords, do the Government agree that it would be totally wrong to adopt such a measure, given that the Royal Navy has no ships, and those that we have keep breaking down? Would that not give the wrong message to the country?

Earl Howe: My Lords, I do not accept the noble Lord's premise. The Royal Navy has a fleet of ships that bears comparison with any in the world for cutting-edge technology, and we can be proud of that. However, to come back to the noble Lord's central point, I believe that there are other ways of marketing the UK abroad.

The Countess of Mar (CB): My Lords, has the noble Earl considered crowdfunding for this ship? There are a great many people interested in having a new "Britannia", and they would all feel a bit of ownership, even if only of a rivet.

Earl Howe: My Lords, I do not want to give the impression that the Government's mind is ever closed to good ideas. If a proposal comes forward for a royal yacht, from whatever quarter, and the business case is made, we will look at that constructively.

Lord Craig of Radley (CB): My Lords, in that case, would the Government be interested in manning the royal yacht and what objections would there be to not having the Royal Navy do it?

Earl Howe: My Lords, the Ministry of Defence is clear that it cannot commit funding to a royal yacht, so any consideration would need to take account of how the financial outlay of the Royal Navy in providing a ship's company could be recovered. That is a difficult issue.

Lord Mawhinney (Con): My Lords, my noble friend said that we have no requirement for a ship. That may technically be correct, but it sends a somewhat negative message. Like my noble friend Lord Forsyth, I had the privilege of entertaining on the royal yacht European businessmen who were attracted to the prospect of doing business with this country as a consequence of being there. That this country is "open for business" is one of the very strong and very welcome stories that the Government are putting out. Should not the Government at least take a more open view on this given that no one is suggesting that any primary funding should come from the public purse?

Earl Howe: My Lords, I suggest to my noble friend that times have changed in the past 20 years. There is a variety of ways in which we can promote UK business around the world: we do it through members of the Royal Family, our many excellent embassies and high commissions, the Red Arrows, by using our Royal Navy warships as a backdrop for events and via the GREAT Britain campaign, which is very successful. We surely need to ask ourselves in that context whether, in the 21st century, a royal yacht would add significant value.

Baroness Smith of Newnham (LD): My Lords, the proposal seems to be that if a royal yacht were to be commissioned, it would come from private funding. However, I note that the Question has gone to the noble Earl, Lord Howe, as Minister for Defence. I wonder whether it could be thrown back at the Department for International Trade, because it seems wholly inappropriate that something intended for trade promotion should take away from the resources of the Royal Navy.

Earl Howe: My Lords, we need to be clear that a new royal yacht would have to fly the White Ensign and would therefore have to be state owned and manned by Royal Navy personnel. I do not see a way out of the issue that the noble Baroness flags up.

Lord Touhig (Lab): My Lords, I am sure there are many who see merit in commissioning a new royal yacht—for my part, I do not care one way or the other. However, I do care about the morale of our Armed Forces. The latest attitude survey revealed that 61% of all ranks serving in the Royal Navy say morale is low. Is it any wonder? We have no aircraft carriers; our Type 45 destroyers are plagued by technical difficulties and spend much of the time in port; we have almost twice as many admirals as we have warships; we are selling "RFA Diligence", our only at-sea repair vessel; and the Royal Navy is short of recruits. Given this state of affairs, will the Minister reassure the House that if in the future there is some change of view on the Government's part on this matter, there will be no question of the defence budget being used to fund the yacht, as it is a rather peripheral matter to defence?

Earl Howe: I am sorry that the noble Lord feels it appropriate to talk down the armed services, but I can give him the assurance that he needs.

Lord Wallace of Saltaire (LD): My Lords, given that the Royal Navy is already short of manpower, it is quite likely that any royal yacht would have to be manned by people recruited from abroad. Does the Minister consider that we would do better to recruit them from within the European Union, or given that this is a more traditionally imperial matter, from Calcutta and Hong Kong?

Earl Howe: My Lords, there are strict criteria for personnel joining the Royal Navy and I am sure that the noble Lord knows what they are.

Prevent Strategy

Question

3.29 pm

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government whether they intend to set up an independent inquiry to evaluate the operation of their Prevent strategy.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, Prevent is a key part of the UK's counterterrorism strategy, Contest. Since 2011 we have expanded Prevent to take account of the changing scale and nature of the terrorist threat. Prevent is working; it is safeguarding people from being drawn into terrorism. The statistics on Prevent delivery are reported in the Contest annual report. We have committed to updating Contest in 2016 and Prevent will be included as part of that refresh.

Lord Lester of Herne Hill (LD): My Lords, I think that what the Minister said was no, the Government have no intention of supporting an independent inquiry. Am I right in that? Could I also ask her whether she is aware that my Question is being asked not just by me but by two Independent Reviewers of Terrorism

Legislation—my noble friend Lord Carlile of Berriew and David Anderson QC—the Joint Committee on Human Rights and last week by the Open Society Justice Initiative in its report? I should declare an interest as a former board member of that organisation. Is she aware therefore that many more people than I think that it is now urgent to restore mutual trust and confidence by having an independent inquiry?

Baroness Williams of Trafford: My Lords, I was not aware that the noble Lord was speaking on behalf of others because his was the only name attached to the Question—but I take his point. My Answer was not actually "no" in the sense that we review how effective Prevent is being all the time. The previous Home Secretary, now the Prime Minister, commissioned an internal Home Office review of Prevent which concluded that it should be strengthened, not undermined, and made 12 suggestions on how to do so. Those suggestions are being brought forward as part of the Contest strategy review this year.

Baroness Deech (CB): My Lords, does the Minister agree that, inquiry or not, universities need to be trained in how to ensure that extremist speakers are challenged and to be reminded of their public sector equality and diversity rights? It has been responsibly recorded that many extremist speakers are coming on to campuses—people who preach what is anathema to our human rights and equality law. The campaign against Prevent is masterminded by the National Union of Students, whose own leader has been accused of associating too closely with terrorists.

Baroness Williams of Trafford: The noble Baroness is absolutely right to say that we have to tread a very fine line in protecting what is a great freedom in this country—the freedom of speech—without creating an environment of the kind she outlined.

Lord Morgan (Lab): My Lords, do not university authorities and staff in fact find the Prevent strategy more of a hindrance than a help? It can make Islamic students, for example, more isolated and perhaps therefore open to radicalisation. It also spreads distrust in the student body much more generally. Should not the Government steer clear of these freedom of speech issues and leave them to universities, which understand them?

Baroness Williams of Trafford: My Lords, I do not think that freedom of speech should be ignored in that sense—and Prevent should not be seen as a threat to universities. What Prevent is not trying to do is curtail freedom of speech. What it is trying to do is protect those people who might be targeted by the terrorist recruiters who threaten this country.

Baroness Hussein-Ece (LD): My Lords, does the Minister accept that within much of the Muslim community Prevent has now become tainted and discredited? It risks alienating the very communities it needs to engage with in order to be successful in defeating terrorism. Is she aware of the harmful effect in particular on children who are being targeted and referred by schools, often wrongly, under the legislation? On average one child a week under the age of 10 is now being referred, and that is harming their health, education and well-being. How is this engaging positively with communities to defeat terrorism?

Baroness Williams of Trafford: My Lords, I will not repeat the previous answer I gave—but, far from trying to target people, Prevent tries to protect people. As to children being dealt with inappropriately in schools, there have been some of the most ridiculous stories you might hear of children being targeted. The Government have recognised the need for much-enhanced training in this area. Since 2011 we have significantly stepped that up, training more than 600,000 front-line staff in how to spot the subtleties the noble Baroness talks about, which are often being missed.

Lord Singh of Wimbledon (CB): My Lords, the difficulty with Prevent is that it is very vague. Words such as "extremism", "fundamentalism" and "radicalisation" all leave us none the wiser—and "Islamist" is a positive insult to the Muslim community. Would the Minister agree that the real target of Prevent is the out-of-context use of religious texts to justify the abuse of human rights and the cruel treatment of women and people of other faiths? Will she try to engage with faith leaders to ensure that they interpret religious texts in the context of today's times?

Baroness Williams of Trafford: The noble Lord, as always, makes very wise points. So often in the case of religion, religious texts are misinterpreted to the extent that they are completely out of context with the actions of those who would seek to undermine the true tenets of those religions. Islam is one such example: it is a very peaceful, loving religion, but you would not think so sometimes from some of the actions of some people.

Wales Bill

Order of Consideration Motion

3.37 pm

Moved by ***Lord Bourne of Aberystwyth***

That it be an instruction to the Committee of the Whole House to which the Wales Bill has been committed that they consider the Bill in the following order:

Clauses 1 and 2, Clause 4, Schedule 3, Clauses 5 to 20, Schedule 4, Clauses 21 and 22, Clause 3, Schedules 1 and 2, Clauses 23 to 53, Schedule 5, Clause 54, Schedule 6, Clauses 55 and 56, Title.

Motion agreed.

Human Trafficking and Exploitation (Scotland) Act 2015 (Consequential Provisions and Modifications) Order 2016

Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016

Motions to Approve

3.37 pm

Moved by ***Lord Dunlop***

That the draft Orders laid before the House on 11 and 13 July be approved. *Considered in Grand Committee on 18 October*.

Motions agreed.

Policing and Crime Bill

Committee (2nd Day)

3.38 pm

Relevant documents: 3rd and 4th Reports from the Delegated Powers Committee, 3rd Report from the Joint Committee on Human Rights.

Amendment 121

Moved by ***Lord Rosser***

121: After Clause 11, insert the following new Clause—

"Statutory duty on flooding

The Secretary of State shall make provision for the fire and rescue services in England to lead and co-ordinate the emergency service response to—

(a) rescue people trapped, or likely to become trapped, by water; and

(b) protect people from serious harm, in the event of serious flooding."

Lord Rosser (Lab): My Lords, the amendment requires the Secretary of State to make a statutory provision for the fire and rescue services in England to lead and co-ordinate the emergency service response to serious flooding.

Part 2 of the Fire and Rescue Services Act 2004 sets out the statutory core functions of fire and rescue authorities: fire safety, firefighting, and rescuing people and protecting them from harm in the event of road traffic accidents. The 2004 Act also gives the Secretary of State the power to give fire and rescue authorities functions relating to other emergencies, including outside the fire and rescue authority's area. This is an order-making power and does not require primary legislation.

There is thus no statutory duty on the fire and rescue services for emergencies arising from flooding, yet flooding is on the increase. Government figures show that in 2007 there were 14,000 flooding calls; in 2011-12 there were 16,000; and in 2013-14 there were 18,000. I also sense that the extent of flooding is becoming more serious. The Greater Manchester Fire and Rescue Service said that on Boxing Day last year it deployed two-thirds of its available resources on flood response. The 2008 Pitt review into the 2007 floods said that a statutory duty would be beneficial and recommended that the Government should urgently put in place a fully funded national capability for flood rescue, with fire and rescue authorities playing a leading role underpinned as necessary by a statutory duty.

The case for a statutory duty on the fire and rescue services is now stronger than it was in 2008, with more and more flood calls but fewer staff, less equipment and fewer fire stations. In parts of the United Kingdom there is already a statutory duty on flooding, namely in Scotland since April 2013 and Northern Ireland since January 2012. A statutory duty would assist in adding to the resilience of fire and rescue services when faced with flooding, assist with strategic planning between fire and rescue services and local resilience forums, and underscore the need to resource fire and rescue services specifically for flooding.

The Government's approach to date appears to be that there is no need for a statutory duty because the fire and rescue services will turn up as necessary anyway even though it is not a statutory core function. On the basis of that argument one might as well remove all the existing statutory core functions of the fire and rescue services on the basis that they will turn up anyway. The reality is that additions are made to statutory functions to reflect changing circumstances.

The fire service has been rescuing people from road traffic crashes for decades, but it was felt that a statutory duty was needed and the Fire and Rescue Services Act 2004 addressed that. The fire service had been providing fire protection for centuries, but a statutory duty was introduced in 1947. Now is surely the time to introduce a statutory duty on flooding to reflect and recognise the vastly increased role of the fire and rescue services in this area of emergency provision. The Government talk about the need to reform our emergency services and bring them up to date. Perhaps the Government need to do the same for the statutory functions of the fire and rescue services. I beg to move.

Lord Paddick (LD): My Lords, while I agree with the noble Lord, Lord Rosser, on a statutory core function or a statutory duty on flooding for the fire and rescue service, we are a little concerned about the wording of his amendment which reads:

"The Secretary of State shall make provision for the fire and rescue services in England to lead and co-ordinate the emergency service response".

It is accepted practice among all the emergency services that the police co-ordinate during the emergency phase of any emergency, whether flooding or anything else, partly because there is a duty on the police to investigate. For example, one can imagine a scenario where flooding is caused by a criminal act. It is generally accepted practice and has been for many years that the police service should lead and co-ordinate in every emergency situation. That is slightly different from what the noble Lord, Lord Rosser, is saying in terms of the fire and rescue services having a statutory core function or duty but we do not believe that that should be to lead and co-ordinate in the case of flooding.

3.45 pm

The Earl of Erroll (CB): My Lords, I know nothing about this but a question suddenly occurred to me. If this is a statutory duty that these services are undertaking, will this help them secure funding to do it properly?

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, like the noble Lord, Lord Rosser, I recognise the sterling work and professionalism of the fire and rescue authorities in providing a brilliant service to the various communities during the significant number of flooding incidents, especially in December and January. The noble Lord talked about the Greater Manchester FRA, to which I pay full tribute. When I visited some of the affected areas, such as Rochdale, Salford and Bury over the new-year period, there was clearly effort from not just the community and police but the fire and rescue service. It provided fantastic input into what was a very successful operation in clearing up various areas.

It is clearly important that a timely and co-ordinated response is provided at these critical incidents. A number of agencies are involved generally in rescuing people from floods, particularly in coastal areas, including the Royal National Lifeboat Institution and the Maritime and Coastguard Agency, as well as fire and rescue authorities and the local charitable organisations that play a vital part in many communities. However, direction rests with local resilience forums for local responders to work out the arrangements that work best in their area. Often, this will be the fire and rescue authority but there may be many valid reasons—as the noble Lord, Lord Paddick, outlined—why they might choose a different responder in different circumstances and if that works locally. We do not want to reduce this flexibility with a one-size-fits-all approach as there may be good reasons why, in some areas and on some occasions, it makes more sense for a different responder to take the lead. The fact that two noble Lords have slightly different views on how that might be is proof of that.

I will give an example. During and in the direct aftermath of serious flooding, it has been vital for other agencies including voluntary groups to provide services to protect people from serious harm and to distribute clean water to those affected. Depending on the extent of the incident, it may be necessary for the Royal Air Force to take a major role, as with the flooding in 2007 when it deployed Sea King helicopters from as far afield as Cornwall, Anglesey and Yorkshire for the rescue of 120 people. There are advantages to a permissive, multi-agency regime where responders have broad powers and local discretion rather than a prescriptive duty for flooding or indeed any other type of critical incident we can identify. There is no question that fire and rescue authorities have the power they need to respond to floods. They have responded to all major flooding events and usually provide the most resources.

I welcome the scrutiny that this amendment provided of the arrangements for the emergency services' response to flooding. To answer the brief question from the noble Earl, Lord Erroll, in terms of something being on a statutory footing, yes, it would necessitate a funding stream. However, for the reasons I have given and from the experiences I have had, I believe that the existing regime with broad, permissive powers gives both fire and rescue authorities and local resilience forums the flexibility they all need. On that note, I ask the noble Lord to withdraw his amendment.

Lord Rosser: I thank noble Lords who contributed to this short debate, and the Minister for her response. I think she said that the fire and rescue services did respond to all major flooding events, which is certainly my understanding of the situation.

It seems a little odd that even if there may be objections to the precise wording of our amendment, there is no willingness to write in a statutory duty and function in respect of flooding for our fire and rescue services. We know that they play a key role. If I understood the Minister correctly she indicated that, if this was on a statutory footing, the fire and rescue services would of course have to be provided with the resources to carry out that activity. Bearing in mind the issues that fire and rescue services face over resources, one has a suspicion that one reason for the reluctance of government to go down this road may be that it would require that commitment of resources, even though the Government have acknowledged that the fire and rescue services do respond to all major flooding events. Obviously, I am disappointed with the Government's reply but at this stage I beg leave to withdraw the amendment.

Amendment 121 withdrawn.

Schedule 3: Schedule to be inserted as Schedule A3 to the Fire and Rescue Services Act 2004

Amendment 122 not moved.

Amendment 123

Moved by ***Baroness Chisholm of Owlpen***

123: Schedule 3, page 230, line 19, after "occupied" insert "(wholly or partly)"

Baroness Chisholm of Owlpen (Con): My Lords, as the way in which policing is delivered evolves, it is important that the powers and remit of Her Majesty's Inspectorate of Constabulary also evolve to ensure that it remains able to inspect and report on the totality of policing.

As forces rightly place an increasing emphasis on collaboration between emergency services, certain policing functions, such as answering 999 calls, may be delivered by employees of other emergency services without any formal contractual arrangements in place. HMIC must be able to require access to information and premises from these other services when they are related to the delivery of policing functions. That is what these amendments will achieve.

Amendments 165 and 166 extend the definition of a police force for the purposes of an inspection to include non-policing bodies delivering policing functions, even where there is no formal contract in place. In keeping

with the scheme provided for in the Bill, such other persons delivering policing services would not be able to appeal against an information notice served on them by HMIC. Amendments 123 and 164 give HMIC and the new inspectors of fire and rescue authorities access to premises in which other services are delivered alongside those that they are inspecting; for example, HMIC would be able to access premises shared by a police force and a fire and rescue service.

I trust the Committee will agree that these are sensible refinements of the inspection provisions in the Bill. I beg to move.

Amendment 123 agreed.

Schedule 3, as amended, agreed.

Clause 12: Local policing bodies: functions in relation to complaints

Amendment 124

Moved by ***Lord Paddick***

124: Clause 12, page 22, line 9, leave out from "force" to "exercise" in line 11 and insert "shall"

Lord Paddick: My Lords, if I say this at the beginning of the afternoon, I hope I will not have to repeat it, but I declare an interest as having been a member of the police service for 30 years. In moving Amendment 124, I will also speak to the other amendment in this group, Amendment 127.

Clause 12 allows a police and crime commissioner—or the Mayor's Office for Policing And Crime in relation to the Metropolitan Police district, or the Common Council in relation to the City of London police area—to choose to take on direct responsibility for receiving and recording complaints against the police and keeping the complainant informed of progress.

The problem here is that this may further confuse the public about who they should complain to. People are already unsure whether they should complain to a local police station, to the IPCC or to a third party. This change will inevitably mean that in some parts of the country, the complaint needs to be made to the police and crime commissioner—the local policing authority, to use a generic term—who will then deal with the complaint and keep the complainant informed. In other cases, it will be the police service itself, depending on whether the local policing authority takes up the offer provided by the legislation to take on the handling of complaints.

The idea of giving local policing authorities responsibility for complaints against the police, as opposed to the chief officer, is a good one. It will introduce a further element of independence into the police complaints system, but allowing local policing authorities simply the option—and indeed allowing local policing authorities to be persuaded by their chief constable not to take responsibility away from her or him—appears to me to be a fudge. Indeed, the more a chief constable tries to persuade his or her PCC not to take away the responsibility, the more the PCC should resist such pressure, in my opinion. This amendment would require the local policing authority to take over these statutory responsibilities, to ensure independence and clarity for the public.

I turn to Amendment 127. Clause 22 inserts into Section 23 of the Police Reform Act 2002, titled "Regulations", a new paragraph which gives local policing authorities the power,

"to delegate the exercise or performance of powers and duties conferred or imposed on them",

in relation to the handling of complaints against police. In a subsequent subsection, which inserts new paragraphs into the Police Reform and Social Responsibility Act 2011, the expression used is to "arrange" for another person,

"to exercise a function that the police and crime commissioner has".

Although the Explanatory Notes give reassurance that liability remains at the top, Amendment 127 is intended to probe why there is a difference in the wording between the two different subsections and to ensure that the delegation of powers and duties does not include delegation of responsibility. I beg to move Amendment 124.

Lord Bach (Lab): My Lords, I declare my interest as a police and crime commissioner, for Leicester, Leicestershire and Rutland. I will say a few words about this very interesting amendment, moved by the noble Lord, Lord Paddick, neither to praise it nor to condemn it, but just to tell the Committee something that it is probably aware of anyway. I suspect I speak for other police and crime commissioners as well when I say that as we speak here, we are considering which way to go, given the possibilities that the Bill opens up for us in terms of complaints. It is very interesting that the noble Lord, Lord Paddick, suggests that we should not have that option but should be compelled, as it were, to take all complaints at a low level and consider them. I am not so sure he is right—I do not know. I think there may in the end be a tendency among a number of police and crime commissioners, once the Bill is an Act and this legislation is law, to not take full responsibility for all complaints. I am not quite sure what the Government would like in this case: it may be that they really do not have a preference, and it would be interesting to hear from the Minister whether they do or not.

I have to tell the noble Lord that the chief constable in my patch has done absolutely nothing up until now to try and persuade me not to take the full gamut, but it may be different elsewhere. It is an interesting debate and I look forward very much to hearing what the Minister has to say. I suspect, if the Bill remains as it does up until it becomes an Act, then police and crime commissioners around the country will be doing different things.

4 pm

Baroness Williams of Trafford: My Lords, I thank the noble Lord, Lord Paddick, and Parliament's only living breathing PCC, the noble Lord, Lord Bach, for an insight into their views and the opportunity for your Lordships' Committee to debate the provisions

in the Bill that seek to give more responsibilities for handling complaints to local policing bodies.

The Government are committed to reforming the police complaints system so that complaints made against the police are responded to in a way that restores trust, builds public confidence and allows lessons to be learned. The reforms also increase the independence and accountability of the complaints system by enhancing the role of police and crime commissioners and their equivalents in London. The Bill seeks to strengthen local accountability by giving PCCs explicit responsibility for the performance of the complaints system locally and the responsibility for those appeals currently heard internally by forces.

As the noble Lord, Lord Bach, has tried to tease out of the Government, Clause 12 gives PCCs the ability to choose to take on the additional complaints functions of handling low-level customer services issues, the initial recording of complaints and communicating with the complainant throughout the process. Amendment 124 to Clause 12 would remove this ability to choose, instead giving PCCs the mandatory responsibility for all these complaints functions. However, the Government's intention is to ensure that PCCs can choose the model that would work best for them in their local area. As the noble Lord says, this will look different across the country in future as that local choice is made.

PCCs are very well placed to listen to the concerns of their constituents. The reforms will provide PCCs and forces with the flexibility to deliver a complaints service that responds to the needs of their local area rather than trying to operate within some sort of rigid system that does not reflect operational or community differences. For example, a PCC might wish to give his or her force the ability to deliver a more customer-focused complaints handling system before making a judgment on taking on additional responsibilities. However, the Government have acknowledged the concerns raised with regard to different models operating across the country. This is why the Bill enables PCCs to choose to take on only specific duties within a reformed and streamlined framework. Responsibility for the formal handling of complaints will remain with forces or, in the more serious and sensitive cases, with the IPCC.

Lord Bach: I am very grateful to the Minister for giving way. I should have mentioned this and asked her the question in my earlier remarks. A lot of police and crime commissioners want to know, if they decide to extend their powers—I know they will be extended to some extent anyway, but if they are fully extended—whether resources will follow. That is quite an important issue for them, and I wonder whether the Minister can help us.

Baroness Williams of Trafford: My Lords, I will correct this if I am wrong. While I am not guessing, I am assuming that, particularly where you have the model with a mayoral PCC as well, the mayoral precept will enable some of those mayoral functions. On the additional resources, I would like to write to the noble Lord before Report as I would not want to say something to the Committee now that simply was not true.

Amendment 127 to Clause 22 relates to the ability of PCCs to delegate their complaints-related function. The amendment seeks to clarify the difference in language in the subsections of the clause, and I am happy to do that.

The reason for the difference in language between the subsections is that it aims to replicate the language already used in the corresponding Acts. Although subsection (1) uses different language to that in subsections (2) to (4), the policy intention and result is the same. Local policing authorities should and will be able to delegate their complaints-related functions. Regardless of whether any complaints-related functions have been delegated, the local policing body will retain ultimate responsibility for the complaints performance in its area. This follows the same model as chief constables delegating their complaints responsibilities to more junior ranks, where the chief constable is still ultimately responsible for the outcome.

I hope that those comments have reassured noble Lords and that the noble Lord will feel happy to withdraw his amendment.

Lord Paddick: I am grateful to the Minister for that explanation on Amendment 127, which is a probing amendment. I am not as enthusiastic about her response to Amendment 124, and I am grateful that we have the noble Lord, Lord Bach, here as a living, breathing police and crime commissioner who can bring his experience to this. I have to say that, bringing my experience as a police officer, I believe that there would be great benefit if there was one system that members of the public knew and could rely on. For example, it would be of great benefit to the public if the decision on whether complaints were investigated was taken out of the hands of the police.

The Minister said that the purpose of the new provision was to restore trust. If the purpose is to restore trust and a PCC decides not to take up the offer, what are the constituents in a PCC's area to think about that? However, at this stage, I beg leave to withdraw the amendment.

Amendment 124 withdrawn.

Clause 12 agreed.

Clause 13 agreed.

Schedule 4 agreed.

Clause 14: Duty to keep complainant and other interested persons informed

Amendment 124A

Moved by ***Lord Paddick***

124A: Clause 14, page 24, line 14, at end insert "including any provisional findings"

Lord Paddick: My Lords, I fear it will be like this for the rest of the afternoon. Amendment 124A is in my name and that of my noble friend Lady Hamwee, and I shall speak to the other amendment in the group, Amendment 124B.

Clause 14 amends Part 2 of the Police Reform Act 2002 in relation to keeping complainants—people who have complained about the police—informed of the progress of the investigation of their complaint. Subsection (3) substitutes the matters contained within it for those matters that subsection (3) of the 2002 Act required the complainant to be kept informed about. Basically, subsection (3) sets out what the complainant needs to be kept abreast of. One of the matters in the 2002 Act was to keep the complainant informed of,

"any provisional findings of the person carrying out the investigation".

This requirement is no longer listed in the new subsection (3), and the amendment is to probe why it is no longer a requirement. Amendment 124B relates to the substitution of subsection (9) in Section 21 of the 2002 Act made by Clause 14(7), which again omits "any provisional findings" from the requirements in the 2002 Act. I beg to move.

Lord Harris of Haringey (Lab): My Lords, I understand absolutely the objective of the amendment moved by the noble Lord, Lord Paddick, and I have a lot of sympathy with what he is trying to get at. However, perhaps there is also need to look at the extent to which the public who have been victims of crime are also kept informed of the progress of investigations into those crimes. In exactly the same principles that the noble Lord, Lord Paddick, has outlined in terms of complaints against police officers, ought they perhaps also be applied to people who have been victims of crime?

Lord Blair of Boughton (CB): I am slightly concerned about the phrase "provisional findings", because it does not define when that is in an investigation. I should declare an interest that I was head of the complaints investigation branch of the Metropolitan Police Service, the subtitle for whom was the "Prince of Darkness". One knew the provisional findings, but one had that word "provisional" in front. It slightly worries me that we are pushing a process forward where the complainant is given information that new information then changes. It feels an odd thing to be doing. I would like to know why it has been withdrawn in this Bill, as it may have been withdrawn on quite sensible grounds.

Baroness Chisholm of Owlpen: My Lords, the current process for keeping complainants and other interested persons updated on the handling of their complaint is overly complicated, with Sections 20 and 21 of the Police Reform Act 2002 heavily prescriptive on what exactly a force, or as the case may be the local policing body or IPCC, must do and when. This often results in a box-ticking process and perverse outcomes rather than any genuine consideration of what is best for the complainant.

The Bill simplifies this process. Clause 14 amends Sections 20 and 21 of the 2002 Act to create a broad statutory duty on forces to ensure that they keep relevant parties updated on the progress of the handling of the complaint, the outcome of the complaint, and any right of review. This allows for many of the various notification duties on appropriate authorities currently scattered throughout Schedule 3 to the 2002 Act to be consolidated into one place, and for Sections 20 and 21 of that Act to be extended beyond just complaints where there was an investigation.

This broad requirement is in line with the wider changes to the complaints system where the various routes for resolving a complaint—for example, disapplication, discontinuance and local resolution—have been replaced with a general duty to consider the reasonable and proportionate response to a complaint. Greater discretion for forces in deciding how to keep the relevant parties updated on progress reflects the wider intention to trigger a culture change in forces in the handling of complaints. We want a system that encourages proper consideration to be given to the needs of the complainant, rather than officers simply following a very set procedure regardless of the nuances of the case.

I want to reassure the noble Lord that the Government fully expect that where there has been an investigation into a complaint, updating complainants on the progress of the handling of the complaint will include forces informing them of any provisional findings of that investigation. In keeping with the overall intention to simplify the complaints system and to empower forces in how they deal with complaints, this is not something we consider is necessary to prescribe in primary legislation. Instead, it is for the IPCC to consider whether what is meant by updating on the progress of the complaint is better explored in IPCC statutory guidance. Guidance may be able to better reflect best practice and the principle that all cases need to be treated slightly differently.

The noble Lord, Lord Harris, asked about keeping victims of crime informed on progress. He makes a valid point about victims of crime, but this is not a matter for these clauses. We have a later amendment about the rights of victims of crime.

4.15 pm

Lord Paddick: My Lords, I am very grateful to noble Lords for their contribution to this short debate. I agree with the noble Lord, Lord Blair of Boughton. It could be that giving "provisional findings", which are not the ultimate findings, could create a false sense of expectation in the complainant and so forth. However, the question was around not whether that should be there but the reason for it being there. As the noble Lord, Lord Blair, said, there may be a sensible reason for taking it out in the new legislation, but I failed to hear a sensible reason for why it was formerly in primary legislation but will no longer be. Perhaps between now and Report we may be able to unearth that reason. I beg leave to withdraw the amendment.

Amendment 124A withdrawn.

Amendment 124B not moved.

Clause 14 agreed.

Clause 15 agreed.

Schedule 5: Complaints, conduct matters and DSI matters: procedure

Amendment 125

Moved by ***Lord Paddick***

125: Schedule 5, page 235, line 9, at end insert—

"(aa) the complainant (who must be questioned as to whether he wishes the complaint to be recorded) does not indicate a wish that it not be recorded, or"

Lord Paddick: My Lords, Amendment 125 is tabled in my name and that of my noble friend Lady Hamwee. I shall speak also to Amendment 126. In Schedule 5, Part 1 of Schedule 3 to the Police Reform Act 2000 is amended after sub–paragraph (6) by inserting a new sub-paragraph (6A) in relation to when a complaint against police must be recorded. It states that a complaint must be recorded if,

"at any time the complainant indicates a wish for the complaint to be recorded".

Our amendment adds a requirement that the complainant must be asked whether he wishes the complaint to be recorded and states that unless he positively indicates that he does not wish the complaint to be recorded, it must be recorded.

From a wealth of personal experience in this area, I know that it is very easy for a complainant to be misled, albeit unintentionally, about whether his complaint will be formally recorded or even to be dissuaded from having a legitimate complaint recorded. The current wording gives the police or the local policing body, if it takes over responsibility, the ability not to record a complaint unless the complainant specifically asks that it be recorded. If the police inspector at the front counter tells the complainant not to worry but to leave it to him as he will have a word with the officer concerned and there is no specific request that the complaint be recorded, it could result in a complaint not being recorded when the complainant believes that it has been. This amendment is designed to reduce the chance of that happening.

Amendment 126 relates to a different issue: the conduct of chief officers of police. Part 3 of Schedule 5 is intended to require the referral of all complaints and matters concerning the conduct of chief officers to the Independent Police Complaints Commission by inserting new paragraphs into Part 3 of Schedule 3 to the Police Reform Act 2002. They provide new powers to enable the Secretary of State to specify in regulations that the IPCC must independently investigate all complaints, recordable conduct matters, and deaths and serious injury matters which relate to the conduct of a chief officer or the Deputy Commissioner of the Metropolitan Police.

Assistant commissioners of the Metropolitan Police wear the same badge of rank as, and are considered to be at least the equivalent of, chief constables or chief officers. In fact, they are paid at the highest rate of chief officer, with the exception of the commissioner and deputy commissioner of the Met, a salary equivalent to that of the chief constables of the Police Service of Northern Ireland, Police Scotland, the West Midlands Police and Greater Manchester Police. The assistant commissioner of the City of London Police wears the insignia of, and is considered equivalent to, a deputy chief officer and is outside the scope of this provision and the amendment. Will the Minister explain why assistant commissioners of the Metropolitan Police are not included with the deputy commissioner of the Metropolitan Police as officers complaints about whom must be referred to the IPCC? Our amendments would add assistant commissioners of the Metropolitan Police to the list of compulsory referrals. I beg to move.

Baroness Williams of Trafford: My Lords, I am grateful to the noble Lord, Lord Paddick, for explaining the purpose of the two amendments. The handling of complaints about the police must be customer-focused, simple to understand and transparent throughout. It is widely accepted that the current system is confusing, complicated and, in many cases, unclear. Through the reforms made in the Bill, we are ensuring that cases are dealt with quickly and effectively, for the benefit not just of the public but of officers who have done nothing wrong. Many forces already currently operate customer service teams through which all complaints about the force are filtered and whereby they try to resolve quality-of-service issues as soon as possible. The reforms in the Bill explicitly provide for that sort of model and try to make it as bureaucracy free and straightforward as appropriate.

The evidence is that this approach works. In Derbyshire in 2014-15, for example, 47% of issues raised about the force were handled outside of the formal complaints system. In Northumbria, where the triage team sits in the office of the police and crime commissioner, 36% of issues raised about the force in the first six months of 2014 were handled in this manner, with 92% of complainants happy with how their issue was handled—and this is increasing. The Government want to encourage forces and local policing bodies such as PCCs to adopt this more customer-focused approach and to resolve as many complaints as possible quickly, simply and to the complainant's satisfaction through this route. Amendment 125 would require complainants explicitly to confirm that they were content for the force or PCC to seek a customer service solution to their issue outside of the formal complaints system. I put it to the noble Lord that this approach risks limiting what forces can achieve through informal resolution.

The Government believe that this confirmation process would lead to fewer issues being dealt with in this way and, contrary to the policy intent, increase the number dealt with in the formal system. We think it right that, unless the complainant has offered an alternative view or the complaint falls into one of the categories outlined in the legislation for why this form of resolution is inappropriate—I shall discuss the safeguards shortly—the force or PCC should first have the opportunity to draw on their experience to seek to resolve the matter through its own customer service processes. I reassure the noble Lord that the Bill includes extensive provisions to ensure the complainant is in control in this process and that forces can resolve issues outside of the complaints system only when it is appropriate to do so.

There is a clear expectation on PCCs, with their new explicit responsibility for oversight of the complaints system locally, as provided for in Clause 21, to ensure

clear communication is provided to complainants about their rights when they make a complaint and how the process will work. This includes explaining that, if at any point a complainant wants his or her complaint to be recorded, it will be recorded. If the force pursues a customer service solution that falls short of the complainant's view on what constitutes a satisfactory resolution, they can request that the complaint be recorded and handled formally. There is a statutory duty at the outset of a complaint to contact the complainant to understand how the complaint might be best resolved. Statutory guidance will also make clear that, 10 days after receipt of a complaint, it should be formally recorded, even if a customer service approach may have been proportionate. This is to ensure that this form of resolution is limited to only those issues that can be resolved quickly. Beyond that, if there is any indication that the complaint might result in disciplinary or criminal proceedings, or might meet the criteria for mandatory referral to the IPCC, it must be recorded.

Finally, there will also be a requirement on forces, to be detailed in regulations or secondary legislation, to keep some information on the issues they resolve outside of the formal complaints system—the name of the complainant, the issue, and how it was resolved. This will allow PCCs locally to scrutinise those data and HM Inspectorate of Constabulary to inspect the robustness of the decision-making of forces in deciding what is suitable for an informal resolution. Given these safeguards, we are satisfied that there is no need for an explicit requirement that the complainant must agree at the outset to an issue being resolved informally. Ultimately, the priority for most complainants is that their complaint is dealt with to their satisfaction and as quickly as possible.

I turn to Amendment 126. The complaints and discipline system is designed on the premise that, unless matters are of exceptional seriousness and sensitivity and are therefore referred to the IPCC, they should be dealt with—in accordance with the legislation—within the force's chain of command. The exception is where there is no ultimate senior officer, such as would arise where a complaint is made against a chief constable. In these cases, most complaints are investigated by the IPCC but some may end up being investigated by chief constables of other forces. In his independent review of the police disciplinary system in England and Wales, Chip Chapman recommended that all such investigations should be undertaken by an independent body. The Government agree with this recommendation and that is why the Bill introduces a new regulation-making power that will require complaints regarding the conduct of chief officers to be referred to the IPCC to determine whether it should conduct an independent investigation or direct an investigation. However, although the rank of Assistant Commissioner of the Metropolitan Police Service is one of the highest ranks in England and Wales, there is no need to include it in the proposed measure because it can be reasonably expected that the commissioner or deputy commissioner will oversee any investigation. I hope that this clarifies the matter and that, on the basis of my explanation, the noble Lord will feel free to withdraw his amendment.

Lord Paddick: My Lords, I am grateful to the Minister. As far as Amendment 125 is concerned, I have no issue with a complainant being offered the option of informal resolution or a "customer service solution"—I never heard of that when I was in the police service; it shows how things have moved on—or a formal complaint. The problem we keep encountering in this House is the Government saying, "Well, it's going to be be in statutory guidance and of course, in practice, if it's a serious complaint or something that should be recorded, it will be recorded". Unfortunately, the real world is not quite as ideal as the Minister makes out.

As far as Amendment 126 is concerned, I was with the noble Baroness until she said that matters needed to be referred to the IPCC where there was no ultimate senior officer. Quite clearly, in the case of the Deputy Commissioner of the Met, which is a specific rank for which any complaints have to be referred to the IPCC, there clearly is an ultimate senior officer: the Commissioner of the Met. Unfortunately, the explanation given by the noble Baroness does not help me to understand why the Deputy Commissioner of the Met is specifically mentioned.

Baroness Williams of Trafford: Perhaps I can explain a bit further. While new paragraph 5(1)(a) of Schedule 3 to the Police Reform Act 2002, inserted by Schedule 5 to the Bill, does cover the Deputy Commissioner of the Metropolitan Police Service, this is because, in the Police (Conduct) Regulations 2012, the deputy commissioner is treated in the same way as the commissioner. The Secretary of State is responsible for appointing the investigator of any conduct matter relating to both the commissioner and deputy commissioner. There is no mechanism to allow investigations into the deputy commissioner to be conducted internally. I hope that I have not confused the noble Lord further; I am just seeking to clarify the position.

Lord Bach: I hope that the noble Lord will forgive me for asking the noble Baroness about something that she said in her summing up a little while ago about the position of chief constables. She said that any complaint against them would automatically go to the IPCC. There is a view that says that this is slightly harsh and is not necessary and will mean more work for the IPCC in some cases than is necessary. What is the view of the IPCC on that proposal? It seems to some of us that the IPCC is overburdened and overworked. Does it really want the most trivial complaint against a chief constable—they do exist, it has to be said—to have to go to the IPCC without investigation? Is that not too extreme a measure?

4.30 pm

Baroness Williams of Trafford: I think I said in my summing-up—if I missed it, I apologise—that most complaints are investigated by the IPCC but some may end up being investigated by chief constables from other forces. I am guessing that those will be the more low-level investigations. Therefore, not absolutely everything has to go to the IPCC. I do not know the IPCC's view on this but Chip Chapman has recommended that all investigations should be undertaken by an independent body.

Lord Blair of Boughton: Perhaps I may intervene again—and again I declare my interest as a former commissioner. The mailbox of the Metropolitan Police is pretty large and contains lots of complaints about the fact that the commissioner has failed to do something. The commissioner is probably blissfully unaware of thousands of complaints. Is it being suggested that, every time somebody says, "I wish to complain about the Commissioner of Police of the metropolis because Constable Such and Such did not put a ticket on a car outside my house", that is a complaint against the commissioner? It would be the same for chief constables.

There is a sense here that we are losing sight of the scale of the mailbox. There is a famous story of one of my predecessors who came from outside the force finding out that not all letters that were addressed to the commissioner came to his office. A week later, he realised why—when the mailbags fell in through the door. There has to be a level of reasonableness and, at the moment, I am not hearing that reasonableness. I am hearing the idea that everything will be sent to the IPCC or investigated by another chief constable. We could block the entire system unless we get a degree of reasonableness—and I am not sure where that is going to appear. I put that surmise to the Minister.

Lord Swinfen (Con): Will my noble friend look at the practicality of the matter, which has been so well explained?

Lord Paddick: My Lords, I am very grateful to those who have contributed to this short debate and to the Minister. As regards the comments of the noble Lord, Lord Blair, my reading of this is that it concerns complaints against the commissioner himself rather than vicarious liability responsibility—which, of course, the commissioner carries for all his officers. The clue lies in the fact that the legislation goes on to talk about "death or serious injury" matters—not that the commissioner is known for using physical violence against people.

Lord Bach: I am so sorry to interrupt again. I wonder whether there is a proper distinction between a complaint per se and a complaint that may be laid vicariously at the commissioner's or chief constable's door. Who will make that distinction when the complaint comes in? It will add to the existing bureaucracy and is another reason for listening very carefully to what the noble Lord, Lord Blair, suggested a minute or two ago.

Lord Paddick: I am very grateful to the noble Lord, Lord Bach, and I will leave it to the Government to respond. The deputy commissioner of the Met was, at least at one stage, considered to be a first among equals among assistant commissioners. I will have to read the second part of the Minister's explanation on that issue. As regards the other matter, again, I will want to read carefully what the Minister said—but at this stage I beg leave to withdraw the amendment.

Amendment 125 withdrawn.

Amendment 126 not moved.

Schedule 5 agreed.

Clauses 16 and 17 agreed.

Clause 18: Sensitive information received by IPCC: restriction on disclosure

Amendment 126A

Moved by ***Lord Paddick***

126A: Clause 18, page 31, line 11, after second "Kingdom" insert "so far as those interests are also relevant to the interests of national security"

Lord Paddick: My Lords, in moving Amendment 126A, which is also in the name of my noble friend Lady Hamwee, I will speak to Amendment 165A in this group.

Clause 18 deals with sensitive information received by the IPCC and restrictions on disclosing that information. It amends Part 2 of the Police Reform Act 2002 by inserting new Clause 21A, subsection (3) of which defines sensitive information as including,

"information obtained from a government department which, at the time it is provided to the Commission or the paragraph 18 investigator, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority … cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom".

When this House recently considered the Investigatory Powers Bill, where matters were considered to be related to the economic interests of the United Kingdom it was made explicit that these were only where the economic interests were directly linked to national security. Amendment 126A would insert the wording,

"so far as those interests are also relevant to the interests of national security",

to make it explicit in this Bill as well as in the Investigatory Powers Bill. Amendment 165A makes a similar change to the term "economic interests" in Clause 35, which amends Schedule 4A to the Police Act 1996 in relation to the restriction on disclosure of sensitive information acquired by Her Majesty's inspectors of constabulary. I beg to move.

Baroness Williams of Trafford: My Lords, Clause 18 increases the protections afforded to any sensitive information that is obtained by the Independent Police Complaints Commission in the course of its investigations or by a police or National Crime Agency investigator conducting an investigation under the direction of the IPCC. Clause 18 ensures that where the IPCC or investigator receives "sensitive information" it must not disclose that information without the consent of the "relevant authority", as defined in the clause. To assist the IPCC or investigator in fulfilling this requirement, Clause 18 places a duty on the person providing the information to make the IPCC or investigator aware that the information is sensitive and to provide enough detail to permit the identification of the appropriate "relevant authority". Clause 35 does likewise in respect of sensitive information received by Her Majesty's Inspectorate of Constabulary.

"Sensitive information" in this context means: first, that provided by or that which relates to the security and intelligence services; secondly, information derived from interception; and thirdly, information provided by a government department which may, if disclosed, cause damage to national security, international relations

or the economic interests of the country or any part of it. In such instances, the government department must identify it as such when it provides the information to the IPCC or investigator. Amendments 126A and 165A seek to narrow the third part of this definition by carving out information which may cause damage to the economic interests of the UK or part of the UK, unless there is a national security link. In effect, this would mean that the IPCC, investigator or HMIC would not need the relevant authority's consent to disclose certain economically sensitive information that could, if disclosed or handled inappropriately, have a negative economic impact on the country. The drafting approach taken in the Bill in relation to the definition of "sensitive information" is not new. The drafting simply replicates the existing definition in paragraph 19ZD of Schedule 3 to the Police Reform Act 2002, which these provisions replace.

I stress that the primary purpose of Clauses 18 and 35 is not to prevent sensitive information being provided for legitimate reasons, such as to the CPS in the event of criminal proceedings, but, rather, to protect that information and ensure that it is handled appropriately. Simply because a piece of information falls under the definition of "sensitive information" in Clauses 18 or 35, the relevant authority cannot unreasonably withhold its consent to its disclosure; it is a matter of public law that decisions made by the relevant authorities must be both reasonable and rational. The Government are simply closing a gap to provide additional certainty and reassurance around the handling of sensitive information, not to prevent any greater disclosure than is absolutely necessary.

I hope that that has clarified the matter for the noble Lord and that he is content to withdraw his amendment.

Lord Paddick: I am very grateful to the Minister for that lengthy explanation, but it does not answer the question that I asked. The drafting may not be new but my understanding is that it is inconsistent with the Investigatory Powers Bill. We sought clarification and the Government agreed to put it on the face of the Bill that economic interests meant economic interests that are likely to impact on national security. It may be consistent with previous legislation but my understanding is that it is not consistent with the most recent legislation. That is the question that I hoped she would answer. I understand and accept everything that she has said; it is what is missing that is key.

Baroness Williams of Trafford: Perhaps I can provide further clarification, although I am not sure that it will clarify matters much better. Clause 18 talks about,

"the economic interests of the United Kingdom or any part of the United Kingdom".

Clause 62 of the Investigatory Powers Bill says,

"in the interests of the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security".

There is a variation in the drafting of the two Bills because the provisions serve entirely different purposes. It is right that where authority is being sought to obtain communications data or to issue warrants for the purpose of the economic well-being of the UK, it should be done only where it is also relevant to the interests of national security. In Clause 18 of this Bill, the definition of "sensitive information" is intended to provide a safeguard to ensure that, whenever the IPCC handles particular types of information that originate from the security services or from government departments, it checks with the relevant authority before disclosing that information. The noble Lord does not look convinced but I hope that that has provided further clarification.

Lord Paddick: I need to improve my poker face skills. I am very grateful to the Minister for that explanation. I will read it to see whether I can get the answer to my question from what she has said, but at this stage I beg leave to withdraw the amendment.

Amendment 126A withdrawn.

Clause 18 agreed.

Clauses 19 to 21 agreed.

Clause 22: Delegation of functions by local policing bodies

Amendment 127 not moved.

Clause 22 agreed.

Clauses 23 and 24 agreed.

4.45 pm

Clause 25: Bodies who may make super-complaints

Amendment 128

Moved by ***Lord Paddick***

128: Clause 25, page 39, line 13, after "subsection" insert "(1),"

Lord Paddick: My Lords, in moving Amendment 128 in my name and that of my noble friend Lady Hamwee I will speak also to the other amendments in the group—Amendments 129 and 130. These are probing amendments that relate to which bodies can be designated as being eligible to bring super-complaints against the police.

Bodies are to be designated by the Secretary of State through regulations. Clause 25 inserts a new Section 29B into Part 2A of the Police Reform Act 2002. Subsection (5) of new Section 29B states:

"The Secretary of State must, before making regulations under subsection (3) or (4), consult such persons as the Secretary of State considers appropriate".

However, it does not require the Secretary of State to consult on subsection (1). Adding in reference to subsection (1) means that the Secretary of State would have to consult before making the regulations that designate which bodies should be capable of bringing super-complaints. Those regulations presumably will

set out the criteria referred to in subsections (3) and (4). That means that there will be consultation on those as well.

Amendment 129 lists the three bodies—the Law Society of England and Wales, the National Council of Voluntary Organisations, and Citizens Advice—that, along with others as specified by the Secretary of State, would be made "authorised" persons for the purposes of subsection (2)(d). That gives them a role in designation, as they are likely to know the territory and issues involved, know their members and know which the good non-governmental organisations are, and so on.

Amendment 130 is intended to ensure that the first regulations made under subsections (1), (3) and (4) of new Section 29B are subject to the affirmative resolution process. I beg to move.

Lord Kennedy of Southwark (Lab): My Lords, this section of the Bill gives the power to designated bodies to make super-complaints to Her Majesty's Chief Inspector of Constabulary. The complaints can be made where, in the opinion of those bodies, a feature of policing is harming the public and needs to be looked at.

The noble Lord, Lord Paddick, listed three organisations to make these super-complaints to be put on the face of the Bill. I have some sympathy with the amendments that have been put forward, but I understand that they are probing amendments. I hope that when the noble Baroness replies she can give us some indication of the organisations likely to be designated to make these complaints under the regulations. It is important that, when creating these new powers, we have some idea of what the organisations are likely to be. Are those listed in the amendment likely candidates to be designated when this comes into force, or are there others?

Baroness Chisholm of Owlpen: I am grateful to the noble Lords, Lord Paddick and Lord Kennedy, for the opportunity to debate the provisions in the Bill that will create a new system of policing super-complaints.

There are currently three extant super-complaints systems, having been originally created in the Enterprise Act 2002. These systems exist in the commercial sector, the financial system and in payments regulation. All relate to systemic issues affecting consumers relating to private sector organisations. The police super-complaints system, although based on the success of these antecedents, will be the first such system to address issues in the public sector.

A super-complaint is defined in Clause 24 as a complaint that,

"a feature, or combination of features, of policing … by one or more than one … force is, or appears to be, significantly harming the interests of the public".

Only bodies designated for the purpose of these provisions will be able to make a super-complaint, but any body can be designated if it meets the relevant criteria. Those criteria for designation will, following consultation, be laid out in regulations. The system will be "owned" by the HM Chief Inspector of Constabulary, so as to be sufficiently independent of government. Ultimately, this system will allow charities and advocacy groups to raise systemic issues they identify in policing in a more effective way, leading to the improvement of policing in England and Wales.

I turn now to the noble Lord's amendments which focus on the regulations relating to designated bodies and the designation process contained in Clause 25. The designated bodies able to make a super-complaint will be set out in regulations. Amendment 128 would require the Government to consult on such regulations. We have provided in Clause 25 for consultation on the regulations setting out the criteria for designation, but we do not believe that it is appropriate to consult each and every time a new body is given designation status. Any body that is so designated will have been assessed as meeting the criteria for designation. The Government believe that the criteria are the key to getting the right bodies involved in the system. This is why it is the criteria rather than the bodies themselves that will be subject to consultation. Following consultation on the criteria, further consultation on the resulting list of designated bodies would be unnecessary and, if conducted every time a body is designated, would be burdensome.

On Amendment 129, the Government agree that the nature of the bodies involved in the super-complaints system is key to its success. That is why we shall be consulting widely on the criteria for designation. Furthermore, the Government intend to include a requirement in the criteria for designated bodies to act as umbrella bodies for smaller organisations. This will ensure that any bodies that notice a systemic issue with policing, but are not designated, are still able to raise an issue through another organisation.

We have engaged with a number of key bodies, including Citizens Advice, in the development of this policy. We will continue to work with these bodies throughout its implementation to ensure that the system works in the public interest. It will of course be open to Citizens Advice, the Law Society and the National Council for Voluntary Organisations to apply for designated body status, but that decision is a matter for them. The Government would welcome the input of your Lordships on any particular bodies or organisations that may work towards the improvement of policing through becoming designated bodies.

Amendment 130 would require the first regulations made in relation to designation to be subject to the affirmative procedure. The Government set out the rationale for applying the negative procedure to these regulations in their delegated powers memorandum. That memorandum has been considered by the Delegated Powers Committee which did not take issue with the application of the negative procedure whether on the first or subsequent exercise of these powers. The negative procedure is consistent with the legislative framework applicable to existing super-complaints systems and I see no good case for departing from it here.

Having given these provisions in the Bill the airing they deserve, I hope that the noble Lord will be content to withdraw his amendment.

Lord Kennedy of Southwark: The noble Baroness has talked about consultation on the regulations. Is there a timescale for when that will take place because

obviously the Government will complete their consultation and make a decision before the regulations come into force? Can she give us some idea of when it will be?

Baroness Chisholm of Owlpen: If there is a timescale that we know of, I will write to the noble Lord, but I do not have it here in my notes.

Lord Harris of Haringey: My Lords, it is clear that the Government have given a great deal of thought to the concept of super-complaints. Have they made any assessment of how many such super-complaints might be presented and what proportion of the time of Her Majesty's Inspectorate of Constabulary is likely to be devoted to looking into such matters?

Baroness Chisholm of Owlpen: We do not know how many super-complaints will be made because it is difficult to judge that. The point about the super-complaints is that they will make an enormous difference to the way things are done. It was interesting to note that in March this year the then shadow Home Secretary, Andy Burnham, held a seminar with the noble Baroness, Lady Lawrence, which brought together groups that are still campaigning for justice, such as the Shrewsbury 24 campaign, the Orgreave Truth and Justice Campaign, and Justice 4 Daniel. A common thread runs through all of these groups but the way the system works at the moment forces them all to plough their own furrow; it does not allow them to join forces. The super-complaint proposal will rebalance the system in their favour and mean that they can join together.

Lord Kennedy of Southwark: My Lords, perhaps I may pursue the point about the regulations one more time. The noble Baroness has said that there is no timescale but that she will write to me if she can find out if there is. I should say to her that this issue is very important to the campaigns she has just listed. If this legislation gets on to the statute book without us knowing where we are with the regulations, of course it cannot come into force. I hope that she will take back to the department and her ministerial colleagues that the consultation should be done with the utmost urgency. There is no point in passing the legislation if people cannot actually make their complaints.

Baroness Chisholm of Owlpen: I do not have a timescale. I do not want to give the noble Lord false information, so it is only fair that I write to him.

Lord Paddick: My Lords, I am very grateful to noble Lords who have contributed to the debate, and for the response given by the Minister. I have a confession to make: I did not write the amendments. I am glad to see that everyone fell into the same trap I did. The intention of Amendment 128, whether or not it would be the effect, is for there to be consultation on the regulations, not each time an organisation is designated. It could be that it is a mistake in the drafting—I can say that because I did not draft them.

The organisations listed in Amendment 129 are suggestions as to who authorised persons should be under the Act, not who the designated bodies should be. The authorised persons are those who can make representations to the Secretary of State to have a particular body designated or removed from the list of designated bodies. That is what I believe I explained when I introduced the amendment. The list that includes the Law Society and so forth is not a list of bodies that we think should be designated, but a list of people who should be authorised persons who can then ask the Secretary of State to add or remove people from the list of designated bodies.

I will read again the view of the Delegated Powers Committee so far as Amendment 130 is concerned, but at this stage I beg leave to withdraw Amendment 128.

Amendment 128 withdrawn.

Amendment 129 not moved.

Clause 25 agreed.

Clause 26: Regulations about super-complaints

Amendment 130 not moved.

Clause 26 agreed.

Amendment 131

Moved by ***Lord Rosser***

131: After Clause 26, insert the following new Clause—

"Police complaints and the media

(1) Subject to subsection (3), the Prime Minister must commission an independent inquiry into the operation of the police complaints system in respect of relationships between the police and media.

(2) The matters that are the subject of the inquiry shall include, but shall not be limited to—

(a) how adequately police forces investigate complaints about police officers dealing with people working within, or connected to, media organisations;

(b) the thoroughness of any reviews by police forces into complaints of the type referred to in paragraph (a);

(c) in those cases where a complaint of the type referred to in paragraph (a) led to a criminal investigation, the conduct of prosecuting authorities in investigating the allegation;

(d) whether any police officers took illegal payment to suppress investigations into complaints about relationships between police officers and people working within, or connected to, media organisations;

(e) the implications of paragraphs (a) to (d) for the relationships between media organisations and the police, prosecuting authorities, and relevant regulatory bodies, and recommended actions.

(3) The inquiry may only start once the Secretary of State is satisfied that it would not prejudice any relevant ongoing legal cases."

Lord Rosser: My Lords, the amendment would provide for the Prime Minister to commission an independent inquiry into the operation of the police complaints system in respect of relationships between the police and media. It also states that the inquiry

may start only once the Secretary of State is satisfied that it would not prejudice any relevant ongoing legal cases.

The objective of the proposed new clause set out in the amendment is to seek to hold the Government to their promise to the victims of press intrusion to hold a second stage of the Leveson inquiry to look at the culture of relations between the police and the press. In November 2012, the then Conservative Prime Minister reminded the victims of press intrusion that when he set up the Leveson inquiry he had also said there would be a second part to investigate wrongdoing in the press and the police, and that his Government remained committed to the inquiry as it was then established. He then went on to say:

"It is right that it should go ahead, and that is fully our intention".—[*Official Report*, Commons, 29/11/12; col. 458.]

However, real doubts about the Government's willingness to honour that promise have arisen. Ministers have subsequently used language that suggests it is no longer a question of when the inquiry will go ahead, but rather of whether it will go ahead.

Police-press relations is a significant area still to be addressed. We have yet to start to make changes to properly put right, once and for all, the kind of wrongs that have now come to light, for example, following the Hillsborough tragedy. Briefings by the police in the immediate aftermath of the tragedy had a profound adverse impact, not just on the families who had lost loved ones, but on thousands who had been at the match and returned home in a state of some trauma, only to read a few days later that the police were blaming them for the deaths of their friends and family. It surely cannot be right that a police force is able, unattributably or otherwise, to brief damning and unproven information to a newspaper. The extent and reasons for such practices, both previously and more recently, must be investigated independently and openly and those practices brought to an end.

5 pm

We need a stronger and more transparent process and culture for press relations under which false impressions cannot be put out with the intention of setting a narrative about a particular incident. As we know only too well, families who are seeking justice often find it difficult to overturn the false version of events, as proved to be the case for the Hillsborough families. The cover-up of what happened at Hillsborough was delivered on the record, off the record and even to 10 Downing Street, where the head of press at the time briefed that a "tanked-up mob" caused the disaster.

Hillsborough is not the only injustice where there has been inappropriate contact between the police and the press. The media were manipulated in the case of the Shrewsbury 24, to which the Minister referred when responding to the last group of amendments. Part 1 of the Leveson inquiry found unhealthy links between senior Met police officers and newspaper executives—links which led to resignations.

It is not only the high-profile cases that are a cause of concern. There is also an issue, on occasion, of the nature of relationships between the police and the press at a more local level, where sometimes prior information appears to have been provided about a particular person to be arrested or a particular search carried out.

Our police do a first-class job on our behalf. As I have said on previous occasions, we all owe them a debt of gratitude for what they do in often very difficult and trying circumstances. However, episodes such as the events surrounding the Hillsborough tragedy do the police no favours. The police themselves would be further strengthened in their public standing, not weakened, by the second-stage inquiry previously promised by the then Prime Minister.

We are seeking a very clear statement from the Government today that the promise given by the then Prime Minister to the victims of press intrusion—including to the victims of the biggest example of inappropriate police briefing of newspapers—that there will be a Leveson second-stage inquiry into the culture of relations between the police and the press will be honoured and any doubt removed that a second-stage inquiry will proceed at the appropriate moment. I beg to move.

Lord Paddick (LD): My Lords, I support the amendment in the name of the noble Lord, Lord Rosser. The second stage of Leveson is a very important stage of the investigation into the conduct of the police and the media. It is essential that it is carried out as soon as possible, bearing in mind that there may be outstanding criminal cases that need to be dealt with first.

It is understandable that a slightly one-sided picture has been given of the relationship between police and press. There are many entirely appropriate relationships between the media and press which are beneficial to the public interest. For example, appeals for witnesses to a serious crime can receive the wide publicity sometimes required only with the co-operation of the media and local press. There are searches for missing persons, where an appeal needs to be made nationally to try to identify where a vulnerable person might be. Clearly, there are examples of the opposite. Hillsborough is one. Another rather common example is where, sadly, the police brief the media casting doubt on the character of those who died at the hands of the police.

I am not saying that it is entirely a positive relationship but it is necessary for the police to have a relationship with the media. It is important to differentiate between positive and appropriate relationships and negative and entirely inappropriate ones, particularly, as happened with the phone hacking case, where there was at least the opportunity for critics of the police to suggest that their lack of enthusiasm initially to investigate phone hacking by the media might have had something to do with that too-close relationship. For those reasons, I support the amendment.

Lord Kennedy of Southwark: My Lords, I, too, support the amendment moved by my noble friend Lord Rosser. I agree with the comments of the noble Lord, Lord Pannick. I very much support the police. They do a fantastic job for us and put their lives on the line every day to keep us safe.

The noble Lord is right when he talks about the need for an appropriate relationship between the media and the police, and how important that is. Equally, as

my noble friend Lord Rosser said, there are obviously times when things go wrong. Clearly what happened at Hillsborough was an absolute tragedy. Can you imagine losing a loved one on that day and then having to endure the abuse in the media which has clearly now been shown not to be true? We should pay tribute to the steely determination of the Hillsborough families to get justice for their loved ones. They not only lost them but saw their names dragged through the mud.

It is important that we get to the point where the Government can clarify that they will proceed with the second stage of Leveson. There are some nuances between the statement we had from the previous Prime Minister and what we had from this Dispatch Box more recently. That difference might just be a few words which mean nothing at all, but we need to be clear that this should go ahead and that the Government are determined that any prosecution dealing with this will proceed.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who contributed to this debate. I join the noble Lord, Lord Kennedy, in paying tribute to the victims of the Hillsborough disaster, which took place not far from where I live.

As the noble Lord, Lord Rosser, explained, this amendment would require the Prime Minister to establish what is colloquially referred to as the Leveson 2 inquiry into the relationships between the police and the media. It is worth noting that the drafting of this amendment goes beyond the terms of reference of the Leveson inquiry. Part 1 examined the culture, practices and ethics of the media; if it goes ahead, Part 2 is to examine wrongdoing in the press and the police, including the failure of the first police investigations into phone hacking and the implications for police and press relations.

This amendment would, for example, extend the remit of Leveson 2 to cover how the police investigated any complaints about their dealings with people connected to the media, and to the conduct of the CPS where complaints led to criminal investigations. This is well outside the scope of the current inquiry terms of Leveson 2. The Government are of the view that it is not necessary to legislate to require Leveson 2 as it is already set up under the Inquiries Act 2005. As the noble Lord will be aware, there are still ongoing criminal cases relevant to the subject matter of the Leveson inquiry. I welcome the fact that subsection (3) of the proposed new clause recognises the importance of not prejudicing those outstanding criminal proceedings. We have always been clear that these cases, including any appeals, must conclude before we consider part 2 of the inquiry. Given this, and the fact that we already have an appropriate legal framework in the Inquiries Act, it is not an appropriate matter for further legislation. There is an established process in place for taking this matter forward. On that basis, I hope the noble Lord will withdraw his amendment.

Lord Rosser: The Minister referred to subsection (3) in the amendment, which states:

"The inquiry may only start once the Secretary of State is satisfied that it would not prejudice any relevant ongoing legal cases".

She also made reference to Leveson 2. Is it the Government's position that once ongoing cases have been determined, the second stage of Leveson will take place, or—as I think the Minister said on behalf of the Government—that once outstanding cases have been resolved, the Government will only consider whether to proceed with the second stage of Leveson? Can the Minister clarify what she said? Are the Government saying that once outstanding cases have been resolved, Leveson 2 will take place, or is the Minister simply confirming what now appears to be the Government's stance—unlike the promise that was given—that they will only consider whether to move to the second stage of Leveson?

Baroness Williams of Trafford: It is the latter. We will make a decision on Leveson 2 once the outstanding cases have been concluded.

Lord Rosser: Can the Minister say why the position has changed from the very clear and specific commitment given by the previous Prime Minister that the second stage of Leveson would take place?

Baroness Williams of Trafford: My Lords, both the current Prime Minister and the previous Prime Minister were very clear that all the cases of Leveson 1 should be concluded before Leveson 2 is considered.

Lord Rosser: Is the Minister saying on behalf of the Government that the previous Prime Minister did not give a commitment that the second stage of Leveson would take place? Is she really saying on behalf of the Government that the previous Prime Minister gave a commitment only to consider whether the second stage of Leveson should take place?

Baroness Williams of Trafford: My Lords, I would have to look at the exact words that the previous Prime Minister used before I contradicted the noble Lord. I certainly do not want to contradict the noble Lord. In terms of the process, both the current Prime Minister and the previous Prime Minister were clear that Leveson 2 could not proceed until Leveson 1 was concluded.

Lord Rosser: I find the Government's response most unsatisfactory but at least the Minister has confirmed that there has been a complete shift in the Government's stance. I will say what I think: the Government have now gone back on the very clear undertaking that was given by the previous Prime Minister that the second stage of Leveson would take place.

Baroness Williams of Trafford: My Lords, I hope I did not make it clear that we have gone back on the decision but we will make a decision on Leveson 2 once those outstanding cases have been concluded, which is rather different from going back on what was said.

Lord Rosser: The promise that was given was that there would be a second stage of Leveson. If the Government are now saying that once the outstanding cases are concluded they will only consider whether

they should move to a second stage of Leveson, that is going back on the promise that was given. It is no longer specific. Does the Minister not agree?

Baroness Williams of Trafford: I think we are going to have to agree to differ that we have not gone back but we will consider it once those cases have concluded.

Lord Rosser: I accept that the Committee will not want me to continue with an argument over the difference in wording, but I will simply restate my stance that for the Government now to say that they will only be considering a second stage of Leveson is not what the previous Prime Minister said in the promise he gave to the victims of press intrusion. I strongly regret the answer that we have received from the Government today, but nevertheless beg leave to withdraw the amendment.

Amendment 131 withdrawn.

5.15 pm

Clause 27: Investigations by the IPCC: whistle-blowing

Amendment 132

Moved by ***Lord Paddick***

132: Clause 27, page 40, line 14, after "occurred" insert "or is currently under such direction and control"

Lord Paddick: My Lords, in moving Amendment 132 I will speak also to our Amendments 135, 136 and 137 in this group and in support of Amendments 133 and 134, in the name of the noble Lord, Lord Rosser.

Clause 27 relates to investigations by the IPCC of concerns raised by whistleblowers and inserts a new Part 2B into the Police Reform Act 2002. If we were asking for this clause to not stand part of the Bill, it would be a case of 2B or not 2B—but that is not what we are asking for. I am just checking to see whether noble Lords are awake. New Section 29D of the 2002 Act defines a whistleblower as a person who,

"raises a concern … about a police force or a person serving with the police",

and who is,

"under the direction and control of a chief officer of police",

at the time. However, it does not cover cases where the whistleblower is currently under the direction and control of a chief officer. One potential scenario is where the whistleblower is a witness to an incident that happened before he or she joined the police service, and wishes to draw the matter to the attention of the IPCC. Our Amendment 132 would legislate for that scenario.

I move on to Amendments 135, 136 and 137. New Section 29I of the 2002 Act allows the Secretary of State, by regulations, to set out the circumstances where the identity of the whistleblower may have to be disclosed. This may be done only for permitted disclosure purposes, one of which is,

"the institution or conduct of criminal proceedings".

Our concern is that a whistleblower may not realise that his or her identity may be revealed if the investigation turns into a criminal one, and that the whistleblower should be informed at the outset that this might be the case, so that they can withdraw the concern if they are worried by that prospect. Amendment 135 addresses that issue.

New Section 29E of the 2002 Act sets out the actions of the IPCC if it chooses not to investigate, including making recommendations in the light of the concern. Subsections (4) and (5) allow the Secretary of State to make regulations in relation to such a scenario, including, in (5)(a), to,

"describe the kinds of recommendations that the Commission may make".

Our Amendment 136 is aimed at ensuring that the IPCC is not restricted as to what recommendations it can make by adding that the Secretary of State,

"may not specify an exclusive list of recommendations".

In new Section 29L of the 2002 Act, the Secretary of State is required to consult various bodies before making regulations about whistleblowers. We believe that organisations representing police officers and staff should be included in the list of groups who must be consulted. Our Amendment 137 makes this change. We also support, as I mentioned, Amendments 133 and 134, in the name of the noble Lord, Lord Rosser. I beg to move Amendment 132.

Lord Kennedy of Southwark: My Lords, this section of the Bill deals with whistleblowing and investigations by the IPCC. It provides a new power for the IPCC to investigate matters raised by a police whistleblower without the matter having to be raised with the police force concerned, and provides further powers to protect the identity of the individual or individuals concerned. All the amendments in this group are in the names of the noble Lord, Lord Paddick, and the noble Baroness, Lady Hamwee, with the exception of Amendments 133 and 134 in the name of my noble friend Lord Rosser.

Amendment 132 seeks to provide as much clarity as possible and allows for the eventuality that the person making a complaint could still be under the direction and control of a chief officer of police. This amendment raises an interesting point, which was highlighted by the noble Lord, Lord Paddick, when he presented his scenario to the House a few moments ago. I hope that when the Government respond they will be as clear possible in their reasoning if they do not think the amendment is necessary.

The amendments in the name of my noble friend seek to add clarity to this section of the Bill by making clear that these provisions cannot be used if the matter is subject to an ongoing investigation. Amendment 134 would allow for whistleblowing protections to be applied to police witnesses. These are good amendments that would strengthen what is proposed by the Government.

When reading and thinking about Amendment 135, I was not completely convinced that it was either necessary or should in fact be there. Having said that, I listened to the points made by the noble Lord, Lord Paddick, and I think that he persuaded me on those.

I am not sure what Amendment 136 adds to the Bill as it would not put in the Bill an exclusive or exhaustive list. Amendment 137 is completely correct: organisations

representing police officers and staff must be consulted before regulations are made concerning this section of the Bill. It is not good enough to rely on the subsection that talks about other organisations that are deemed appropriate. Those organisations deserve to be in the Bill when it leaves this House.

Baroness Chisholm of Owlpen: I am grateful to the noble Lords, Lord Paddick and Lord Kennedy, for the opportunity to debate the provisions in the Bill that will strengthen protections for police whistleblowers. The Government are committed to ensuring that those working for the police have the confidence to come forward to report concerns of malpractice and misconduct within the service.

Forces should, and do, provide channels for staff to raise such issues in confidence. However, Her Majesty's Inspectorate of Constabulary has found that the quality of reporting arrangements and support offered to whistleblowers varied considerably by force, and a key concern was a lack of trust in confidential reporting. That is why, through Clause 27 and Schedule 6, we are creating a specific power for the Independent Police Complaints Commission to investigate whistleblowing allegations. If the IPCC decides to investigate, it does not have to refer the matter to the force unless the concern is about a conduct-related matter for the purposes of Part 2 of the Police Reform Act 2002. Even if it decides not to investigate, it will have to take all reasonable steps to ensure that the whistleblower's identity is protected. These changes will give officers and staff much greater assurance that their concerns will be considered objectively and discreetly.

I have listened with interest to the points raised by the noble Lords, Lord Paddick and Lord Kennedy, and on two points I have some sympathy—I see that I have surprised the noble Lord, Lord Kennedy. The first is dealt with in Amendment 132, which seeks to modify the definition of a whistleblower to include those raising a concern about matters that occurred within a police force prior to them joining the police. The legislation as currently drafted allows for existing and former members of a police force to raise concerns about matters that occurred while they were serving. It is evident that some cases of police misconduct and malpractice can go unreported for some time, and it may be appropriate that there be some scope for this to be brought to light, as prescribed under new Part 2B, by a whistleblower who had joined the force at a later stage.

Amendment 133, tabled by the noble Lord, Lord Rosser, and spoken to by the noble Lord, Lord Kennedy, addresses the concern that there is a risk under the new provisions that a police officer or staff member interviewed as a witness in connection with a Part 2 investigation by the commission could be deemed a whistleblower, and that this could lead to confusion and complexity. Amendment 133 would prevent the IPCC having to start a new investigation where one is already under way in relation to the concern that has been raised. I am sympathetic to that point.

However, it is not the intention of the legislation to capture those providing factual information in an existing investigation. Rather, the aim of the legislation is to encourage whistleblowers to come forward and capture those concerns that are not being investigated but, in the public interest, should be considered independently by the IPCC and subject to its recommendations.

For this reason, I have less sympathy with Amendment 134, which would allow the IPCC discretion to confer whistleblowing status on any individuals providing evidence in existing investigations. We do not wish to create an expectation among police witnesses that the IPCC could offer them protections in return for giving their evidence. I understand that the IPCC has concerns about the protections available for those who provide it with evidence, but this is a much broader issue which needs be considered in the longer term, beyond the narrow confines of the whistleblowing provisions and in consultation with all relevant policing stakeholders.

Amendment 135 would impose an express duty on the IPCC to inform a whistleblower that his or her identity may be disclosed in the course of any criminal proceedings and to give the whistleblower an opportunity to withdraw the concern. The legislation is quite clear on the protection of anonymity and the circumstances in which a whistleblower's anonymity might cease to be protected. As well as criminal proceedings, such circumstances could, for example, include the interests of national security and allegations of misconduct against the whistleblower him or herself. It is not practicable for the primary legislation to include every possible prescription. We would expect the IPCC to do its best to ensure that police officers were aware of the limitations of anonymity before they raise their concern, as I do not believe that it would be practical or desirable to provide for a concern to be withdrawn or unsaid by a whistleblower.

Guidance will support the new provisions, including an update of the College of Policing's *Reporting Concerns* guidance, to promote awareness and understanding of these important reforms for whistleblowers. The protections offered by the new process that the Government are providing for whistleblowers can only go so far, and certainly not at the expense of allowing criminals to escape justice.

Amendment 136 would restrict the power of the Secretary of State to stipulate the matters on which the IPCC can make recommendations to a police force in cases where it has decided not to investigate a whistleblower's concerns. I reassure the noble Lord, Lord Paddick, that the intention is not to provide the Secretary of State with the power to prescribe an exclusive list but merely to describe the kinds of recommendations that the IPCC may make. The purpose of the provision is to assist the IPCC in those cases where it decides, with the whistleblower's consent, to refer the matter to the appropriate authority.

Finally, in response to Amendment 137, the Bill already requires the Secretary of State to consult on the whistleblowing regulations with police staff associations as members of the Police Advisory Board for England and Wales. This matter was discussed in the House of Commons and subsection (5) of new Section 29M to the Police Reform Act 2002 was inserted on Report there to provide for this requirement.

On the understanding that I will consider further, in advance of Report, Amendments 132 and 133, I ask the noble Lord, Lord Paddick, to withdraw his amendment.

Lord Kennedy of Southwark: I was pleased that the Minister was sympathetic to the point I made on Amendment 133; that is certainly progress. My noble friend raised an important point. We do not want it not to be addressed in legislation on the suggestion that it will come back as guidance, and then we have as an unintended consequence when the guidance is not strong enough that someone makes a complaint and what we thought could not happen does. We need to reflect on that, and perhaps the Government could come back on Report, because I think my noble friend has identified an important issue: we would not want a conflict there to cause problems in future.

Baroness Chisholm of Owlpen: We will reflect.

5.30 pm

Lord Paddick: I am very grateful to the Minister for her explanation and for admitting the concern of Her Majesty's Inspectorate of Constabulary that support for whistleblowers at present is patchy. We welcome the changes that the legislation brings in terms of reassurance to whistleblowers. I am grateful that the noble Baroness has undertaken to take away our Amendment 132 to see whether anything can be done.

I am not sure that whistleblowers will be reassured by the noble Baroness's response to Amendment 135, that the IPCC will do its best to keep their identity secret. Again, we are discussing whether something should be in the Bill or in statutory guidance, and if in statutory guidance it will be adhered to in the real world.

On Amendment 136, we understand that it is not the intention to restrict the recommendations that the IPCC can make in response to an issue of concern raised by a whistleblower that is not investigated by the IPCC. However, perhaps the Minister might consider putting in statutory guidance the fact that it is not the intention of the legislation to restrict the number or type of recommendations that the IPCC can make. I will reflect on what she said about Amendment 137, which appears to be a reasonable explanation. In the meantime, I beg leave to withdraw Amendment 132.

Amendment 132 withdrawn.

Amendments 133 to 137 not moved.

Clause 27 agreed.

Schedule 6 agreed.

Clause 28: Disciplinary proceedings: former members of police forces and former special constables

Amendment 138

Moved by ***Baroness Williams of Trafford***

138: Clause 28, page 45, line 42, leave out from beginning to end of line 10 on page 46 and insert—

"(c) condition A, B or C is satisfied in relation to the person.

(3AA) Condition A is that the person ceases to be a member of a police force after the allegation first comes to the attention of a person mentioned in subsection (3A)(a).

(3AB) Condition B is that the person had ceased to be a member of a police force before the allegation first came to the attention of a person mentioned in subsection (3A)(a) but the period between the person having ceased to be a member of a police force and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) does not exceed the period specified in regulations under this section.

(3AC) Condition C is that—

(a) the person had ceased to be a member of a police force before the allegation first came to the attention of a person mentioned in subsection (3A)(a),

(b) the period between the person having ceased to be a member of a police force and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) exceeds the period specified for the purposes of condition B, and

(c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of a police force.

(3AD) Regulations made by virtue of subsection (3A) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—

(a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,

(b) the impact of the allegation on public confidence in the police, and

(c) the public interest.

(3AE) Regulations made by virtue of subsection (3A) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (3AD)(a) to (c)."

Baroness Williams of Trafford: My Lords, the important amendments in this group relate to the circumstances in which disciplinary action may be taken against former police officers and former special constables.

Clause 28 will allow for the extension of the disciplinary regime to former officers where an allegation arose before they resigned or retired, or arose within a period of time following their resignation or retirement. The relevant period will be specified in regulations and we have made it clear that we intend to specify 12 months. On Report in the Commons, the then Policing Minister undertook to bring forward amendments which would set aside the 12-month time limit in exceptional circumstances. The government amendments in this group make good on that commitment.

I start by recognising, as the whole House does, that the vast majority of police officers and special constables conduct themselves with absolute integrity. They serve our communities with distinction and loyalty throughout their careers and, in doing so, demonstrate the values set out in the College of Policing's *Code of Ethics* on standards of professional behaviour.

Nevertheless, and regrettably, a small minority do not meet the high standards of professionalism that the public rightly expect. The public also expect those suspected of serious misconduct to be subject to formal disciplinary proceedings and that, where officers are in the wrong, they are held to account for their actions. Indeed, that is what both the public, and the majority of decent, dedicated and hard-working police officers in this country deserve.

The Bill already contains significant reforms to increase the accountability of former police officers. As I have indicated, the provisions in Clause 28, and the accompanying regulations, will ensure that where an allegation that could have led to dismissal had the officer still been serving comes to the attention of a force within 12 months of an officer's resignation or retirement, or where an individual resigns while an investigation is ongoing, this can be investigated or continue to be investigated and that, where appropriate, disciplinary action can be taken to hold the officer to account for serious wrongdoing. Where a case is proven, the new police barred list will ensure that the individual concerned is prevented from future service in policing.

These are important steps, but we need to go further, particularly in the wake of high-profile cases where there is a perception that retired officers suspected of committing the most serious acts of gross misconduct have not been held to account where such acts cause serious harm to public trust and confidence in policing. In these cases, which can emerge long after individuals have left policing, there is more to be done to prevent the perception that officers who have left policing are able to evade accountability. We recognise the strength of feeling in relation to such cases and, in particular, the public concern that police officers who commit the most serious acts of wrongdoing should be held to account for their actions. The Government also recognise the importance of ensuring that the measures introduced are proportionate for policing as a whole and fair for individual officers.

The amendments that stand in my name achieve this important principle of accountability and do so in a way that is robust, fair and proportionate. In effect, these create the new exceptional circumstances test, which will be applied by the IPCC and, in due course, by the director general of the Office for Police Conduct, following the reforms to the IPCC. In our view it is right that the decision as to whether the exceptional circumstances test is met is taken by an organisation independent of government and free from any politicised decision-making. The IPCC carries out its role and functions in a way that is well established within the sector as the independent watchdog for policing.

It would be only in those cases where this test is met and the IPCC has determined that it would be reasonable and proportionate to do so that disciplinary proceedings could be instigated. In deciding whether the exceptional circumstances test is met, the IPCC will have to have regard to the seriousness of the alleged misconduct, inefficiency or ineffectiveness, the impact of the allegation on public confidence in the police and the public interest. We will set out in regulations the matters to be taken into account by the IPCC in making such a determination.

This will mean that disciplinary proceedings can be brought in relation to the most serious matters which are considered of an exceptional nature where serious and lasting harm has been caused to public confidence in policing as a result of the wrongdoing. As with the original provisions set out in Clause 28, the exceptional circumstances test will not operate retrospectively. As such, these provisions will apply only to those officers who are serving on or after the date that they come into force. Where there is a finding that the former officer would have been dismissed at a subsequent misconduct hearing, the individual will be barred from future service in police and other law-enforcement agencies.

Amendment 138 gives effect to these changes in respect of former police officers, Amendment 140 in respect of former special constables and Amendment 144 in respect of former MoD police officers. Amendments 139, 141 and 145 clarify that, in cases where the investigation or disciplinary proceedings concerning the former officer, special constable or member of the Ministry of Defence Police arise from a decision to reinvestigate a matter previously closed, this can lead to disciplinary proceedings only in cases which either meet the exceptional circumstances test or where the reinvestigation commences within the specified time limit. Amendments 160, 161 and 162 are consequential on the main amendments and the changes to the governance of the IPCC. They provide that, in future, these determinations will be made by the director general of the Office for Police Conduct.

Amendments 149, 150 and 151 clarify the operation of the police advisory list. The amendment makes it clear that the duty on chief officers and others to report officers to the College of Policing applies only in the case of officers who at the time of leaving the force are under active investigation. The amendments will mean that in circumstances where an officer was previously under investigation while serving but the investigation concluded with no disciplinary proceedings being brought and subsequently the officer leaves the force, the duty to report the officer to the college shall not apply. This eliminates potential ambiguity in the legislation and makes it clear that reports are required only when an individual is subject to an ongoing investigation.

Amendments 142 and 143, in the name of the noble Lord, Lord Rosser, are directed at the same end as the key government amendments in this group. I hope that, having heard my explanation of the government amendments, the noble Lord is satisfied that they deliver a similar outcome. I commend the government amendments to the Committee and I beg to move Amendment 138.

Lord Paddick: My Lords, we broadly welcome the government amendments in this group and, subject to what the noble Lord, Lord Kennedy of Southwark, has to say on the Labour amendments, they seem to cover similar ground.

I have some questions, but I agree with the Minister that the overwhelming majority of police officers are honest, decent people who want only to do their best to protect and serve the public. However, if an officer has left the service and, within 12 months, an investigation

takes place which, if the officer was still serving, could have resulted in that officer being sacked, what sanctions would be available against such an officer, other than their name being added to the banned list?

I understand that "exceptional circumstances", in terms of the most serious acts of wrongdoing, needs to be defined by an independent body. We will come later on in our considerations to talk about the Independent Police Complaints Commission and whether it is truly independent. It is slightly concerning that one criterion that the IPCC would have to look at, in deciding what action to take, is the impact on public trust and confidence in the police, because it could take the decision that the impact of exposing serious misconduct through an investigation would have such a detrimental impact on that trust and confidence that it would use it as a reason not to investigate rather than an obligation to do so. So we have to be very careful about the grounds on which the IPCC should or should not consider something to be exceptional wrongdoing.

Clearly, many members of the public will be very concerned, or disappointed, that the legislation will not be retrospective, particularly with regard to those involved in the aftermath of the Hillsborough disaster. The concern is not with the rank and file officers in that case; the concern is with what happened in the aftermath, and the leadership exercised at Hillsborough. However, as I say, we are generally supportive of the government amendments.

Lord Kennedy of Southwark: My Lords, first, I associate myself with the comments made by the Minister and by the noble Lord, Lord Paddick, in paying tribute to the police and how they conduct themselves. They are a fantastic group of people, who protect us every day, and we are very lucky to have them looking after us.

As we have heard, this section of the Bill concerns disciplinary proceedings against former police officers and former special constables, and the amendments in this group are to both the relevant clauses and schedules. Generally, I am content with the government amendments, and supportive of them. My noble friend Lord Rosser tabled Amendments 142 and 143 before the Government tabled their amendments, and we are very happy with what the Government have proposed.

I accept entirely the point that the noble Lord, Lord Paddick, made about "exceptional circumstances" being defined by an appropriate body. Could the Minister give us some idea what the Government's thinking is on that matter? Having said that, I support the government amendments.

5.45 pm

Lord Condon (CB): My Lords, I apologise for not being here at the start of this grouping; I intended to speak but I was slightly delayed. I want to add my support to the Government, to the Opposition and to the noble Lord, Lord Paddick, for moving these amendments. It is vital for public confidence that there should be no sense that police officers, once retired, can somehow escape the consequences of actions that, in other circumstances, would have been dealt with by discipline. Certainly, as a former commissioner, I accept that until I draw my last breath I should be accountable for everything that I did during my time as a police officer. I say that with a clear conscience but, if there were any aspect that could have led to a criminal case or disciplinary case, I would of course want that to be tested and examined with the full rigour of the law or disciplinary process, and I would want the same to apply to other people who had retired.

My only reservation—it is not even really a reservation—is that, for more junior officers in particular, a line can never be drawn under their service and what they did as police officers, and they should be held accountable. I think that they and their relatives would take comfort—when looking at an incident that was, perhaps, 20 or 30 years old, where the law, public morality around an issue, or cultural issues may have changed—that there is some test that prevents vexatious or frivolous complaints from that earlier time being put into a process. I take enormous comfort that in, for example, Amendment 142 in the names of the noble Lords, Lord Rosser and Lord Paddick, there is a pretty high bar that the Secretary of State has to determine that investigating and, if appropriate, hearing a case is both necessary and proportionate. Those words will be of enormous comfort to the vast majority of retired police officers—men and women who have sometimes put their lives at risk serving the public. They would want to feel that their honourable service has been recognised. I wholeheartedly support the Bill, what is behind these amendments and the spirit of the amendments moved by the Opposition.

Lord Blair of Boughton: My Lords, I also apologise for not joining this particular part of the debate earlier. I absolutely agree with and amplify what my noble friend Lord Condon has said. Part of the difficulty for some of the most senior officers in the system, which my noble friend and I and the noble Lord, Lord Paddick, obviously are—we therefore have to declare interests to your Lordships—is that you end up during your period of service, particularly the period of top command, with cases that are headlines for years and which are investigated and investigated. It would mislead the House to say that my noble friend Lord Condon and I have not spoken about it—we have, although not in the Chamber. I urge those putting forward Amendment 142, the Government and the Opposition, to keep the words "necessary and proportionate" in mind, otherwise there is no end to some of these cases. This is a matter that our legislature needs to think about as it brings forward this kind of amendment. I agree absolutely with my noble friend, and I am sure that I speak for other noble Lords who have been senior police officers, that this is the right way forward.

Baroness Williams of Trafford: My Lords, I thank the noble Lords who have responded to both the government amendments and the other amendments. The noble Lord, Lord Paddick, talked about the ultimate sanction for someone who had retired. The ultimate sanction is that the officer is found to have committed gross misconduct at a public misconduct hearing, with the panel finding that the officer would have been dismissed, and, therefore, as a consequence, should be added to the police barred list. Inclusion on the police

barred list would see the officer banned from any future service in policing and added to the published list for a period of five years. Perhaps the noble Lord was referring to a police officer in this situation who had retired anyway and had no intention of going back into the police. However, if I had served 40 years in an organisation, such a judgment would be a pretty awful outcome for my career. Therefore, although there would be no actual effect on the person's life, the ultimate judgment of misconduct in public office would fulfil that purpose.

Lord Paddick: I am grateful to the noble Baroness for giving way but my understanding is that, in the past at least, it has been possible in exceptional circumstances for a disciplinary authority to reduce the pension, for example, of somebody who is dismissed or forced to resign from the police service. Will the noble Baroness write to me explaining whether that sort of sanction might be available?

Baroness Williams of Trafford: I will certainly write to the noble Lord. I can envisage such a situation where somebody was sanctioned before they retired. In fact, I have the answer—the cavalry arrived in the nick of time. The measure will not directly impact an officer's pension. However, if criminal activity is identified following an investigation and the officer is convicted, it will be open to the force, as now, to apply for some of the officer's pension to be forfeited.

The noble Lord, Lord Kennedy, was disappointed that the measure was not retrospective in circumstances such as Hillsborough. I think that most noble Lords would share that disappointment. However, we make laws in line with established principles. It is in line with established principles that new laws generally should not be retrospective. They will apply only to officers who are serving when the relevant provisions are commenced. These matters do not in any way affect criminal investigations and prosecutions which, as now, can be pursued at any stage. So, yes, it is disappointing, but it is in line with established practice.

The noble Lord, Lord Kennedy, asked about the exceptional circumstances. I repeat that the IPCC will have regard to the seriousness of the alleged misconduct, the inefficiency or the ineffectiveness, the impact of the allegation on public confidence in the police and the public interest. I thank the noble Lords, Lord Blair and Lord Condon, for making the very important point about the necessity and proportionality of these measures.

Amendment 138 agreed.

Amendments 139 to 141

Moved by ***Baroness Williams of Trafford***

139: Clause 28, page 46, leave out line 15 and insert "result from a re-investigation of the allegation (whether carried out under regulations under this section or under the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified"

140: Clause 28, page 46, leave out lines 30 to 40 and insert—

"(c) condition A, B or C is satisfied in relation to the person.

(2BA) Condition A is that the person ceases to be a special constable after the allegation first comes to the attention of a person mentioned in subsection (2B)(a).

(2BB) Condition B is that the person had ceased to be a special constable before the allegation first came to the attention of a person mentioned in subsection (2B)(a) but the period between the person having ceased to be a special constable and the allegation first coming to the attention of a person mentioned in subsection (2B)(a) does not exceed the period specified in regulations under this section.

(2BC) Condition C is that—

(a) the person had ceased to be a special constable before the allegation first came to the attention of a person mentioned in subsection (2B)(a),

(b) the period between the person having ceased to be a special constable and the allegation first coming to the attention of a person mentioned in subsection (2B)(a) exceeds the period specified for the purposes of condition B, and

(c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a special constable.

(2BD) Regulations made by virtue of subsection (2B) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—

(a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,

(b) the impact of the allegation on public confidence in the police, and

(c) the public interest.

(2BE) Regulations made by virtue of subsection (2B) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (2BD)(a) to (c)."

141: Clause 28, page 46, leave out line 45 and insert "result from a re-investigation of the allegation (whether carried out under regulations under this section or under the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified"

Amendments 139 to 141 agreed.

Amendments 142 and 143 not moved.

Clause 28, as amended, agreed.

Schedule 7: Disciplinary proceedings: former members of MoD Police, British Transport Police and Civil Nuclear Constabulary

Amendments 144 and 145

Moved by ***Baroness Williams of Trafford***

144: Schedule 7, page 262, line 23, leave out from beginning to end of line 34 and insert—

"(c) condition A, B or C is satisfied in relation to the person.

(1BA) Condition A is that the person ceases to be a member of the Ministry of Defence Police after the allegation first comes to the attention of a person mentioned in subsection (1B)(a).

(1BB) Condition B is that the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a) but the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) does not exceed the period specified in regulations under this section.

(1BC) Condition C is that—

(a) the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a),

(b) the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) exceeds the period specified for the purposes of condition B, and

(c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of the Ministry of Defence Police.

(1BD) Regulations made by virtue of subsection (1B) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—

(a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,

(b) the impact of the allegation on public confidence in the police, and

(c) the public interest.

(1BE) Regulations made by virtue of subsection (1B) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (1BD)(a) to (c)."

145: Schedule 7, page 262, leave out line 39 and insert "result from a re-investigation of the allegation (whether carried out under regulations under this section or by virtue of section 26 of the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified"

Amendments 144 and 145 agreed.

Schedule 7, as amended, agreed.

Clause 29: Police barred list and police advisory list

Amendment 146

Moved by ***Baroness Hamwee***

146: Clause 29, page 48, line 38, leave out "or is similar"

Baroness Hamwee (LD): We also have Amendment 148 in this group and the Government have Amendment 147. These are not such big issues but are the sort of thing that we try to cover in Committee. Clause 29 addresses the police barred list and the police advisory list. Clause 29(6) states:

"The Secretary of State may by regulations … make provision that … corresponds or is similar to that made by Part 4A of the Police Act 1996".

We are not at this point querying the Police Act or Part 4A of it, but rather the words "similar to". I understand the need to make regulations which will correspond with something. That seems to follow naturally, although sometimes the Delegated Powers and Regulatory Reform Committee may comment on that. However, the power to make similar regulations seems potentially a wide provision and I am not sure what it means. I hope that the Minister will explain that in responding to Amendment 146, which is a probing amendment.

Government Amendment 147 seems one of the least contentious bits of today's business. As regards Amendment 148, Schedule 8 contains a provision about the effect of including someone in the police barred list. Certain people are required to check the barred status of potential employees or appointees. The persons are listed as being,

"a chief officer of police; a local policing body; the chief inspector of constabulary; the Independent Police Complaints Commission",

but also,

"a person specified in regulations".

Again, there is rather wide scope in that latter provision which could have wide implications. Our Amendment 148 would provide for an affirmative resolution to be passed before the regulations were introduced. One is so pleased by little victories. I am delighted that the Minister has added her name to Amendment 148, which we will be very happy to move in due course. I beg to move Amendment 146.

Baroness Chisholm of Owlpen: My Lords, as the noble Baroness, Lady Hamwee, explained, this group of amendments responds to two issues raised by the Delegated Powers and Regulatory Reform Committee in its report on the Bill in respect of provisions in Clause 29 and Schedule 8, which provide for the creation of a new police barred list and a police advisory list to be held by the College of Policing.

The first issue raised by the Delegated Powers Committee related to the regulation-making power in Clause 29(6), which enables provision to be made which corresponds or is similar to that made by new Part 4A of the Police Act 1996 and which relates to a person who is or has been employed or appointed by a quasi-policing body. As the committee pointed out, certain aspects of the operation of the police barred and advisory lists will be determined by regulations made under new Part 4A of the 1996 Act and it will most likely be necessary, when exercising the power in Clause 29(6), also to make provision corresponding or similar to that contained in such regulations.

I am grateful to the Delegated Powers Committee for highlighting this gap in the regulation-making power in Clause 29(6), which Amendment 147 will address. The amendment will enable regulations made under Clause 29(6) to make provision that corresponds or is similar to that made by or under new Part 4A of the 1996 Act.

6 pm

The second issue raised by the Delegated Powers Committee related to the level of parliamentary scrutiny attached to any regulations made under new Section 88C(5)(e) of the 1996 Act. Regulations made under this provision may specify other persons, such as the head of a quasi-policing body, who are to be made subject to the duties to consult the police barred list and not to employ or appoint barred persons. The Delegated Powers Committee argued that as the employment prospects of a person included in the police barred list or police advisory list could be fundamentally affected by the exercise of the regulation-making power, it should be subject to the affirmative procedure, rather than the negative procedure as the Bill currently provides. Amendment 148, to which my noble friend Lady Williams has added her name, gives effect to the committee's recommendation.

The regulations made under Clause 26(6) will relate to other policing organisations such as the MoD Police or National Crime Agency, therefore such regulations will be similar but not identical.

I trust that the noble Baroness, Lady Hamwee, is satisfied that Amendments 147 and 148 fully address the two issues raised by the Delegated Powers Committee in relation to the police barred and advisory lists and that she will be content to support these in lieu of Amendment 146.

Baroness Hamwee: My Lords, I am indeed happy. The insertion of the words in Amendment 147 give the clause a completely different meaning. I beg leave to withdraw Amendment 146.

Amendment 146 withdrawn.

Amendment 147

Moved by ***Baroness Williams of Trafford***

147: Clause 29, page 48, line 38, after "by" insert "or under"

Amendment 147 agreed.

Clause 29, as amended, agreed.

Schedule 8: Part to be inserted as Part 4A of the Police Act 1996

Amendment 147A

Moved by ***Lord Paddick***

147A: Schedule 8, page 265, line 20, leave out ", efficiency or effectiveness" and insert "or efficiency"

Lord Paddick: My Lords, in moving Amendment 147A, which is also in the name of my noble friend Lady Hamwee, I will speak to our other amendments in this group, Amendments 147B, 150A and 151A.

Schedule 8, which is to be inserted as part of Part 4A of the Police Act 1996, outlines the procedures with regard to the police barred list and a duty to report dismissals to the College of Policing, which is responsible for maintaining the list. Amendment 147A removes the requirement to report cases where a civilian police employee has been dismissed for reasons of efficiency or effectiveness. The amendment probes whether the barred list should be confined to wrongdoing such as dishonesty or the inappropriate use of violence rather than a person being deemed to be inefficient or ineffective.

Amendment 147B has a similar effect on the provisions in new Section 88A(6), which defines "dismissed". As the noble Baroness, Lady Chisholm of Owlpen, just said, someone's employment prospects could be fundamentally affected by being placed on the police barred list. Does she not think it slightly disproportionate to include people who are considered to be inefficient or ineffective on the barred list and thereby affect their employment prospects so fundamentally?

Amendment 150A has a similar effect on the requirement to report resignations and retirements in the face of an allegation of inefficiency or ineffectiveness. Amendment 151A allows someone reported as having resigned or retired in the face of an allegation to be able to appeal against the decision to report his resignation or retirement. I beg to move.

Baroness Chisholm of Owlpen: My Lords, I have listened carefully to the case put forward by the noble Lord, Lord Paddick, for these amendments. The Government are clear that the provisions on the police barred and advisory lists should apply to police officers and civilian staff equally where individuals have been dismissed or face allegations that could lead to their dismissal for reasons of serious misconduct, incompetence or unsatisfactory performance.

The provisions for civilian staff use the language of "conduct, efficiency or effectiveness" to mirror the language in Sections 50 and 51 of the Police Act 1996, under which regulations concerning discipline for police officers are made. This is a catch-all term to encompass all circumstances that could lead to a dismissal, through the processes related to performance and conduct. The barred list provisions are designed to protect against those who have been dismissed from policing being recruited to another force or policing body having been found to have fallen so far below the standards expected of those working in policing that they have been dismissed.

Amendments 147A and 150A would remove grounds of effectiveness from the relevant categories of dismissal that could lead to a civilian member of staff being added to the barred list. It is my view that "efficiency and effectiveness" are inextricably linked; therefore, to remove one of these factors would seriously undermine the ability of these mechanisms to capture individuals who have been dismissed or who are under ongoing investigation for matters of competence or performance.

Dismissal in these cases would arise only following a prescribed and lengthy process to establish that the individual's performance or competency has fallen well below the standards expected on a consistent basis or relate to a matter so severe that dismissal is justified. For example, the Police (Performance) Regulations 2012 define gross incompetence for officers as,

"a serious inability or serious failure",

to perform the duties to a satisfactory standard or level.

As drafted, these amendments would create a disparity in the way that civilian staff are treated compared to their counterparts holding the office of constable with regard to what would be captured by, and the effect of, these provisions. In the Government's view it would not be desirable to make such a distinction and create such a different approach to the information and individuals that would be captured by the barred and advisory lists for civilian staff versus police officers.

Amendments 147B and 151A seek to create a new right of appeal, specifically with regard to inclusion on either the police advisory or barred list. This is neither necessary nor desirable. Our approach is clear: if an individual has been dismissed from policing, they should be added to the barred list to prevent them rejoining another force or policing body at a later stage. It is important to note that new Sections 88F and 88L of the Police Act 1996, as inserted by Schedule 8, already provide for removal from the barred list and the advisory list. There is an existing route for appeal against dismissal via the Police Appeal Tribunal or employment tribunal. As a result, in the circumstances that a decision to dismiss an individual is overturned, this will result in the individual being removed from the barred list. This is explicitly provided for by Schedule 8.

As we see greater flexibility in roles, functions and powers exercised by civilian staff, as designated under the powers set out in Clause 37, it is important that the police barred list provisions adequately capture individuals who have been dismissed from the police service. This flexibility and application of policing powers must, in the view of the Government, be accompanied by appropriate safeguards, protections and accountability.

The police advisory list provisions are in place to ensure that adequate information is captured where an individual leaves a force while investigatory or disciplinary proceedings are ongoing. This list does not represent a statutory bar but creates a framework for capturing this information for future policing employers to take into account as part of the vetting process. To add an appeal route to this process would therefore undermine the ability of police forces and policing organisations to adequately subject incoming candidates to vetting procedures and take account of the fact that a candidate may be subject to an ongoing investigation or disciplinary process.

As with the barred list, the advisory list provisions contain safeguards so that an individual will remain on this list only while proceedings are ongoing. Where it is determined that no disciplinary proceedings will be brought or are withdrawn, or where disciplinary proceedings conclude without there being a finding that the individual would have been dismissed, the individual's name and details must be removed from the advisory list.

Ultimately, the right of appeal against inclusion on the advisory list exists within a misconduct hearing, where it will be determined whether the individual should be dismissed and so be added to the barred list. Where dismissal is not the outcome, they will be removed when the process concludes.

Given that explanation, I ask the noble Lord to withdraw his amendment.

Lord Paddick: I am grateful to the noble Baroness for her lengthy explanation of what the barred list and the advisory list are about. However, that is not what the amendments seek; the intention behind them is to suggest that it is disproportionate to include on the lists those who are accused of being inefficient or ineffective.

Although I accept some of the points that the noble Baroness has made, it just spurs us on to look at whether the amendments we have tabled for Committee need to be refined. As I mentioned in my opening remarks, bearing in mind what the Minister said about the impact that this provision might have on employment prospects—presumably generally and not re-employment in a police service—we question whether the inclusion of "efficiency or effectiveness" is over the top.

I understand the parallel with gross incompetency for police officers. I would be interested to hear whether, since its introduction, that provision has yet broken its duck in terms of a person having been dismissed for gross incompetency. More research is to be done and no doubt we will return to this issue at later stages of the Bill. However, at this stage, I beg leave to withdraw Amendment 147A.

Amendment 147A withdrawn.

Amendment 147B not moved.

Amendments 148 to 150

Moved by ***Baroness Williams of Trafford***

148: Schedule 8, page 267, line 31, leave out from "(5)(e)" to end of line 32 and insert "may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

149: Schedule 8, page 270, line 37, at end insert—

"(1A) But the duty in subsection (1)(a) does not apply if, before the person resigns or retires, it is determined that no disciplinary proceedings will be brought against the person in respect of the allegation."

150: Schedule 8, page 270, leave out lines 38 to 41

Amendments 148 to 150 agreed.

Amendment 150A not moved.

Amendment 151

Moved by ***Baroness Williams of Trafford***

151: Schedule 8, page 271, leave out lines 32 to 40

Amendment 151 agreed.

Amendment 151A not moved.

Amendments 152 and 153 had been withdrawn from the Marshalled List.

Schedule 8, as amended, agreed.

Clause 30: Appeals to Police Appeals Tribunals

Amendment 153A

Moved by ***Baroness Chisholm of Owlpen***

153A: Clause 30, leave out Clause 30 and insert the following new Clause—

"Appeals to Police Appeals Tribunals

(1) Schedule 6 to the Police Act 1996 (appeals to Police Appeals Tribunals) is amended as follows.

(2) In paragraph 1 (appeal by a senior officer), in sub-paragraph (1), in the words before paragraph (a), for "Secretary of State" substitute "relevant person".

(3) In paragraph 2 (appeal by a member of a police force other than a senior officer or by a special constable), in sub-paragraph (1)—

(a) in the words before paragraph (a), for "relevant local policing body" substitute "relevant person";

(b) omit paragraph (d);

(c) at the end insert—

"(e) one shall be a lay person."

(4) After paragraph 2 insert—

"2A(1) For the purposes of paragraphs 1 and 2, "the relevant person" means the person determined in accordance with rules made by the Secretary of State.

_(2) Rules under sub-paragraph (1) may make—

(a) different provision for different cases and circumstances;

(b) provision for the relevant person to be able to delegate the power to appoint the members of a tribunal.

_(3) A statutory instrument containing rules under sub-paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament."

(5) In paragraph 10 (interpretation)—

(a) after paragraph (a) insert—

"(aa) "lay person" means a person who is not, and has never been—

(i) a member of a police force or a special constable,

(ii) a member of the civilian staff of a police force, including the metropolitan police force, within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011 (see section 102(4) and (6) of that Act),

(iii) a person employed by the Common Council of the City of London in its capacity as police authority who is under the direction and control of the Commissioner of Police for the City of London,

(iv) a police and crime commissioner,

(v) a member of staff of a police and crime commissioner, or of the Mayor's Office for Policing and Crime, within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011 (see section 102(3) and (5) of that Act),

(vi) a constable within the meaning of Part 1 of the Police and Fire Reform (Scotland) Act 2012 (2012 asp 8) (see section 99 of that Act),

(vii) a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve,

(viii) a member of the British Transport Police Force or a special constable appointed under section 25 of the Railways and Transport Safety Act 2003,

(ix) an employee of the British Transport Police Authority appointed under section 27 of the Railways and Transport Safety Act 2003,

(x) a member of the Ministry of Defence Police,

(xi) a person (other than a member of the Ministry of Defence Police) who is under the direction and control of the chief constable for the Ministry of Defence Police,

(xii) a member of the Civil Nuclear Constabulary, or

(xiii) an employee of the Civil Nuclear Police Authority appointed under paragraph 6 of Schedule 10 to the Energy Act 2004,";

(b) omit sub-paragraph (c).

(6) In consequence of the other provision made by this section—

(a) in the Criminal Justice and Immigration Act 2008, in Part 1 of Schedule 22, omit paragraph 11(6)(b);

(b) in the Police Reform and Social Responsibility Act 2011, in Part 1 of Schedule 16, omit paragraph 47(2)(b)."

Baroness Chisholm of Owlpen: My Lords, Clause 30 is designed to implement two of the recommendations made by Major-General Chip Chapman in his review of the police disciplinary system. Major-General Chapman recommended that the system of police appeals tribunals should be made more transparent and independent by introducing a lay member to the panel. He also identified that enabling greater collaboration between forces would improve consistency of outcomes.

Clause 30, as currently drafted, provides flexibility for the Secretary of State to establish who can be selected to serve on police appeals tribunals and for setting out the administrative arrangements for these tribunals in rules. In its report on the Bill, the Delegated Powers and Regulatory Reform Committee argued that it was inappropriate to leave to secondary legislation the details of who would be eligible to serve on the tribunals.

The Government have accepted the Delegated Powers Committee's recommendation on this point, and the government amendments in this group ensure that the individuals who may serve as panel members of a police appeals tribunal will, as now, be set out in primary legislation. However, it remains our intention to further strengthen the independence of police appeals tribunals by replacing the current retired police officer panel member—for panels hearing appeals by non-senior officers—with a lay person member, and the replacement Clause 30 amends Schedule 6 to the Police Act 1996 to this end.

The replacement clause, together with Amendment 172, defines a lay person for these purposes. In broad terms, it means any person who has not previously worked in policing, including as a police officer, as a member of the civilian staff of a police force or as a police volunteer. Amendment 232 makes a consequential change to the extent clause. Importantly, the introduction of lay members will bring a greater degree of independence to police appeal proceedings.

6.15 pm

I should add that the revised Clause 30 retains a power for the Secretary of State to specify in rules who may convene a police appeals tribunal in any particular case. This allows greater flexibility on where the responsibility for administering appeal hearings should sit for different types of cases. It also allows for the delegation of this responsibility to another person. This flexibility is necessary to ensure greater consistency of outcomes from tribunals, enabling two or more forces to develop bilateral or regional arrangements to collaborate on administration. It would also enable administration to be handled nationally in future, as recommended by Major-General Chapman.

The Government will, of course, consult the Police Advisory Board for England and Wales about any proposed rules. I beg to move.

Amendment 153A agreed.

Clause 30, as amended, agreed.

Clause 31 agreed.

Clause 32: Office for Police Conduct

Amendment 154

Moved by ***Lord Rosser***

154: Clause 32, page 51, line 32, after "the" insert "Independent"

Lord Rosser: Clause 32 provides for the current Independent Police Complaints Commission to continue in existence but to be renamed the Office for Police Conduct. The effect of this group of amendments would be to retain the word "Independent" in the title of the renamed organisation. On the face of it, this may seem a somewhat minor point. However, it is not, as the name that is chosen for an organisation can significantly determine how it is perceived by those who come into contact with it and by the wider public.

The Independent Police Complaints Commission has had the word "Independent" in its title for, I believe, some 14 years, and it sends an important message: it is meant to be independent. Removing it from the new name of the organisation will also be regarded, by the public generally but particularly by those with whom it has specific dealings, as sending a message about its status, and it is a message that is unlikely to be helpful—namely, that it is no longer meant to be independent, including in its relationship with the police.

Currently, the word "Police" is in the title, but so too is "Independent". In future, under the provisions of the Bill only the word "Police" will be seen in the title by those who need to deal with the renamed organisation. As it is, at times there is already an issue of some public mistrust over the perception of the police investigating the police, and the proposed name change will certainly not help in that regard.

What are we to make of the title, Office for Police Conduct? Would not the natural assumption be that this was some police body, part of the organisation, accountable to the organisation and certainly not separate and independent from the police service? How will that assist in establishing the trust or securing the confidence of those with whom the organisation comes into contact? Not all of them will necessarily at the time of that contact have the highest regard for the police—the obvious example being a bereaved family in the early days of an investigation by the current IPCC.

I hope that the Government will reflect seriously on this point and on the significance of the removal of the word "Independent" from the title of the renamed organisation, and will accept the amendment. I beg to move.

Lord Condon: My Lords, I support this amendment. For those who have monitored the police complaints process and helped advise complainants, the word "independent" has always had enormous significance. It is not a word of little value—it has huge significance for conveying the nature of the organisation that is carrying out complaints and overseeing complaints. I make no apology for reminding the House that I went on the record as commissioner to argue for a totally independent police complaints system. I put enormous value on the word "independent", then and now, and I encourage the Government to think again on this issue.

Earl Attlee (Con): My Lords, I have some sympathy with the amendment moved by the noble Lord, Lord Rosser, for precisely the reasons that he and the noble Lord, Lord Condon, outlined. On the other hand, we also have very important organisations that do not have the word "independent" in their title; for instance, Ofcom and Ofgem. So it is not unusual for organisations not to have the word "independent" in their title—but I hope that the Minister will consider the matter carefully.

Lord Condon: Would the noble Earl accept that, in the history of police complaints, more so than for "Of-anything", the word "independent" has always had huge significance, and that there are many organisations, campaigners and individual long-time complainants for whom, in this context, "independent" is worth far more than in the context of a complaint against a gas company?

Earl Attlee: The noble Lord makes a very good point. I hope that the Minister will also remind us why we are changing the name at all. Legislation could be used to change the function, composition or governance of the body, but I would like to be reminded why we are changing the name at all. The general public are used to the term "IPCC" and they know what it does —and now we are changing it.

Lord Paddick: My Lords, I added my name to the three amendments in the name of the noble Lord, Lord Rosser. I entirely agree with the noble Lord, Lord Condon, and say to the noble Earl, Lord Attlee, that the IPCC has an uphill task because, necessarily, it has to rely to a large extent on former police officers as investigators. It does not do itself any favours by appointing, as it has done at least at some point in its history, a former staff officer to a Commissioner of the Met as its head of investigations—that hardly inspires confidence in those looking at it subjectively from the outside or conveys the message that it is completely independent.

Cynics might say that removing "Independent" from the title of the organisation is an outbreak of honesty in the Government. But that is not the direction that we should be moving in. This should not be seen simply as a cosmetic change; it needs to have some substance behind it. To call it the Office for Police Conduct, without "Independent" in there, is manna from heaven to those who want to criticise the new body as not being independent at all. For those reasons, I strongly support these amendments.

Lord Bach: My Lords, surely this is just a matter of common sense. Can we not cut through everything that has been said? I absolutely support what my noble friend Lord Rosser, and the noble Lords, Lord Condon, and Lord Paddick, have said—it is just a matter of common sense. Anyone who has been in government knows that sometimes Governments hold up the most obvious and common-sense approach for no apparent reason at all—we did it, and I fear this may be an example of the Minister's Government doing it. It is quite clear that the word "independent" should be included. It would make it much clearer to the general public. Surely this is something that the noble Baroness can take away and consider, and perhaps come back and agree that it is just pure common sense.

Baroness Williams of Trafford: I thank the noble Lords who have spoken so clearly on this amendment, particularly the noble Lord, Lord Bach. I will outline why the Government want to change the name. The aim is to ensure that the organisation has a corporate structure and governance arrangements that enable it to carry out efficiently and effectively its expanded role in the police complaints and discipline systems.

My noble friend Lord Attlee pointed out that not every independent body has the word "independent" in its title—he mentioned Ofgem and Ofcom, and Ofsted is another example.

I understand that the body's constitution alone does not guarantee public trust in its independence, but neither necessarily does incorporating the word "independent" in its title. That said, I understand the contrary argument, put forward by the noble Lords, Lord Rosser and Lord Condon, that adding the word "independent" to the name might change some people's perceptions and encourage them to come forward if they have concerns about police conduct. Therefore, although I remain to be persuaded of the case for the amendments, I will reflect between now and Report on the points that noble Lords made so well in this short debate. On that basis, I invite the noble Lord to withdraw his amendment.

Lord Rosser: I thank the Minister for her response and thank all noble Lords who participated in this short debate. I note that the Minister, on behalf of the Government, is not committing herself to agree to the change, but she agreed to reflect on the matter and on what has been said this afternoon and perhaps come back to it on Report. I thank her for that and beg leave to withdraw the amendment.

Amendment 154 withdrawn.

Amendments 155 and 156 not moved.

Amendment 157

Moved by ***Lord Rosser***

157: Clause 32, page 52, line 4, at end insert ", who must include at least four Regional Directors and one National Director for Wales, to be appointed by the Director General"

Lord Rosser: The effect of these amendments is to give the director-general of the Office for Police Conduct a power to create regional directors, including a national director for Wales, and that as a minimum four of the regional director positions should be excluded from having a former police background, with a similar bar on the national director for Wales.

The Bill provides a specific bar on the director-general having previously worked for the police and creates a power for him or her to apply that bar to certain specified roles. Currently, all the IPCC's commissioners—who are both its governing board and its senior public-facing decision-makers—can never have worked for the police. That has delivered a diverse group of people with senior experience in other fields in those roles to complement the policing experience of other staff and senior managers. As I understand it, the IPCC's clear view is that this should continue to be the case for those who, like commissioners, are the public face of the organisation in the regions and its senior decision-makers. Obviously, the point of tabling the amendment is to seek the reasons for the decisions the Government appear to have made on this point and which are enshrined in the Bill.

6.30 pm

The IPCC considers that moving away from the present arrangement in relation to the commissioners would detract significantly from public confidence, if this were not the case, as well as from the operational effectiveness of the organisation. Many senior people in the IPCC are former police staff. They contribute their particular skills and expertise, which, one assumes, will be equally crucial to the future organisation, but their work and the public perception of it is surely strengthened when it is overseen by senior decision-makers who by law can never have worked for the police. Up to now, this has apparently proved to be invaluable in securing the confidence and constructive engagement of communities and bereaved families in IPCC investigations, and in seeking to overcome the perception that exists in some quarters of the police investigating the police.

The Drew Smith report proposed that there should be regional heads and that they should play a "vital and significant role" as the main visible point of contact in that area. They should have "strong personal credibility" and have,

"sufficient seniority and experience as well as being independent".

Schedule 9 to the Bill provides for the setting up of regional offices in England and Wales—hence the nature of the wording of the amendment I am moving. In the response to the Government's consultation on reform of the IPCC, almost two-thirds of the respondents considered that people with prior police experience should be restricted from occupying senior positions within the reformed organisation, and that figure included both police and non-police respondents.

The Bill as currently drafted appears to represent a significant move away from the current position in which all of the governing board of the IPCC and the senior public-facing decision-makers can by statute never have worked for the police. To restrict the statutory bar to only the head of the organisation carries risks, both in what it signals about the new organisation as well as to the impact on public confidence in it. The new organisation will almost certainly have a regional

dimension, as the IPCC has always done. The amendment seeks to provide that those likely to be representing the work of the renamed organisation in the regions or nations—regional directors and a director for Wales—should be subject to the same bar as the director-general on having previously worked for the police, in line with the current practice in the IPCC for those who are the public face of the organisation and its senior decision-makers. I beg to move.

Baroness Hamwee (LD): My Lords, the underlying thinking here ties in quite closely with the debate on the previous group, and I am not sure that anyone said then that losing the word "Independent" from the title was particularly significant because of the very fact that it will be a change—more significant than if one was creating a new organisation and not having the word in its title from the start. That thought is part of the reason for our Amendment 158A in this group, which in fact the noble Lord, Lord Rosser, has explained to the Committee. It would also mark a change so that all the members of the body, if I can use a neutral term, could not be appointed from those who are—summarising around a third of a page—cops or ex-cops. That change would be a significant one, and again it is about the perception of independence as well as actual independence. We may hear that there are some practical reasons, or reasons of experience, that has caused the Government to move in this direction in their decisions on the structure and this part of the body's governance, but I do not think that it is a good direction to go in.

As regards Amendments 157 and 158, in our view it would be wise to have a geographic spread, but if there is going to be a truly independent "Office", it should be allowed to sort out its own arrangements, although anyone with any sense in the organisation would want to be sure that the regions of England, as well as the nation of Wales, are heard loudly and clearly.

Baroness Williams of Trafford: My Lords, the Bill provides for the existing commission to be replaced by a single executive head, the director-general, and for corporate governance to be provided by a unitary board with a majority of non-executives. These reforms address the recognised weaknesses of the existing commission model, under which most of the commissioners are engaged in operational activity and in the governance of the organisation. This has resulted in blurred lines of accountability. The commission itself recognises the need for change and there was clear support for the new director-general model in the response to the public consultation on the proposed reforms.

As the single executive head, the director-general will be accountable for the efficiency and effectiveness of the reformed organisation. That is why the legislation provides the director-general with the flexibility to determine the executive structure of the organisation, including the composition of his or her senior team. The director-general needs the freedom to shape the organisation in the way they see best to deliver high-quality, timely and independent investigations into police conduct, a point made by the noble Baroness, Lady Hamwee. Amendment 157 would tie the hands of the director-general as it would require the corporate structure of the Office for Police Conduct to include a minimum of four regional directors plus a national director for Wales.

The Government expect the Office for Police Conduct to have a regional presence, as the IPCC does, but as with the IPCC now and since its creation more than a decade ago, the Government do not see the need to legislate for a regional structure. A requirement for a specified minimum number of regional and national director posts would limit the director-general's future flexibility to respond to the changing needs and circumstances of the organisation. In addition, this particular amendment would put regional directors on the board. That would undermine the core strengths of the new governance model and risk replicating the blurred lines of accountability within the existing commission structure.

I turn now to Amendments 158 and 158A, which relate to positions in the Office for Police Conduct that should not be open to those who have worked for the police. The Government recognise that public confidence in the independence of the organisation relies on certain key decision-making roles not being open to those with a police background. That is why there will be an absolute bar on the director-general from ever having worked for the police. We do not think that there should be statutory restrictions on those who are members of the office—in effect, the board of the reformed organisation. The core functions of the office are set out clearly in the Bill and include ensuring the good governance and financial management of the organisation. These functions are quite distinct from the functions of the director-general. The director-general, as the single executive head, will be solely accountable for all casework and investigation decisions, not the board. It is not right that a suitably qualified individual could not be appointed to a corporate governance role as a member of the board simply because he or she once worked as a police civilian, perhaps for just a short period many years previously.

With regard to employee roles, the Bill provides the director-general with an express power to designate functions and roles that are restricted, including senior operational and public-facing positions. The power means that the director-general will be able to ensure that the OPC has the right mix of staff, including those with valuable policing experience, while also having the power to place restrictions to help bolster public confidence in the OPC's impartiality and independence. However, as I said, it is important that the director-general can secure public confidence in the work of the Office for Police Conduct. The Bill recognises the need for transparency in the director-general's decision-making and places a requirement on the director-general to publish a statement of policy on the exercise of these particular powers of recruitment.

To conclude, we believe the provisions in the Bill strike the right balance by placing core aspects of the OPC's governance in the legislation while ensuring that there is flexibility and transparency in appointments. On that note, I hope the noble Lords, Lord Rosser and Lord Paddick, and the noble Baroness, Lady Hamwee, are reassured of the Government's intentions and that they will be content not to press their amendments.

Lord Rosser: Can I ask the Minister whether the Government accept that, under the Bill's terms, as far as the public face of the organisation and its very senior decision-makers are concerned, we could end up with a situation where only one, namely the director-general, has not previously worked for the police?

Baroness Williams of Trafford: My Lords, I think what I outlined in my speech to noble Lords was that the director-general would need to outline how he proposes the board will work and his position in it. The Bill recognises the need for transparency, as the noble Lord pointed out. It places a requirement on the director-general to publish a statement of policy on the exercise of these particular powers of recruitment. I imagine that if he decided to have a board full of former police officers he would want to explain why, in his particular case, this was necessary.

Baroness Hamwee: Would the Minister accept that the bit the public will be aware of—like the change from an organisation with the term "independent" in its title—is the change from a board structure where there is a bar on all members of the board having been police officers or involved with the police service to a situation where there need not be, not the detail of the report of the director-general explaining the fine detail of their thinking? It is a much broader issue than the Government are acknowledging.

Lord Rosser: I thank noble Lords who have participated in the debate, and the Minister for her response setting out what the Government's position is and the thinking behind the Government's wording in the Bill. Issues have been highlighted in the debate about the potential implications and the extent to which one could end up in a situation where very few people indeed in the public face of the organisation and its senior decision-makers had not worked for the police, since the terms of the Bill do not preclude that happening. It precludes it only as far as the director-general is concerned.

Baroness Williams of Trafford: I profusely apologise for intervening, but I thought I would give the noble Lord the full information I have before me. There is a backstop power for the Secretary of State to set out in regulations restrictions on which posts can be held by former police. Perhaps that is a conversation to be had. It would be very unusual for the director-general to pack his or her board full of ex-police officers, but there is this backstop power for the Secretary of State. I apologise for intervening on the noble Lord.

6.45 pm

Lord Rosser: Not at all. I am very grateful to the noble Baroness for that intervention, further clarifying the position as far as the Government are concerned. One might say that it is not entirely satisfactory that one would have to have a backstop power to prevent a situation arising where very few, if any, of those who are the public face of the organisation or its senior decision-makers are not people who have previously worked for the police. Some might feel that that should be better enshrined in the Bill itself.

Nevertheless, this short debate has highlighted quite an important issue. I hope the Government might be prepared to reflect on what has been said, and on the significance of the issue raised, in the context of the future role and perception of the Office for Police Conduct. In the meantime, I beg leave to withdraw the amendment.

Amendment 157 withdrawn.

Amendments 158 and 158A not moved.

Clause 32 agreed.

Schedule 9: Office for Police Conduct

Amendment 159

Moved by ***Baroness Chisholm of Owlpen***

159: Schedule 9, page 292, line 3, leave out from "follows" to end of line 5 and insert "(but an amendment made by sub-paragraph (2), (3), (4) or (5) applies only if this Schedule comes into force before the coming into force of paragraph 21, 23, 24 or 26 (as the case may be) of Schedule 5 to this Act)."

Baroness Chisholm of Owlpen: My Lords, Amendments 159, 163 and 233 in this group are technical and consequential amendments arising from the changes to the IPCC's governance arrangements that we have already debated. I can provide noble Lords with further details if required, but for now I beg to move.

Amendment 159 agreed.

Amendments 160 to 163

Moved by ***Baroness Chisholm of Owlpen***

160: Schedule 9, page 294, line 3, leave out "subsection (1B)(a)" and insert "subsections (1B)(a), (1BD) and (1BE)"

161: Schedule 9, page 294, line 19, after "section 50(3A)(a)" insert ", (3AD) and (3AE)"

162: Schedule 9, page 294, line 21, after "section 51(2B)(a)" insert ", (2BD) and (2BE)"

163: Schedule 9, page 296, line 40, at end insert—

"Investigatory Powers Act 2016

72A(1) The Investigatory Powers Act 2016 is amended as follows.

_(2) In section 59 (section 58: meaning of "excepted disclosure"), in subsection (4)(c)—

(a) for "the Independent Police Complaints Commission" substitute "the Director General of the Office for Police Conduct";

(b) for "its functions" substitute "the Director General's functions".

_(3) In section 107 (power to issue warrants to law enforcement officers), in subsection (11)—

(a) for "the chairman, or a deputy chairman, of the Independent Police Complaints Commission" substitute "the Director General of the Office for Police Conduct";

(b) omit "by the Commission".

_(4) In section 108 (restriction on issue of warrants to certain law enforcement officers), in subsection (2), for paragraph (h) substitute—

"(h) the Director General of the Office for Police Conduct;".

_(5) In section 134 (section 133: meaning of "excepted disclosure"), in subsection (3)(b)—

(a) for "the Independent Police Complaints Commission" substitute "the Director General of the Office for Police Conduct";

(b) for "its functions" substitute "the Director General's functions".

_(6) In Schedule 4 (relevant public authorities and designated senior officers), in Part 1—

(a) omit the entry relating to the Independent Police Complaints Commission, and

(b) after the entry relating to the Office of Communications insert—

"Office for Police Conduct	Director or an equivalent grade	All	(b) and (i)"

_(7) In Schedule 6 (issue of warrants under section 107 etc. table), in the entry relating to the chairman, or a deputy chairman, of the Independent Police Complaints Commission, for the first two columns substitute—

"The Director General of the Office for Police Conduct.	A person falling within paragraph 6A(2) of Schedule 2 to the Police Reform Act 2002 who is designated by the Director General for the purpose."

Amendments 160 to 163 agreed.

Schedule 9, as amended, agreed.

Clause 33 agreed.

Amendment 163A

Moved by ***Baroness Jolly***

163A: After Clause 33, insert the following new Clause—

"Forces maintained otherwise than by local policing bodies

After section 26(3)(b) of the Police Reform Act 2002 (forces maintained otherwise than by local policing bodies) insert—

"(c) the Royal Military Police;

(d) the Royal Air Force Police; and

(e) the Royal Navy Police.""

Baroness Jolly (LD): My Lords, I will not detain the House long on this small but very important amendment. This is the first time I have spoken on the Bill. The interest is relatively niche and relates to the three service police forces and the 160,000 men and women who serve in our Armed Forces.

The aim of the amendment is to insert a clause that extends the remit of the IPCC to the service police forces. I am not alone in this desire. Her Majesty's Inspectorate of Constabulary recommended that oversight of service police should be brought within the competence of the IPCC. In a report last year on the Royal Military Police, the Army's investigative and policing branch, stated:

"There was insufficient public scrutiny of RMP investigations. The RMP does not report to the public, and investigations into RMP wrongdoing are carried out by an internal Professional Standards Department or the Provost Marshal of another service police force"

It added:

"The Provost Marshal acknowledged to HMIC that a strategic risk to the RMP is inadequate independent oversight of its own independence."

Only last week, the RMP finally admitted to failings in a rape case in 2009, that of Anne-Marie Ellement, a member of the Royal Military Police, who claimed that two of her colleagues raped her. She took her own life in 2011. The MoD said, seven years after the rape case, that it was clear that mistakes were made and apologised to the family.

Had the IPPC's remit covered service police forces there would have been another avenue to take the concern. This is a terrible case and I am sure the service police forces have taken a long hard look at themselves, but it is not the only case where they have been found wanting. Had there been the opportunity, an independent complaints commissioner could have intervened.

I feel sure that the Minister will refer to the chain of command—this is important to military discipline—and the fact that there is a Service Complaints Commissioner. There is, but the system was ineffective in this case. Our servicemen and women have rights and those rights are best upheld if this amendment is accepted.

I remind the Minister that in 2014, the Defence Select Committee called for a timescale to be set out to bring the service police under the auspices of the IPCC. Has such a timetable been agreed? If the answer is no, in the light of this week's announcements, how much more likely it is that the MoD would review the situation?

Lack of accountability of the service police undermines the rule of law and makes it harder for them to undertake their function of policing by consent. This amendment gives the opportunity to bring the three police services into the same independent system of oversight as applies to the rest of us. If the Minister is not able to help this afternoon, will she agree to meet me to look at it further? I beg to move.

Lord Paddick: My Lords, I support the amendment in the name of my noble friend Lady Jolly and myself. My noble friend has made a very strong case, not just because it was Her Majesty's Inspectorate of Constabulary's recommendation that the three service police forces should come under the remit of the IPCC. Those responsible for the Royal Military Police have accepted that the organisation is at a strategic risk because it does not come under the remit of the IPCC. If the Government are not prepared to accept the amendment, it would be very interesting to hear from the Minister why not.

Lord Rosser: I will just add briefly to the comment made by the noble Lord, Lord Paddick, at the end of his speech. If the Government do not feel inclined to accept the amendment, there is a need—I am sure it will happen when the Government respond—to hear precisely what their reasons are for not going down that road. It has been said that no comparable body to the IPCC exists to deal with complaints about service police forces. A significant number of forces and agencies do fall within the jurisdiction of the IPCC, including, I understand, the Ministry of Defence Police. If the

[Lord Rosser]
Government do not accept the amendment, like the noble Lord, Lord Paddick, I wait to listen with interest to their reasons why not.

Baroness Chisholm of Owlpen: As the noble Baroness, Lady Jolly, has explained, this amendment seeks to put the service police within the remit and jurisdiction of the Independent Police Complaints Commission.

We do, of course, support the need for independent oversight and scrutiny of the Royal Navy Police, the Royal Military Police, and the Royal Air Force Police, including the key objective of having an independent mechanism to investigate complaints against them. I am also aware that Her Majesty's Inspectorate of Constabulary has recommended that the Government should consider further whether the IPCC could be the appropriate mechanism.

The Government have given early consideration to this, including discussions with the IPCC. To bring the service police under the remit of the IPCC is potentially a major change. Although only a small number of cases may be involved, it could mark a significant shift for the IPCC far beyond its current operations in England and Wales. As the chair of the IPCC has said,

"There are inherent and significant differences between the remit and jurisdiction of the service police and those of the Home Office Police forces".

In addition, the IPCC is currently part way through a major programme of expansion to build its capacity and capability to investigate all serious and sensitive allegations against civilian police forces. This Bill will further strengthen the IPCC's remit and powers and, in light of its expanded role, the Bill also provides for the reform of the organisation's corporate structure and governance to deliver a more capable and resilient organisation.

At this stage, the IPCC's capacity for further change to its role is constrained. That is why the Government, led by the Ministry of Defence, are seeking alternative options. Recent work with the Ministry of Defence has been focused on the development of a common complaints procedure across the three service police forces. This procedure covers complaints made by serving and non-serving military personnel against a member of the service police carrying out a policing function, irrespective of location. There is now also a protocol between the service police forces to ensure that, where there may be a conflict of interest around the investigation of a complaint, one service police force may investigate another. The next phase of the Ministry of Defence's work is to consider how best to introduce a mechanism that will provide for the independent oversight of these complaints, wherever in the world they are made.

I hope that the noble Baroness will understand that, in the light of the work being taken forward by the Ministry of Defence, and the risks that could arise if we sought to impose new responsibilities on the IPCC at a time when it is already going through a substantial reform programme, I cannot commend this amendment to the Committee. I accept, however, that the noble Baroness wants to see more progress towards finding a long-term solution to this issue. I can certainly undertake to write to the Armed Forces Minister to draw his attention to this debate, but for now I ask the noble Baroness to withdraw her amendment. Of course, I am more than happy to meet the noble Baroness.

Baroness Jolly: I thank the Minister for her comments and my noble friend Lord Paddick, and the noble Lord, Lord Rosser, for their support. I understand that it would be a large change for the IPCC to undertake this extra work. I imagine that a certain amount of the capacity would go from one organisation to the other. One of the things I would like to understand is the timescale of all this, so perhaps when the Minister and I meet, this is the sort of area we could discuss.

Earl Attlee: My Lords, I am quite neutral, but obviously interested in this debate. The noble Baroness talked about a large increase in work for the IPCC or the successor organisation. In support of the noble Baroness, there are not that many service policemen and policewomen. It is not clear to me why it should generate a huge amount of extra work.

I have to say to the Minister, that she has not absolutely convinced me that there is the capacity in the service system to investigate really effectively a service police force when something goes wrong. However, I have to say I am still neutral.

Baroness Jolly: I have no comment on that one. I thank the noble Earl for his remarks and in the meantime beg leave to withdraw my amendment.

Amendment 163A withdrawn.

Clause 34 agreed.

7 pm

Clause 35: Powers of inspectors to obtain information, access to police premises etc

Amendment 164

Moved by ***Baroness Williams of Trafford***

164: Clause 35, page 56, line 38, after "occupied" insert "(wholly or partly)"

Amendment 164 agreed.

Amendment 164A

Moved by ***Lord Paddick***

164A: Clause 35, page 56, line 42, leave out "but" and insert "with or"

Lord Paddick: My Lords, Amendment 164A is in my name and that of my noble friend Lady Hamwee. I will also speak to the other amendment in the group, Amendment 164B. Clause 35 addresses the powers of inspectors—that is, Her Majesty's Inspectorate of Constabulary—to obtain information, to secure access to police premises, and other matters by substituting

paragraphs 6A and 6B in Schedule 4A to the Police Act 1996. New paragraph 6B talks about the powers of inspectors to obtain access to police premises and paragraph 6B(1)(a)(iii) talks about who can be served with a notice requiring them to allow access to premises, including,

"a person providing services, in pursuance of contractual arrangements (but without being employed by a chief officer of police of the police force or its local policing body)".

The amendment deletes "but" and replaces it with "with or", so it would cover a person who is employed by the police, as well as someone who is not. Amendment 164B makes a similar change to who can appeal against such a notice. I beg to move.

Baroness Williams of Trafford: My Lords, the amendment presumably aims to ensure that inspectors have comprehensive access to premises used for policing purposes, and that Her Majesty's Inspectorate of Constabulary is able to inspect the totality of policing in a landscape where functions are increasingly delivered by multiple agencies. The noble Lord nods; I thought that was probably the aim. The Government wholeheartedly agree with that aim, which is the purpose of this Bill's inspection provisions.

The amendment does not actually further that aim. The current wording already ensures that inspectors have access to any premises used in the delivery of policing functions, whether they are occupied by the force itself, the local policing body, another emergency service acting in collaboration with the force or a private company carrying out the activities of a force under a contract. I put it to the noble Lord that these amendments would not, in practice, extend the categories of premises to which an inspector had access. Any premises occupied for the purposes of a police force by persons employed under contract by the chief officer are already captured in these provisions. That being the case, I think the noble Lord would agree that the amendments were unnecessary. I invite him to withdraw the amendment.

Lord Paddick: I am grateful to the Minister for that explanation. Clearly the amendment is not designed to extend the category of premises that HMIC would be able to access. It is about extending the category of person upon which a notice could be served. It appears to us that the wording in the Bill is restrictive and needs to be broadened. We are trying to broaden the category of person on which the notice can be served.

Baroness Williams of Trafford: It might be helpful to the noble Lord to hear that this is covered by government Amendment 166, which ensures that any other person who is,

"by virtue of any enactment … carrying out the activities of",

a police force is subject to inspection.

Lord Paddick: I am grateful for that second explanation and will consider it carefully. In the interim, I beg leave to withdraw the amendment.

Amendment 164A withdrawn.

Amendment 164B not moved.

Amendment 165

Moved by ***Baroness Williams of Trafford***

165: Clause 35, page 58, line 4, at end insert—

"(g) any other person who is, by virtue of any enactment, carrying out any of the activities of a police force."

Amendment 165 agreed.

Amendment 165A not moved.

Clause 35, as amended, agreed.

Clause 36: Inspectors and inspections: miscellaneous

Amendment 166

Moved by ***Baroness Williams of Trafford***

166: Clause 36, page 60, line 25, at end insert—

"(d) any other persons if, or to the extent that, they are engaged by virtue of any enactment in carrying out the activities of the police force."

Amendment 166 agreed.

Clause 36, as amended, agreed.

Clause 37: Powers of police civilian staff and police volunteers

Amendment 167

Moved by ***Lord Kennedy of Southwark***

167: Clause 37, page 63, leave out lines 8 to 25

Lord Kennedy of Southwark: My Lords, I will not detain the House very long with this amendment. Amendment 167A, in the name of my noble friend Lord Rosser, is a probing amendment. We tabled it to get on the record the thinking of the Government in this respect, and to raise our concerns. From these Benches, we are more content with the idea of employed staff being designated to use the weapons as outlined in new subsection (9B), but we have some reservations about the authorisation of volunteers to use them. I think the public would have some concerns about arming volunteers with CS and PAVA sprays. It may be seen as a step too far.

It would be useful if, when the noble Baroness responds to the debate, she could tell the House how many PCSO posts have been lost in the last six years. It appears on looking at this that it could be regarded as policing on the cheap: reduce the number of PCSOs in full-time employment and then get these volunteers and arm them with these weapons. Those are our concerns.

There is also a Clause 38 stand part debate in this group. We tabled that for the same reason: to get on record the Government's thinking here and to outline our concerns at this stage. I beg to move.

Lord Paddick: I support the amendment tabled in the name of the noble Lord, Lord Rosser, and again express my concerns about this move to give police volunteers considerable powers, including authorising them to use incapacitant sprays. I share the concerns that the noble Lord, Lord Kennedy of Southwark, expressed in terms of public confidence in volunteers being given these weapons.

If somebody wants to volunteer to get involved in the use of force in the exercise of police powers, as would be the case in using incapacitant sprays, there is an avenue open to them: volunteer to become a special constable. They then have all the powers of a regular police officer, undergo extensive training and wear uniform almost indistinguishable from a regular police officer. As a consequence, there is no need for this Bill to give other volunteers the powers in this clause. If they want to help the police service by volunteering for other activities that do not involve the use of force, then of course it is open to them to do so, but in that case they would not need the powers that this clause would give volunteers.

Again, this adds complexity to what is already a complex policing family. There is already confusion among some members of the public about the different powers available to police community support officers compared with police constables; for example, at the scenes of road traffic accidents, where police community support officers have to stand at the side of the road and wait for a police officer to turn up to take control of any resulting traffic congestion because they do not have the power to direct traffic. Having volunteer community support officers would add a further level of complexity and confusion in the eyes of the public. Not only do we consider this clause unnecessary, but we feel that it could add to confusion and further undermine what the police service is trying to achieve in very difficult circumstances in the face of significant cuts to its budget.

Baroness Redfern (Con): My Lords, I support the powers of police civilian staff and police volunteers, who deliver extra support and complement our police officers. In Lincolnshire two years ago the first VPCSOs were recruited as an extra uniformed visible presence in local communities, supporting the work of regular PCSOs in providing reassurance and support to local people. The word "extra" is important as these officers were designed not to replace existing provision but to supplement it.

The VPCSO role is varied but includes: giving advice and reassurance to victims and witnesses of crime; supporting policing operations by providing reassurance to members of the community; working with police officers, PCSOs and other police staff on policing priorities; and working within the local policing team on minor incidents, crime inquiries and anti-social behaviour, with a commitment to at least four hours a week on patrol in their local area.

The force has developed a role profile for VPCSOs with eligibility requirements that are the same as for PCSOs, such as minimum age, residency, skills and qualities, health, and vetting. Applicants undertake a selection process that includes an interview to test that their personal qualities meet those required in the role profile. Induction and initial training is undertaken over five weekends, followed by a further two weekends' consolidation a few weeks later once they have gained some experience.

From a pilot stage to a valued part of visible policing in Lincolnshire, this has been pioneered and funded entirely by the PCC and chief constable and has offered an innovative way to supplement local policing while enhancing the range of opportunities available to local residents who wish to volunteer and contribute to their community. It is also a possible route to becoming a regular officer. The important changes in the Policing and Crime Bill to allow VPSCOs to have powers will improve the flexibility and efficacy of the role. Most importantly, these officers offer an extra uniformed, visible presence, thus addressing many, many residents' requests and supporting our valued police officers.

Lord Harris of Haringey: My Lords, the contribution of the noble Baroness, Lady Redfern, emphasises the potential value of police volunteers and the role that she described. The difficulty is that we are debating several issues almost simultaneously—and she may almost have been anticipating the next group. The specific point that the amendment moved by my noble friend Lord Rosser relates to is the provision to enable those volunteers to use CS spray, PAVA spray and other specified weapons.

The concern that a number of us have, which is why it is important that we debate this and understand exactly what the implications are, is that this is a significant extra step. Having police volunteers who advise the public or patrol with a uniform in various areas to help create a visible presence, we can all understand and would value and welcome. The point at which you give them the power to use force against fellow citizens is actually an extremely significant change, and it raises all the issues about the level of training that they will receive.

The noble Baroness, Lady Redfern, talked about the training that is provided. Obviously, that is valuable, although I suspect that five weekends of training are probably what you need to learn all the other functions before you get on to what is essentially the power to use violence against other members of the public. There are issues around accountability and how all these things are managed. Before we take the step of saying that people who have volunteered and have had some training, albeit a comparatively small amount, can be allowed to use CS spray or other weapons against other citizens, we have to think about it extremely carefully.

7.15 pm

That is the reason for my noble friend's probing amendment—to get to the core of this and to try to understand why it is thought that the specific power to use weapons is an important element of this. Personally, I would be very keen to increase the use of volunteers, although there is of course the route of becoming a special constable. The description given by the noble Baroness, Lady Redfern, sounded almost coincident with the requirements for a special constable: a certain degree of training, which she specified; and the

commitment to do, I think she said, half a day a month or whatever—that is perhaps slightly less than the special constables do in most of the schemes I have seen but it is very similar. We need to think about whether we should be talking about special constables, who have a particular legal status and go through a particular process and so on but are still volunteers and still give their time freely in support of the police, or creating another category of people who volunteer and are then given really quite intrusive powers—the power to use violence against other members of the community. That is why we need to debate this and consider it very carefully.

Lord Condon: My Lords, I support the comments of the noble Lord, Lord Harris. I do not turn my mind totally against this provision but, from my experience, the way you equip people heavily influences how they think about what they are doing: their role and how they react. Like other noble Lords, my inclination at this stage, subject to reassurance from the Government, is that the cut-off point for incapacitant sprays should probably stay at special constable, where there is a level of training, supervision, scrutiny and public acceptance of their role that there is not for volunteers. Incapacitant sprays can and have killed. To equip a volunteer who may have good but relatively basic training with a spray that can kill a fellow member of the public is an enormous step and we need reassurance from the Government that it is absolutely necessary.

Lord Deben (Con): My Lords, this has been a very useful discussion. I find myself slightly closer to the Government's position than that of the noble Lord who spoke from the other side, but I have considerable sympathy with his argument.

There is a terribly difficult problem, which I hope my noble friend will address, of confusion about who these people are, who is in which category, and the like. I happen to have a close relative who sought to be a special constable and discovered that the difficulties of becoming a special constable are really quite considerable. I hope that my noble friend can help me by explaining that this is not a way of getting out of the difficulties of the one by producing something different, which would mean that we are not facing up to some really fundamental issues about how people become special constables and whether we are making it easy for people who would like to make this contribution.

What the debate has really raised are perfectly genuine concerns that this may not quite have been thought through in the way we would like it to be. As it is such a delicate issue, I hope it could be taken rather more widely than in the actual amendment, by thinking a bit about the way in which the public will understand the distinction between these categories. This bit of additional power given to people who decide to volunteer shines a light on the problem and on the confusion which I am not sure has actually been overcome in the debates that we have had so far.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have contributed to this debate. It is of course very difficult not to stray into other amendments when talking about something in the round. I thank my noble friend Lady Redfern for laying out her experience of using volunteer police officers in Lincolnshire. It must be one of the first areas in the country to do that, so it was very useful to have that information in the round. In thinking about my noble friend Lord Deben's point about the importance of the public knowing the difference between a volunteer and a special police constable, or indeed a fully trained officer, I asked myself whether I wondered, when my children were at school, what the difference was between the teaching assistant and the fully trained teacher. In fact, as long as they both contributed to my child's education, I was not that much bothered—but it may be an issue for some people and I recognise the point that my noble friend makes.

Amendment 167 returns to an issue that was debated at length in the House of Commons: namely, whether it is ever right for designated members of police staff, or the new category of designated volunteers, to carry these particular sprays for defensive purposes. The noble Lord, Lord Rosser, has also given notice that he intends to oppose the question that Clause 38 should stand part of the Bill.

I hope that I can assist the Committee by first explaining what Clause 38 seeks to achieve. It makes necessary consequential amendments to the Firearms Act 1968 to ensure that police volunteers come within the definition of "civilian officers" for the purposes of that Act. The effect of this is that they do not then need a firearms certificate or authorisation under either Section 1 or Section 5 of the 1968 Act in order to carry a defensive spray. The clause simply puts community support volunteers and policing support volunteers in the same position in relation to defensive sprays that police officers and police civilian staff are currently in.

Clause 37(6) makes it clear that police staff and volunteers cannot use other weapons within the meaning of the Firearms Act 1968 unless the Secretary of State makes regulations under new Section 38(9B)(b) of the Police Reform Act 2002. Any such regulations would be subject to the affirmative procedure.

Lord Paddick: To clarify what the noble Baroness has just said, could the Secretary of State, by regulations, authorise police volunteers to carry guns, if they were so minded?

Baroness Williams of Trafford: My Lords, I will repeat that Clause 37(6) makes it clear that police staff and volunteers cannot use other weapons within the meaning of the Firearms Act 1968 unless the Secretary of State makes regulations under new Section 38(9B)(b). Yes, it does read like that—but, as the law currently covers this, it is only trained police officers within London who can be armed.

Lord Paddick: Yes, but I think the Minister has just agreed with me that, through regulations, the Secretary of State could allow police volunteers to be given guns without the need for a firearms certificate. That is slightly worrying.

Baroness Williams of Trafford: My Lords, I am pretty much as certain as I ever can be about anything that it is not the intention of the Bill to allow volunteers

[Baroness Williams of Trafford]
to carry guns—but I suspect that I need to provide some further clarification, and hopefully I will do that.

Earl Attlee: My Lords, perhaps I can help my noble friend. It may be that the provision is to allow different types of, say, pepper spray, because the legislation itself is quite specific about which chemicals can be used. There may be future developments in chemicals, and I suspect that the provision in the Bill allows the Secretary of State to specify them. It would be helpful if my noble friend could constrain the Secretary of State by saying that they will never authorise civilian volunteers to have firearms—except perhaps to move them around in police premises.

Baroness Williams of Trafford: It is pretty much on the tip of my tongue to say that, but I think that noble Lords know exactly what the Government's intentions are.

Lord Harris of Haringey: I think the Minister has unfortunately raised a large red herring, which will certainly prove to be one if she gets the clarification that she wants on it. However, although the intent may not be to allow this, the current wording suggests that it might be used in that way. The specific issue is that a very clear line is being crossed by saying that volunteers can be authorised to use sprays—pepper sprays or whatever else—and that is the distinction. Although the clause may or may not give the Secretary of State powers to increase the list—the Minister way be about to get the answer—or even to specify particular pepper sprays, the concern is about the use of the spray in the first place and whether it is right that a volunteer, despite not having gone through all the other training which is necessary, is able to do that.

Baroness Williams of Trafford: Yes, I totally take the noble Lord's point, and I am hoping the clarification will arrive from my left in the next five minutes.

As we have made clear in our delegated powers memorandum, this is intended as a future-proofing provision to cover any self-defence equipment not yet invented—and I am not talking about guns. We are also taking the opportunity to make it explicit in the 1968 Act that special constables are members of a police force for the purposes of that Act, and therefore similarly do not require a certificate or authorisation under the 1968 Act when equipped with a defensive spray. This will avoid any doubt being created by the insertion of a specific reference to policing support and community support volunteers within the meaning of "Crown servant" in the Firearms Act.

I turn next to the various points that have been raised in relation to equipping staff.

Lord Deben: I did not quite understand the bit about things that have not yet been invented. The reason I did not understand is that I am not sure that I would be very happy about giving powers to give permission for the use of something that has not been invented, because I do not know whether what has not been invented would be something that I would like to give people the powers to use, if you see what I mean. This is a very dangerous route down which to go.

Earl Attlee: My noble friend does not need to worry about that at all, because it will be under the affirmative procedure, so Ministers will have to justify it. I have to say that future-proofing this seems to me to be a sensible thing to do, although on the other hand I slightly have sympathy for the speech of the noble Lord, Lord Harris of Haringey.

7.30 pm

Lord Condon: Before the Minister finally sits down, I ask her to acknowledge and perhaps clarify this point. We are considering this very important crossover point from special constables being given these powers to volunteers having them in the context of what the Bill is also doing. It is enhancing the role of police and crime commissioners by giving them the ability to consider taking on the responsibility for fire and rescue services, and giving them the power to appoint the fire chief as the overall chief officer for policing and for fire. The Bill will create a model whereby, for example, a relatively young 32 year-old police and crime commissioner in an area can choose to appoint the fire chief as the overall chief officer of policing and fire in that area—admittedly, with the approval of the Secretary of State—and in that context a young, relatively inexperienced PCC with a chief officer who may not have a police background could take decisions on what volunteers could and could not do. The notion of them being given potentially lethal force is quite a big issue. I look forward to the Minister, as I am sure she will, giving us some reassurance about the notion of volunteers being able to have pepper sprays that in theory can kill people.

Lord Paddick: I do not want to prolong the agony, but another aspect of this is that members of the public should be reasonably sure about what level of force they are going to encounter from whom. As I say, special constables now are virtually indistinguishable from regular police officers; if a special constable decides to use a defensive spray, that will not come as a shock to the member of the public. In terms of the way that the member of the public interacts with a police officer or special constable, they may or may not use force against that individual on the basis of what they anticipate the reaction of that person to be, or the ability of the person to respond to it. When it comes to a volunteer police community support officer, who does all the wonderful things that the Minister said earlier, I think it is going to be a bit of a shock, and an unreasonable one, to expect such a volunteer to respond with an incapacitant spray.

Baroness Williams of Trafford: My Lords, may I perhaps make a bit of progress on what I was already outlining? Much of what I am going to say answers the questions that noble Lords are asking.

The argument has been put forward that issuing PCSOs with defensive equipment is somehow incompatible with those officers' primary role, which

is to engage with members of the public in their communities. If we examine the way in which different forces equip their PCSOs, we can see that there are different approaches. Some forces equip their PCSOs with body armour and some do not, and the same is true of handcuffs, yet all forces use their PCSOs as the key point of engagement with their local communities. I was one of the people who was very sceptical about PCSOs, but they now have a lot of respect in communities across the country. If the prevailing security situation were such that a particular chief officer considered it necessary to issue their PCSOs with defensive sprays—I emphasise to noble Lords that none has to date—the Government consider that they should be able to, subject of course to the test of suitability, capability and training already set out in the Police Reform Act 2002.

It has also been argued that it is impractical to train volunteers in the use of defensive sprays, to which our response has two limbs. First, if an officer or volunteer has not been properly trained in the use of any power, the law simply does not allow a chief officer to designate that officer or volunteer with the power in question. Section 38(4) of the Police Reform Act 2002, as amended by Clause 37 of the Bill, already states that a chief officer cannot designate the person with a power unless they are satisfied that they are both suitable and capable of exercising the power and that they have received adequate training in the exercise and performance of the powers and duties to be conferred.

However, we do not consider that it is impractical to train volunteers in the use of defensive sprays. On 31 March this year, there were over 16,000 special constables in the 43 police forces in England and Wales and the British Transport Police, all of whom have the full powers of a police officer, performed on a volunteer basis for at least 12 hours per month.

I was grateful to listen to the noble Lord, Lord Paddick, at Second Reading, on his strong support for members of the special constabulary, with whom he will definitely have worked during his career policing. As he said, special constables receive extensive training and have all the powers of a regular constable. Many of those specials patrol on a regular basis with their full-time colleagues and they carry identical equipment, including body armour, batons and defensive sprays—again, in exactly the way as their full-time colleagues. It is therefore patently not the case that it is impractical to train volunteers in the use of such equipment. Any volunteer who did not want to carry such a spray, could not undertake the training or was not suitable would not be designated by their chief to carry and use it, even if others in their force were so designated.

Lord Harris of Haringey: My Lords—

Baroness Williams of Trafford: Can I just finish?

Lord Harris of Haringey: But we might drift off the point. Could the Minister clarify why, rather than encouraging more people to go through the special constable route where they take the affirmation about their role and everything else, the Government are suggesting instead that there be a volunteer category that would not be the same as special constables but would have exactly the same access to equipment?

Lord Paddick: On a very similar point, the Minister just said that while chief constables have the power to issue incapacitant spray to PCSOs, no chief constable has done so to date. Why do the Government now feel it necessary to give chief constables the power to give incapacitant spray to volunteer community support officers?

Baroness Williams of Trafford: It is simply to give chief officers the flexibility to use their workforce and their volunteer force to the best end in fighting crime and reassuring communities. The noble Lord, Lord Harris, asks why, for example, a volunteer cannot simply become a special constable. There are many reasons why you might want to be a volunteer rather than a special constable. We are focused today on the deployment of PAVA and CS spray, but actually a volunteer could be a police volunteer. They could be a retired accountant, for example, or a retired lawyer, and may want to bring their skills to the police but may not want to volunteer for any more than that, or indeed become a special constable.

Lord Harris of Haringey: Why do they need pepper spray?

Baroness Williams of Trafford: My Lords, I am talking about the powers that volunteers may have in the round. There may be myriad different powers, not just the one that we are focusing on.

The noble Lord, Lord Kennedy, talked about policing on the cheap. I remember that when PCSOs were introduced, I said, "Oh, it's only policing on the cheap", but actually I have seen the really good benefit that they have brought. As my noble friend Lady Redfern says, they are not a replacement for the police force but a really valuable extra on the streets of Lincolnshire, providing crime fighting for the police.

On that very lengthy note, and thanking all noble Lords for their interventions, I wonder if the noble Lord, Lord Kennedy, would like to withdraw his amendment.

Lord Kennedy of Southwark: My Lords, this has been an interesting debate—quite an extraordinary debate really, has it not? We talked about helpful PCSOs and the work they do helping communities; we got on to CS spray and other sprays. They may be issued with guns—we are not quite sure. We were then told that the Government also want to take a power in case things are invented in future. I am pleased I tabled the amendment: it has certainly dragged a few things out from the Government for us. I think we will have to come back to these issues on Report. I hope that the Government will look at our debate, because there are one or two loose ends hanging there.

The most important contribution came from the noble Lords, Lord Paddick and Lord Condon. Both of them have been very senior police officers, and if they are expressing concerns, the House should listen very carefully. It is important when we grant any new powers that we make sure that people are trained properly to use them. As we heard, these sprays can kill people, which is really serious. We must worry about putting anything in someone's hands that can do that.

[LORD KENNEDY OF SOUTHWARK]

I also want to pay tribute to volunteer PCSOs, who do a fantastic job as the noble Baroness, Lady Redfern, outlined. I will leave it there, but I am sure we will come back to these issues on Report. I beg leave to withdraw the amendment.

Amendment 167 withdrawn.

House resumed. Committee to begin again not before 8.40 pm.

Offender Rehabilitation: Entrepreneurship Training

Question for Short Debate

7.41 pm

Asked by ***Lord German***

To ask Her Majesty's Government what is their policy regarding offender training in entrepreneurship.

Lord German (LD): My Lords, I tabled this Question for Short Debate well before the new Secretary of State, Liz Truss, spoke to the House Of Commons Justice Select Committee in early September. Mine is a narrow question emerging from the proposed prison and courts Bill outlined in the gracious Speech. However, the new Secretary of State made two important statements in her appearance before the Justice Select Committee which have an impact on the broader aspects of my Question. First, she did not commit to bring forward the legislation on prison reform promised in the prison and courts Bill. Secondly, she suggested that no work had been done in her department to introduce the plan of her predecessor, Mr Gove, for major prison reform.

When Secretary of State, Mr Gove told Parliament that legislation was required to bring in these sweeping reforms. As a result, your Lordships' House gave the prison reform aspects of the Bill a decent and generally welcoming reception in our debate on the gracious Speech in this Chamber in late May.

So the Question I tabled for this debate, which I intend to pursue later, is both overshadowed and diminished by the attitude of the new Secretary of State for Justice. I thought very carefully about calling for the reinstatement of Mr Gove, but my better judgment decided me against it in the end.

At the heart of the then Government's thinking was a belief that prisons were to be seen not just as places of retribution but as places of rehabilitation, a place to improve life chances, not just recycling facilities for broken individuals who go out through the prison gate and are soon back again—and on multiple occasions, with more than a third of our overcrowded prison population having 15 or more previous convictions.

We have a national proven reoffending rate of 74%, according to the Ministry of Justice's figures in January this year. So I must begin this debate by asking the Minister to clarify the Government's position. First, is the prison reform agenda outlined by Mr Gove on hold, on the back burner or both? Secondly, when, if at all, will we seen the legislation on this matter promised in the gracious Speech?

Living in hope, as I always do as a positive person, that I will hear a positive response—not least because of the excellent work undertaken by Dame Sally Coates and because of the potential cost to the lives of offenders and to the taxpayer—I will therefore move on to the specific issue of this debate. In recent times, security and punishment have become our penal priorities, and the outcome has been more offenders and a big increase in the prison population, followed by deteriorating prison conditions and fewer opportunities for rehabilitation. Yet from Policy Exchange research we know that prisoners who get a job on release are half as likely to reoffend as those who do not. Naturally, not every offender is suited to self-employment, but entrepreneurs display some significant characteristics which are often shared by offenders. At the top of this list is a desire for autonomy and a willingness to disregard conventions.

Finding work with a criminal record is a very real challenge. Working Links found that only a fraction of employers—18%—is prepared to offer work to one of the 9.2 million people in our country with a criminal record. We have to look wider if we are to reduce the number of unemployed ex-prisoners. At a basic level, self-employment does not discriminate against those with a criminal record, and ex-offenders who are entrepreneurs frequently employ those with a criminal record, thereby reducing reoffending considerably. That is because ex-offender entrepreneurs recognise the commitment they will get from a person who is very grateful for the chance he or she has been given.

Is there interest among ex-offenders in becoming self-employed? The Centre for Entrepreneurs conducted surveys of both prisoners and ex-offenders and uncovered high levels of interest in self-employment. Just under half of all surveyed said they would prefer to be self-employed, and 42% considered starting their own business.

The Government do not have any figures on the reoffending rate among self-employed ex-prisoners, and I ask the Minister whether he thinks they should, because I believe they should. However, globally and here in the UK, there are examples of programmes which deliver entrepreneurship support to prisoners, and all of them point to a much reduced rate of recidivism. The Texas-based Prison Entrepreneurship Program reports a three-year recidivism rate of 7%, compared to an overall USA average of 50%. Other examples in Germany and here in the UK point in the same direction.

Why bother? Reoffending in England and Wales costs the taxpayer £4.5 billion a year. The Social Exclusion Unit has calculated that each reoffender costs the public purse, in the round, £131,000 per annum. Using the costs of a UK programme run by the charity Startup, the Centre for Entrepreneurs calculates that it will cost £82 million a year to support an entrepreneurship programme for every pre-release prisoner. Taking the cautious view, it calculates a reduction in recidivism to 14%, compared to the national average of 46%. This would represent an investment to save in both the short and longer terms.

What needs to change? As well as offering support, the nature and provision of through-the-gate action is critical for success. Key4Life, one of our most successful

third-sector organisations in rehabilitation says that its success is built on three principles: first, building an individual offender's emotional resilience and unlocking negative behaviours that led to conviction; secondly, providing employability support to gain the experience needed to find a job; and, thirdly and crucially, giving ongoing support through the gate to help ex-offenders reintegrate into the community and sustain employment.

None of this is rocket science, but charities are frustrated. They see the benefit of a holistic approach on both sides of the gate, a comprehensive delivery service including accommodation, employment, finance and benefits, but their expertise is not being sufficiently used.

The government structures now in place have just this month received a harsh report from the inspectorates for probation and for prisons. They report that the Government's strategic vision for through-the-gate services has not been realised. None of the community rehabilitation companies was able to report employment after release or provide any information on the outcomes they had achieved for prisoners receiving through-the-gate services. Vital third-sector organisations are seeing through-the-gate contracts pass them by with a little clarity on what their role is or should be and how they can be resourced for their services.

What would a person coming out of a successful entrepreneurship programme look like? I have met Gina Moffatt. Gina was sentenced to six years in Holloway prison for importing class A drugs. She was convinced her life was over. She told me, "I had no qualifications and a criminal record. How on earth was I ever going to get job?". Gina now has a business running two cafés in Tottenham. Both serve Afro-Caribbean food and are hubs for the local community. Gina now employs several ex-offenders, many of whom she met in Holloway. She acts as an ambassador for the Prince's Trust, which gave her that vital helping hand she needed at the outset.

I have met Michael Corrigan. Michael was sentenced to three years for fraud by abuse of a position of power. On release, he established Prosper 4 with the help of an angel investor. Prosper 4 is an umbrella entity composed of social enterprises committed to reducing reoffending. The company now holds and runs contracts helping ex-offenders. Michael told me, "Prison separates you from everything that is normal—family, friends and work, and picking it all up again is never easy".

I hope that the Government will recognise that self-employment is an effective pathway towards rehabilitation and reducing reoffending, and that they will support this aim with stable, ongoing funding for the programmes that are required, including a business loan fund for ex-offender businesses. Above all, they should provide the support and mentoring needed to support these would-be entrepreneurs at all stages of their development. Unleashing the entrepreneurial drive innate in many offenders will require more than just a little advice and education before leaving them to their own devices. Ensuring they get the support they need is a sure route to reducing reoffending. It will give ex-prisoners the fresh start they desperately need—and surely deserve.

7.51 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I congratulate my colleague and noble friend Lord German on securing this important debate. Turning offenders into entrepreneurs has been an aspiration of numerous interest groups and charities for some time, some of which believe that many involved in criminal activity share skill sets that would be adaptable to the workplace, particularly in setting themselves up as entrepreneurs.

Not all entrepreneurs are millionaires. A market trader, a mechanic or even a hopeful retailer can all fit the definition. However, many offenders are consistently greeted with reasons why they cannot achieve. Entrepreneurship allows them to believe in themselves and in a better life for their families, and enhances their focus, moving it away from the unlawful to the productive.

At present, all training for offenders falls into two categories: custodial or community. I will deal with custodial first. This is presently delivered within prisons under OLASS—Offender Learning and Skill Service—managed by the Skills Funding Agency. There are four contracted providers in England and Wales. The first three are FE colleges: Milton Keynes, Weston and Manchester. The fourth is A4e, a private provider. The OLASS phase 4 contract values for 2014-15 and 2015-16 are unavailable. The funding is per unit of qualification, with funding paid retrospectively on attainment.

However, the figures for 2013-14 indicate that the total contract value was more than £131.5 million, with the biggest share of £21.3 million going to the north-west, where the Manchester College is the deliverer. The smallest—£6.4 million—goes to the south central area, where the deliverer is Milton Keynes College. This is a considerable total sum available for offender training. From 17 July, this funding will come under the direct control of each respective prison governor, instead of being delivered by OLASS. This places additional burdens on governors as they become fully accountable for prison education.

The possible implications of this will be a lack of continuity in provision when offenders are moved between prisons. Some training provisions are available only at certain prisons. For example, bricklaying is available at HM Prison Portland but not in HM Prison Guys Marsh. Both are category C prisons. If this training is available only at selected facilities, the implication is the likelihood of increasing the disparity in provision that already exists between prisons. Finally, it has the potential to encourage prisons to offer quick-fix, short courses to guarantee or skew education outcomes.

On training delivered in the community, there are currently three types of community offender training: post release, under licence or supervision; non-custodial sentences, including suspended sentences; and community payback. Up to 20% of community payback hours may be accounted for by any form of formal training. The process for offenders accessing training is not straightforward.

Probation offender managers or education training and employment officers—ETEs—within the state and private sector probation provisions identify the learning

[Baroness Bakewell of Hardington Mandeville] and development needs of offenders. Referrals are then made to private providers or colleges with access to funding in adult FE provisions. Training is funded by the Skills Funding Agency, which may or may not be part-funded by the European Social Fund. Funding is subject to the client meeting SFA criteria: unemployed or lacking skills such as English or maths.

Additional guidance may be available in line with local authority provisions for small businesses or small business advisers within banking services. It must be remembered that provision of business advice is not a statutory provision for probation service providers. In terms of the availability of entrepreneurship for offenders, one of the biggest barriers to employment is the requirement to disclose convictions in line with the Rehabilitation of Offenders Act. This, combined with lengthy periods out of work due to sentences, means that they are facing an uphill struggle in returning to employed work as soon as they leave the gate.

At present, some but not all prison education providers are offering "be your own boss" courses to selected prisoners. This is a short course, usually one week, and concentrates on interpersonal soft skills and decision-making rather than the essentials of business planning and management. These courses serve as a solid introduction to the personal skills, motivation and processes that would be required to take the next step. What is now needed to follow this is business planning and financial training to supplement the soft and trade skills. Does the Minister agree that this is the case and can he give assurances that resources will be made available for this to happen?

Nevertheless, there are opportunities. There is a range of existing vocational education programmes, varying in availability from prison to prison, that would suit a lead-up to entrepreneurial training. They include: catering, barbering and hairdressing, and construction skills—bricklaying, painting and decorating, and carpentry, all of which are currently in short supply. The only limitation for the learner is the absence of experience outside a secure environment.

Many of these courses will be completed in 14 weeks of full-time study, but will qualify the learner only to level 2 GCSE grades A to C. This, coupled with an absence of any real world or customer-facing experience, will not make them an ideal candidate for small business loans or investment. Groups such as Key4Life—there are numerous others—are supporting offenders from gate to employment and self-employment. They offer mentoring programmes, apprenticeships, training and development. This provides the necessary support to develop the individual while allowing access to real-world working environments.

However, there are issues and barriers to entrepreneurship. The Prisoners' Education Trust has figures indicating that only 12% of prisoners are assessed as possessing literacy skills at level 2; only 8.5% of prisoners are assessed as possessing maths skills at level 2; and 62% of male and 57% of female prisoners have personality disorders. It is widely reported that as many as 35% of prisoners suffer some sort of drug dependency, with 6% reported as having developed a dependency after entering prison.

Self-employment and entrepreneurship can serve as a gateway to a productive working life free from reoffending. However, it requires the individual to be given the opportunity to develop a skill set to an appropriate level of competence, which can then be taken from a provision of services to running a business. Does the Minister agree that this could be supported through temporary release or business mentoring via the probation services, third-party providers and charities?

In summary, entrepreneurial development, if supported educationally as well as financially, proposes real-world benefits for both the offender and society through reduced recidivism, improved lifestyle and an increase in the individual contribution to the economy and wider society. It should be noted that many training providers and prisons would be very keen to deliver training in this area, but some prison students will require support to gain basic functional skills. This is an area in which prison education staff are very experienced, and it is essential for the success of any entrepreneurial venture that these foundation elements are addressed at the earliest possible opportunity. I look forward to hearing what the Minister has to say on this very important subject.

8.02 pm

Lord Marks of Henley-on-Thames (LD): My Lords, in winding up this debate for the Liberal Democrats I am aware that there has been a fair degree of unanimity in the speakers before me, since only Liberal Democrats have so far spoken. I join my noble friend Lady Bakewell of Hardington Mandeville in congratulating my noble friend Lord German on securing this debate and bringing this issue before the House, and I look forward to hearing what the noble Lord, Lord Beecham, and the Minister have to say.

This debate takes place against a background of a well-documented and well-recognised crisis in our prison system. I have frequently spoken, along with many other noble Lords, about the need for fundamental reforms in our prisons, sometimes to the apparent irritation of the Minister. Yet we are all agreed on the fundamentals. We all agree about the need to cut prisoner numbers by making more use of rehabilitative community sentences; to improve, indeed transform, the squalid conditions in our prisons; to eliminate overcrowding, so that custodial facilities hold only the numbers of inmates for which they were designed; and radically to increase staffing levels, not just to exercise adequate control, but to provide far more purposeful activity for inmates and drastically reduce the hours they spend locked away in their cells to levels that are humane and sustainable. If these improvements could be made, they would cut dramatically the disgraceful levels of violence in our prisons and would have a marked effect on decreasing reoffending levels, which are far too high. The prison reforms proposed by Mr Gove promised to start addressing these issues, and I join my noble friend Lord German in asking the Minister what is to happen to them with the new Secretary of State in place. I make no apology for spending a little time on this depressing background because it is, frankly, inimical to improvement in offender training of all sorts that prisons should be in this state and I invite the Minister to say how far he agrees that

conditions in our prisons, in particular the lack of staffing and the lack of purposeful activity, frustrate the provision of adequate education and training.

For most prisoners, purposeful activity fundamentally means education and training. This debate takes place against the background of Dame Sally Coates's excellent review. That review started from the limited educational attainment of most prisoners. My noble friend Lady Bakewell has given the figures. Dame Sally's starting point was to put education at the heart of the prison system. She rightly pointed out that:

"If education is the engine of social mobility, it is also the engine of prisoner rehabilitation".

She emphasised the need for high-quality vocational training and employability skills to prepare individuals for jobs on release from prison, but she also stressed the importance of enterprise and self-employment support and training.

At a purely practical level, if offenders on release are equipped with the necessary skills it may, as my noble friend Lord German pointed out, often be easier to take up self-employment as a way of securing gainful occupation than to find employment with employers elsewhere, given the difficulty of persuading employers to give jobs to ex-offenders on release from prison.

There are, of course, many employers who as a matter of policy provide work to ex-offenders on release. Among them are Timpson, the shoe repairers, which has a prison recruitment scheme and has had considerable success in attracting and retaining ex-offenders who have settled with them to long-term and successful employment, and many have gone on to success in self-employment as well. There is also Gleeds, the construction company, which has made a special point of finding jobs for ex-offenders on release and which has campaigned to "ban the box", meaning the criminal records tick-box on employment application forms, which prevents many finding new jobs. I will be interested to know the Minister's attitude to job application forms.

Employment with helpful and energetic employers may be the best way of equipping former offenders with the skills and confidence to start up in self-employment. However, many will try starting up in self-employment after prison, but it is clear that it takes particular confidence for a prisoner, even a skilled one, to start a business. An ex-offender leaving prison faces many challenges in any case in finding his place in his community and re-establishing relationships with family and friends, so it is a real challenge to set up in any form of a business at the same time.

In this context, Dame Sally's recommendations on developing mentors in prison may point a way to enabling prisoners to benefit from the experience of other prisoners. I hope that the community rehabilitation companies providing supervision to ex-offenders on release will play a part in building up networks of possible mentors following release who might help newly released prisoners through the first, very difficult, stages of setting up in business. In this context I add to the points made by both my noble friends about the need for a rehabilitation loan fund to provide the vital initial finance and for the co-ordination of training and funding within prisons, which was mentioned by my noble friend Lady Bakewell. Training in business skills and financial management is also necessary.

A lot can be done in prison too with imagination and encouragement from the prison authorities. An example is the Clink Charity's restaurants, which have been a startling success. The Clink Charity started at HMP High Down in Surrey and now runs restaurants in Brixton, Cardiff and HMP Styal in Cheshire, which is a woman's prison. The restaurants are very successful and are run by prisoners for the public. The men and women working there are training for their City & Guilds qualifications in food service and preparation. A mentoring service operates following release which is designed to help them find employment in the field. It has also opened a horticultural garden in HMP High Down and another in another woman's prison, HMP Send in Surrey, where the prisoners train in horticulture and grow the produce for the four Clink Charity restaurants. At HMP Send, they also rear chickens and provide the restaurants with eggs. The Clink Charity boasts an 87.5% success rate in reducing reoffending. The point of all this is that there is a link between training, recruiting, learning the skills to run a business, mentoring and, finally, either finding employment or opening a business in the community on release. But it all depends on people with the imagination, drive and desire to help encouraging prisoners on their way.

So far I have concentrated on education in prisons. However, it is very important, if we are to achieve our aim of reducing the number of offenders sent to prison, that we also develop the potential of community sentences for providing education, including training in entrepreneurship. The provision for rehabilitation activity requirements, which may be imposed as part of a community order as a result of the Offender Rehabilitation Act 2014, provides a useful and effective vehicle for training offenders in the community. Some CRCs already offer activities over a wide range. Warwickshire and Mercia CRC provides a care farm skills programme at Willowdene Farm. The programme is set over 25 seven-hour days in a 14-week period. It offers courses specialising in mechanics, woodwork, IT, plumbing, forestry, animal welfare and agriculture—all areas in which self-employment is possible. It aims to prepare offenders to be work-ready and achieve two nationally recognised qualifications by the end of the programme. It works with offenders at high risk of reoffending and deals with those with a history of substance abuse. The London CRC helps offenders to develop basic skills in literacy and numeracy, and gives them training which might lead NVQ awards. It also helps ex-offenders to find employment, assisting with such things as CV writing and interview techniques. However, I suspect that more imaginative schemes, such as the West Mercia farm scheme or the Clink restaurants, are more likely to produce long-term benefits, not just for those involved at the time but also for those who might mentor later. What steps do the Minister and his department propose to encourage development by the CRCs and within prisons of the sort of schemes that I have mentioned? We are a long way off. The central point that I make is that we have to improve the system to give training a chance to flourish. Achieve that we must.

8.12 pm

Lord Beecham (Lab): My Lords, the noble Lords, Lord German and Lord Marks, have referred to their regret, which I share, about the departure of Mr Gove, who made what seemed to me a very promising start, in contrast to the dreadful years under his predecessor, in looking at the position of prisoners. It is a case of being gone but not forgiven, I suppose, by the party opposite, or at any rate its leadership.

Concerns about the Prison Service which form the background to this timely debate have been raised with troubling frequency during the six years that I have served in this House, and before. It is perhaps tedious, but nevertheless necessary, to remind ourselves of the size of the prison population—it encompasses some 86,000 people at any one time—of the problems of overcrowding and understaffing, of violence and drug abuse, and of the high rates of re-offending, all of which were touched on during Questions this week, as they have been with depressing regularity over the years. It is as well to recall, too, the high proportion of prisoners with one or more mental health disorders, and low levels of literacy and numeracy and of any engagement with further education.

Today's welcome debate draws attention to one aspect of penal policy that has been the subject of discussion and of some developments in recent years. However, we need to be mindful that while promoting entrepreneurship may help some prisoners to return to society and lead a more useful and rewarding existence, just as in society as a whole, the majority are likely to derive more benefit from being equipped with the basic skills, enhanced wherever possible, to take their place in the labour market as well-trained contenders for employment.

A report of the Prisoners' Education Trust in 2013 stressed the need to promote both employability skills and what it termed soft skills, such as a positive attitude, communication skills and reliability and, while referring to self-employment, stressed the experience of three prisons in helping offenders to acquire particular skills in demand in particular trades and areas. The business department published its *Evaluation of Enterprise Pilots in Prisons* last October, since when Dame Sally Coates's review in May this year provided an interesting picture, to be seen alongside the CentreForum report entitled *Transforming Rehabilitation? Prison Education: Analysis and Options*, published in March. The BIS report highlighted the need for IT access, and the Coates report referred to the glass ceiling beyond level 2 of standard vocational qualifications, noting that a mere 200 achieved level 3 or above in 2014-15, via the Offenders' Learning and Skills Service, or OLASS, an 85% reduction from 2013, the last year before loans were introduced to pay for courses. The noble Baroness, Lady Bakewell, rightly referred to concerns over the fragmentation of OLASS's role under the Government's present policy. This was even worse than the 42% decline in prisoners taking higher education courses with the Open University after 2011-12 when they had to start self-funding at a cost of £2,700 a module, or £14,800 for a degree.

Dame Sally suggested in a cautionary note that, in relation to the BIS enterprise pilot scheme promoting start-ups by prisoners with support and loans,

"participants needed to be carefully selected to ensure they were able to engage effectively".

In other words, she implied that there is some scope for entrepreneurship and self-employment, but it will not necessarily be applicable to the majority of prisoners.

The BIS report covered only 58 prisoners from four prisons and noted a lack of connection between providers and the DWP on the issue of benefits. Importantly, and directly relevant to the terms of the motion under debate, BIS analysed the start-ups and loans secured by prisoners looking to progress to self-employment on release. Of 114 prisoners in the north-east, two started businesses without funding; one failed to obtain a loan and another's application is pending. In a southern prison, of 40 who participated, two began start-ups with the aid of funding, and 19 had loans approved in 2014 and 2015. So the picture is not entirely convincing that, even with support of training, people will necessarily make it into self-employment or business.

CentreForum's report affirms these worrying trends. The percentages of institutions needing improvement in education rose from 50% to 75% between 2011 and 2015, while the proportion engaged in prison education courses dropped from 42% in 2008-9 to 23% in 2014. At the basic level below level 2, participation rates improved but, worryingly, the rise was much higher in subjects other than English and maths, which were the Government's priorities, having regard to the low levels of literacy and numeracy, clearly key to future employment prospects. CentreForum also points to Ofsted reports showing a steep decline in performance ratings, with the proportion of findings of inadequacy or requiring improvement rising from a bad enough 50% in 2011-12 to 72% in 2014-15. Imagine the outcry if Ofsted's reports on schools had followed a similar trajectory or reached such heights of inadequacy. The report summarises the position as indicating,

"consistently poor quality provision and a decline in quality over recent years".

All this is consistent with the NOMS finding of a "stark decline" in purposeful activity outcomes and educational quality, in turn reflected in the stagnation of reoffending rates since 2009. We seem locked into a downward spiral of declining opportunities and outcomes. What appears to be lacking, apart from the basic requirement of adequate funding to secure a safe environment for prisoners and staff, is a properly integrated approach to penal policy across government. This needs to involve the Ministry of Justice, the Home Office, the departments of health, business, and education, and the courts. It needs much greater sharing of experience, perhaps by extensive use of peer review, and it needs a determined effort to reduce prison numbers without which airy aspirations of a rehabilitation revolution, or worthy and desirable objectives, such as increasing entrepreneurship and self-employment by prisoners, are unlikely to be achievable. I hope that the noble and learned Lord will be able to persuade his colleagues in the department that these are achievable objectives but that they require a degree of commitment that is yet to appear in government policy.

8.19 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I thank the noble Lord, Lord German, for securing this debate. The Government are committed to ensuring that prisons are places of reform and we recognise that training in entrepreneurship can help to provide offenders with the skills that they need to become productive, contributing members of society. Although entrepreneurship may help some—I will return to this point, which has already been made by the noble Lord, Lord Beecham—it is questionable whether it will assist the majority, who very often require rather more basic skills in order to achieve any form of employability.

Let me first answer the question that the noble Lord, Lord German, asked. In terms of the Prison Rules, rule 32 provides:

"Educational classes shall be arranged at every prison".

That is our policy. It is also our policy that prison governors should be empowered to decide what that education offer should be and should then be held to account for what is achieved. We do not regard that as fragmentation but as a means of innovation.

Before discussing the question of entrepreneurship in more detail, however, I mention briefly the reforms already under way in our prison system. With respect to the opening remarks of the noble Lord, Lord German, the present Justice Secretary has made clear her plans to drive through one of the most far-reaching prison reforms in a generation. Those offenders in prison have committed a crime for which prison is the rightful punishment but, at the end of their sentence, almost all prisoners will need to reintegrate back into the community. Currently, almost half of prisoners reoffend within the first 12 months of release. In 2010, it was estimated that this cycle of reoffending was costing the economy up to £13.5 billion a year. I believe that all noble Lords and the noble Baroness acknowledged the scale of the problem that exists. The Government are committed to ending this cycle and ensuring that prisoners use their time in prison to reform.

First, we need to make prisons safe—safe for learning and safe for reform. The rising levels of violence against prisoners and indeed staff, as well as an increase in self-harm and self-inflicted deaths, are not acceptable and require immediate attention. We are investing £14 million to provide more than 400 staff in prisons to help address increasing levels of violence and provide much-needed, individual support for prisoners. The Government are also investing £1.3 billion to modernise and reform the prison estate, which will have appropriate facilities for learning, training and the reform of prisoners.

We realise that many prisoners have led challenging lives and may have missed out on the opportunity to learn. For example, nearly one-third struggle with learning difficulties or disabilities. Indeed, the noble Baroness gave a number of figures with regard to those who suffer from various disabilities or difficulties, be they mental health, learning difficulties or otherwise. The prevalence of drug problems is also well known. More than half of the prison population is unable to read or write to a basic standard. Even more have similarly poor mathematics skills. We need to utilise the time spent in prison ensuring that prisoners engage in purposeful activity, so that they can contribute to society upon their release.

While there are some excellent examples of education in prison, we would of course like to see more consistency. Dame Sally Coates's review of education in prison, published earlier this year and mentioned already, set a clear agenda for education reform. Prisoners are often not being given the appropriate skills and knowledge needed to find jobs, while prison governors are hampered by an overly bureaucratic system. We are determined to improve prison education to help prisoners turn their lives around. The Government intend to change the way that we run prisons, so there is an unremitting emphasis on safety and reform. We want prisons to be places of hard work and high ambition, with incentives for prisoners to learn. We want prison staff to prioritise employment opportunities. To do this, we will put the tools to drive this change into the hands of those on the front line. Prison governors must be empowered to innovate and find better ways of reforming offenders in a system geared towards innovation and local partnerships.

Following the recommendations in Dame Sally Coates's report, we have already given prison governors greater autonomy over the education curriculum. As of 1 October, governors have been able to offer courses that do not necessarily lead to an accreditation, should they deem it in their prisoners' best interests. This will give governors greater immediate flexibility to respond to the differing, and indeed often complex, needs of prisoners. For example, a governor could choose to commission a focused preparation for a self-employment programme for those nearing release who have shown a keen interest in pursuing this option, or an enterprise-themed programme aimed at initial engagement of "hard-to-reach" offenders who are furthest from the labour market.

Sixteen million hours of work were delivered in prisons during 2015-16. There are also significant numbers of prisoners in other learning, vocational training or in-prison work opportunities that contribute to the effective running of a prison. Supporting offenders into meaningful employment is a vital aspect of this Government's approach. I am conscious that many members of your Lordships' House have detailed knowledge of prison education and employment opportunities—this has been exhibited this evening—but it was, I have to say, a surprise to me in taking up this portfolio to find that a significant number of our prisons have railway tracks within their grounds, albeit stopping short of the gates. These are used to train prisoners in track maintenance, delivering a trade-standard NVQ level 2 qualification and the necessary rail safety and other skills, so that they secure paid employment on key infrastructure projects, such as Crossrail, once they are released.

We want to see more work in prisons leading to jobs on the outside. For example, a scaffolding workshop has just opened at Her Majesty's Prison Brixton in an excellent collaboration involving Land Securities and Bounce Back. The first four graduates of the programme have gone into full-time work and there is a waiting list of employers anxious to employ the next 20 prisoners. The noble Lord, Lord Marks, alluded to Clinks and the running of four fine dining restaurants. He perhaps

[Lord Keen of Elie]
omitted to mention that the restaurant at Her Majesty's Prison Cardiff has been voted 10th best fine dining restaurant in the United Kingdom and a graduate of the Clink restaurant at Brixton has gone on to be a sous chef at one of London's leading hotels.

More private sector companies are employing ex-offenders. However, we are keen to increase the number of employers who can provide valuable vocational work for offenders in prison and who are able to offer them employment on release. The noble Lord, Lord Marks, mentioned some who have done splendid work. We want more businesses to work with us to give prisoners a second chance. Those who already do tell us that offenders are often some of their most loyal and committed employees. The National Offender Management Service works closely with the Employers' Forum for Reducing Re-offending to ensure that there is a pool of employers willing to employ offenders. A significant number of schemes are in place locally but of course we want to see more. Giving governors autonomy over decisions made in prisons will allow them to target training and work in prisons to match more closely the needs of a local labour market.

We know that the majority of prisoners want to work and that, in the context of keeping themselves occupied, pay, for example, is not an issue. We also know that getting prisoners into employment is a key factor in reducing reoffending—a point already made by noble Lords—but many face barriers when trying to enter employment as employers may be reluctant to hire. The noble Lord, Lord Marks, alluded to Ban the Box; the Government encourage all employers to look at their recruitment practices to ensure that ex-offenders are considered on their merits and not on their criminal records, through options such as banning the box. Indeed, the former Prime Minister announced government support for Business in the Community's Ban the Box campaign. The Civil Service will be banning the box from the initial recruitment stage except for those jobs that have a specific security requirement. The Ministry of Justice, at headquarters, already bans the box. So some progress has been made in that regard

Turning to the theme of this debate, enterprise skills and entrepreneurship, I should make it clear that when I refer to the training in entrepreneurship that is currently offered in prison, I am referring to two separate things. First, there are the courses that we offer on preparing prisoners to start a business venture and to aid their understanding of business enterprise. One can be entrepreneurial without being self-employed and these courses are not necessarily delivered with the hope that the prisoner will become self-employed as a result. Rather, these courses can provide prisoners with translatable skills for any kind of employment. For example, a prisoner enrolled on such a course may learn that they need to go back and improve their maths skills before starting their own business. This might lead them to getting basic qualifications they would not otherwise have sought. Or perhaps a prisoner will realise that they must first go out and get some work experience to prepare them for having a business of their own. These aims are equally as beneficial as encouraging a prisoner to enter self-employment directly on release.

Secondly, there is the specific support we offer to help offenders into self-employment. These courses are popular with prisoners and we recognise the value for prisoners that becoming self-employed has, as it can help overcome some of the barriers that have been mentioned with regard to securing employment. On these courses you may find a prisoner who has already taken part in a business enterprise course, or a prisoner who has been studying on a vocational course, such as plumbing or barbering, which have been mentioned, who will then seek to use the skills they have learned to set up their own business.

In 2015, an enterprise pilot was run by the then Department for Business, Innovation and Skills, with the aim of helping to reduce reoffending and helping individuals progress to self-employment, or other employment if more suited, on release. While it is too early to assess the impact of this pilot on reoffending, we learned valuable lessons that will help governors in deciding what type of enterprise provision to commission for their prisons. For example, for enterprise provision to be effective, it is important that prisoner learners are engaged and keen to participate, that there is improved communication between those delivering training in custody, those providing support to prisoners on release and those supporting prisoners' engagement in custody—as the noble Lord, Lord German, observed in his opening remarks, this does not stop at the gateway of the prison, but has to go further if it is to succeed—and that therefore further research is considered and planned.

When considering self-employment options, we must remember that start-ups have a high rate of failure and, certainly, we do not want to set prisoners up to fail. For many prisoners already in debt, accessing the necessary start-up loan is impossible. It is no use equipping prisoners to start up their own business if, on release, they find they are prohibited from accessing the resources needed to achieve their goal. Work must first be done, therefore, to address prisoners' existing debt issues, setting up a payment plan if necessary, before any plans for self-employment can take place. This is a staged process. A one-size-fits-all approach will not work. Rather, a holistic approach is required in order to encourage self-employment, with a concerted focus on partnership working. We also need to ensure that if prisoners seek the route of self-employment, they receive the Through The Gate support to which the noble Lord, Lord German, referred.

The noble Baroness, Lady Bakewell, raised a number of questions. She too mentioned the barrier of the requirement to disclose convictions. I hope I have explained that the Government wish to encourage schemes such as Ban the Box that might reduce, or displace, any such barrier. She also mentioned the low levels of literacy skills encountered among those in our prisons. That is where some of the fundamental problems lie. We need to increase that level of educational attainment, which is fundamental to making progress in this area.

The noble Lord, Lord Marks, suggested that conditions in prisons frustrate the provision of education and training. They do not frustrate it, because education and training are going on, but of course they make it

more difficult. That is one reason why we are committed to spending £1.3 billion on a new prison estate that will be far better equipped to provide the sort of education and training that can reduce recidivism among the prison population.

The noble Lord, Lord Beecham, alluded to the need also to look at this across government. We accept that this is not just a case of prison reform in isolation. We have to look at the health issues, particularly the mental health issues, which afflict such a large proportion of the prison population, and the drug issues that also afflict such a large proportion of the prison population. We also have to look at prison overcrowding. However, I say again that that is now being addressed by the determination to produce a new and effective prison estate for the future.

In conclusion, we intend to modernise and reform the way that we run our prisons. We intend to help deliver a safer and more secure environment, because only with a safer and more secure environment will there be the opportunity for education and training to take root. We understand the ambition of some prisoners to become self-employed but recognise the point made by the noble Lord, Lord Beecham, that that may be an effective route for some but not for all. We have to have regard to the totality of the prison population. But rather than imposing a top-down, centralised policy, the Government are giving governors the autonomy they need to best meet the needs of their prisoners to ensure that they obtain fulfilling, purposeful employment, or even the opportunity of self-employment, on release. I am grateful to noble Lords who have spoken in this debate. I hope that I have been able to address their questions and concerns to some extent.

8.35 pm

Sitting suspended.

Policing and Crime Bill

Committee (2nd Day) (Continued)

8.40 pm

Debate on whether Clause 37 should stand part of the Bill.

Lord Rosser (Lab): Our key concerns about Clause 37 relate to the additional powers that could be given to police volunteers under this clause. I hope that in response the Government will set out in some detail the boundaries or limits of those powers that can be given.

Of course, the police could not do their job without a voluntary army, but a voluntary army should not do the job of the police. The Bill enables chief officers to designate a wider range of police powers to police volunteers. We are concerned that this measure may be a move by the Government to provide cut-price policing and we fundamentally oppose giving policing powers to volunteers to fill the gaps left by the drastic reduction in officer and staff numbers over the past five years. More than 40,000 policing jobs were lost between 2010 and 2015 as a result of government cuts to the police service: approximately a 30% cut in police community support officers; 20% fewer police staff jobs; and 13% fewer police officers. It is not appropriate that those people should be replaced by volunteers through the provisions in the Bill, particularly in roles that are clearly operational in nature.

As I understand it, there is a current agreement between the Home Office, the National Police Chiefs' Council, the College of Policing and the police staff unions that police support volunteers should bring additionality to the police force, but the agreement goes on to say that they should under no circumstances replace or substitute for paid police staff.

Our police service has the power to use necessary proportionate force in appropriate circumstances. We do not want volunteers to be placed in roles that may require the use of force or restraint and which should be only for officers and members of police staff. Our police service has and needs the power to use force where necessary when carrying out its duty to protect the public. However, under our tradition of policing by consent the public also expect that there will also be accountability, proper training and high professional standards on the part of those who use force in appropriate circumstances. I suggest that those expectations can be met only by warranted police officers and, where appropriate, members of staff.

We are also concerned by the suggestion that there may be circumstances where volunteers will be placed in risky situations. Volunteers have an important role to play in supporting police, but should not place themselves in potentially dangerous situations. A police and crime commissioner for Northumbria has said:

> "Rather than extending the role of volunteers, the Government needs to start funding police forces properly, to allow Chief Constables and Police & Crime Commissioners to recruit more police officers, who can go on the beat and serve local communities".

To reiterate, we believe that the greater use of volunteers in the police service apparently envisaged under the Bill—we are not talking about special constables—is potentially dangerous, particularly in the context of the continuing cuts to police budgets. This year police services in England and Wales are facing real-terms cuts to their budgets which will not be backfilled by the local precept.

We believe it is dangerous to impose those cuts in the context of the provisions of the Bill, with the Government not saying precisely what the boundaries and limits are of what volunteers can and cannot do under the terms of the Bill. I hope that in responding the Government will now seek to remedy that and that the response will not reveal—as, going by the previous debate, I fear it will—that volunteers, rather than just bringing additionality to the police workforce, can in reality be used to replace or be substitutes for paid police staff because of the sheer range of operational and other roles they can be given under the terms of the Bill.

8.45 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, this clause introduces additional flexibility into the way that the police can deploy their staff by extending the powers of chief

[Baroness Williams of Trafford]
officers to designate their staff with powers and by introducing, for the first time, a power to designate volunteers with powers. At this point, I should repeat what I said in the previous debate—that, just as PCSOs are not policing on the cheap, volunteers are not policing on the cheap, either. They all contribute to the force that is the police and all have their different parts to play. This clause, together with the other changes in Chapter 1 of Part 3 of the Bill, will give chief officers the flexibility they need to best shape their workforce to local circumstances.

Volunteers have much to offer policing, including those with specialist skills, for example, in IT or forensic accountancy, which we talked about before, and not just in the use of PAVA spray and CS spray. Special constables are volunteers with all the powers of a constable, but it makes no sense that volunteers who do not want to become specials because they do not want to have powers at all times—this has been previously discussed—or to undertake the physical demands of personal safety training cannot be conferred with a narrower set of powers relating to a particular role. Currently the law also puts unnecessary restrictions on a chief officer who wishes to maximise the operational effectiveness of police staff. These provisions remove those barriers.

Chapter 1 of Part 4 of the Police Reform Act 2002 enables chief police officers to confer some or all listed powers on their civilian staff by designating them to undertake specific functions in one or more of four categories: police community support officers, known as PCSOs; investigating officers; detention officers; and escort officers. Clause 37 amends the 2002 Act to amalgamate the categories of investigating officers, detention officers and escort officers into the single category of "policing support officers", who would then be designated with the necessary powers to carry out their particular roles. The clause also enables a chief officer to designate a police volunteer as either a community support volunteer or a policing support volunteer.

Subsection (3) repeals the list of standard powers of PCSOs. In future, the powers that PCSOs and community support volunteers have will be a decision for each chief officer. Subsection (4) introduces for the first time a list, set out in Schedule 10, of core powers that can be exercised only by a sworn constable. The list includes powers of arrest and stop and search, and those under terrorism legislation—for example, the power to apply for a search warrant under Schedule 5 to the Terrorism Act 2000 as part of a terrorism investigation. It also includes two powers that were previously available to investigating and detention officers—namely, the power to make a fresh arrest and the power to conduct an intimate search when a medical professional is not available. Following the public consultation last year, we judged these powers to be particularly intrusive and that their use should therefore be restricted to police officers.

Noble Lords may wonder why the list of core powers does not include the power to make entry to premises by force, which was also consulted on as a power that should be restricted to constables only. The 2002 Act currently provides that designated individuals can exercise a power to force entry only in the company and under the supervision of a constable, or for the purpose of saving life or limb or preventing serious damage to property. Therefore, even with the extended designation possible under these provisions, no designated staff member or volunteer would be able to force entry except in the two circumstances described. However, importantly, they would be able to assist or accompany an officer executing a search, or to exercise a power to enter where force was not necessary—for example, as part of an alcohol licensing inspection.

The changes also provide the Secretary of State, in practice the Home Secretary, with a power to make regulations to add to the list of core powers and duties of constables: that is, those powers that may not be designated to staff or volunteers. Any such regulations would be subject to the affirmative procedure, so they will require the scrutiny and approval of both Houses.

The clause provides that, where the person is designated as a PCSO or a community support volunteer, they may be given any of the powers or duties set out in Schedule 8, which are powers currently available to PCSOs in lieu of police officer powers—specifically, the power to make an arrest. These powers include requiring a suspect's name and address, or detaining a suspect to await the arrival of a police officer, which PCSOs can use in circumstances where a police officer might make an arrest.

Subsection (5) enables a chief officer to limit the extent of, or impose conditions on, use of the powers of his or her designated staff and volunteers. For example, if a volunteer were based in a particular locality, their designation could be restricted to that locality and its surrounding area. Subsection (6) also prevents designated staff and volunteers being authorised to use a firearm or Taser in carrying out their designated role. As we have discussed in relation to Amendment 167, tabled by the noble Lord, Lord Rosser, there is one exception to this rule. PCSOs and other designated police staff, and their new volunteer counterparts, can continue to carry and, where necessary, use CS or PAVA spray, which are classified as prohibited firearms. The clause also includes a future-proofing provision to allow the Secretary of State to make regulations, subject to the affirmative procedure, bringing new self-defence devices within the scope of this exemption.

These are important changes that will give significant additional flexibility to chief officers in the way that they deploy their workforce and volunteers. I hope that noble Lords will not press their opposition to Clause 37 standing part of the Bill.

Clause 37 agreed.

Schedule 10: Schedule to be inserted as Schedule 3B to the Police Reform Act 2002

Amendment 168

Moved by ***Baroness Chisholm of Owlpen***

168: Schedule 10, page 297, line 25, leave out from "under" to end of line 27 and insert "section 20 or 22 of the Investigatory Powers Act 2016 (applications for warrants under Chapter 1 of Part 2 of that Act)."

Baroness Chisholm of Owlpen (Con): My Lords, Amendments 168, 171 and 173 are minor and technical amendments to update and clarify the arrangements for designated staff and volunteers to use their powers. I do not wish to detain your Lordships unnecessarily, but, if required, I can talk further about each amendment. For now, I beg to move Amendment 168.

Amendment 168 agreed.

Schedule 10, as amended, agreed.

Schedule 11: Schedule to be inserted as Schedule 3C to the Police Reform Act 2002

Amendments 169 to 171

Moved by ***Baroness Williams of Trafford***

169: Schedule 11, page 300, leave out lines 22 to 24

170: Schedule 11, page 302, line 5, at end insert—

"( ) In the case of a relevant offence that is an offence under a listed byelaw (see sub-paragraphs (4)(e) and (6)), the power to impose a requirement under sub-paragraph (1) is exercisable only in a place to which the byelaw relates."

171: Schedule 11, page 302, line 20, leave out "section 12(2) of the Criminal Justice and Police Act 2001" and insert "section 63(2) of the Anti-social Behaviour, Crime and Policing Act 2014"

Amendments 169 to 171 agreed.

Schedule 11, as amended, agreed.

Clauses 38 and 39 agreed.

Clause 40: Police volunteers: complaints and disciplinary matters

Amendment 172

Moved by ***Baroness Williams of Trafford***

172: Clause 40, page 65, line 26, at end insert—

"( ) In Schedule 6 to the Police Act 1996 (appeals to Police Appeals Tribunals), in paragraph 10(aa) (as inserted by section (Appeals to Police Appeals Tribunals)), after paragraph (iii) insert—

"(iiia) a person designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002,"."

Amendment 172 agreed.

Clause 40, as amended, agreed.

Clauses 41 to 44 agreed.

Schedule 12: Powers of civilian staff and volunteers: further amendments

Amendment 173

Moved by ***Baroness Williams of Trafford***

173: Schedule 12, page 310, line 32, at end insert—

"(g) in that subsection, in the definition of "relevant section 38 designation"—

(i) for "designated civilian employee" substitute "designated person";

(ii) for "employee" substitute "person"."

Amendment 173 agreed.

Schedule 12, as amended, agreed.

Clause 45 agreed.

Schedule 13 agreed.

Clause 46: Power to make regulations about police ranks

Amendment 174

Moved by ***Baroness Harris of Richmond***

174: Clause 46, page 68, line 7, leave out "rank of constable" and insert "ranks of constable and superintendent"

Baroness Harris of Richmond (LD): My Lords, before I speak to Amendment 174 perhaps I may remind Members of the Committee of my interests around policing in the register. This amendment seeks to insert the rank of superintendent, and indeed to prescribe it, in legislation. The reason for doing so is to track around the leadership review which the College of Policing has been asked to undertake. It has been looking in part at the ranks structure but has come up against the National Police Chiefs' Council. It cannot agree to the changes in the ranks structure within policing that the college recommends.

I understand that it had been proposed to introduce a new structure. It was to be a sort of mirror of best practice and management within both the private and public sectors, thus operational level, supervisory level, middle management, senior management and executive level. The NPCC does not rule out the possibility of moving to this model in the future but feels that policing is facing more important issues at the moment than looking at changes in the ranks. It also says that there is no compelling evidence to support them. My contention is that there most definitely is, that it is imperative to modernise the ranks structure now, and that this Bill provides the ideal opportunity to do so.

9 pm

I pray in aid the views of Michael Zander QC, emeritus professor at the London School of Economics and Political Science and an acknowledged export on PACE, who stated in legal advice on 11 February 2016:

"That certain PACE decisions have to be taken at a senior level was recommended by the Phillips Royal Commission and has been accepted by every government since PACE was implemented thirty two years ago. The difference between superintendents and chief inspectors is not primarily one of training or even experience. A person is promoted to the rank of superintendent because of a capacity for leadership, responsibility and effective and sound decision making. Requiring a small number of decisions to be made at that level was part of the Royal Commission's fundamental concept of finding the right balance between the needs of the

service, the public and the suspect. Neither the passage of time nor changing circumstances have altered the balance on this important issue".

The rank of superintendent was introduced at the foundation of the Metropolitan Police in 1829. Officers who hold the rank are senior operational leaders of the police service. They provide vital roles, such as gold commanders, public order commanders, strategic firearms commanders, authorising officers and senior investigating officers. Those officers of superintendent rank work, or are immediately available, 24 hours a day in any force area. They take responsibility, as the principal and final decision-makers, of serious, major or critical operational incidents to protect the public.

The rank of superintendent is fully recognised and relied on in law throughout previous Acts of Parliament, providing superintendents with significant additional powers to fulfil their roles for the police and society. One or two examples come to mind, such as PACE, under which they have powers to detain a suspect for an additional 12 hours; to delay access to legal advice; to authorise an urgent interview of vulnerable suspects; and to conduct road checks for indictable offences. Another example is the Regulation of Investigatory Powers Act 2000, or RIPA. It contains: powers to authorise the use and conduct of covert human intelligence sources; powers to authorise the direct surveillance of an individual; and powers to acquire communications data. Another example is the Terrorism Act 2000, which contains: power relating to application for warrants for terrorist investigations; power to authorise an application to a circuit judge for a financial institutions order; power to delay a person or solicitor being informed of an arrest; and power to authorise the taking of fingerprints and intimate samples. I could go on.

Further, there are numerous policies and procedures embedded in the police service, and widely accepted and understood by partner agencies, that rely on the decision-making and authority being made at the rank of superintendent. This wider understanding and acceptance of the role of superintendents as departmental or functional leads relates directly to other organisational structures in the public and private sectors. This Bill is the ideal opportunity for us to do some of the modernising that is so desperately needed to help the police service restructure to face the very real challenges of a changing policing environment. I beg to move.

Baroness Henig (Lab): I support the amendment moved by the noble Baroness, Lady Harris, in the strongest possible terms. In doing so, I declare my interests as recorded in the *Register of Lords' Interests*.

In my long police experience, both in Lancashire and nationally, superintendents and chief superintendents have been the indispensable filling in the police sandwich. Powers from the chief constable and his or her team are delegated down to them, and in turn they take command of and lead the ranks below them. They are the ones who head up important basic command units. They sit on council community safety panels and a range of other local bodies. They establish important relationships with borough council clerks and with council leaders. They were during my time as a police authority chair, and I am sure they still are, the most essential of all the ranks—the indefatigable heads of department, the middle managers just below senior rank, the leaders of the future and the officers with years of constructive practical experience. They are the ones who authorise a range of practical policing strategies in districts, who largely deal with the queries of local Members of Parliament and of councillors, and whose experience is essential to the force. Policing could not be delivered effectively without them.

So why should the rank not be prescribed in legislation, given the centrality of their role? A force would struggle without superintendents—they would have to be reinvented. Indeed, I seem to remember that in the early 1990s the Sheehy report recommendations included the abolition of the rank of chief superintendent. That abolition did not last very long—the rank was reinstated a decade or so later, and I was not in the least surprised. In the light of that experience, I support the amendment that the rank of superintendent should be listed alongside that of constable.

Lord Blair of Boughton (CB): My Lords, I have not read the speeches of the two noble Baronesses. I am about to make a speech on an amendment that I am about to move. I can only say that it completely dovetails with what has just been said. I am not entirely certain that the superintendent is the most important rank in the police service, but I probably have a special interest in some of that. However, I absolutely subscribe to the point of view that superintendents are the workhorses of governance and practice and I support this amendment.

Lord Paddick: My Lords, I support to an extent the amendment in the name of my noble friend Lady Harris of Richmond and the noble Baroness, Lady Henig. Clearly, superintendents, as my noble friend articulated at length, play an essential role, which is recognised extensively in legislation.

Also in this group, I and my noble friend Lady Hamwee intend to oppose the proposition that Clause 46 stand part of the Bill. Clause 46 allows the Secretary of State by regulations to specify the ranks that may be held by members of police forces other than chief officers of police. A great deal of concern has been expressed in the public domain recently about the cost of, and the perks given to, chief officers of police. One would have thought that if the Government were going to legislate, that is an area that they might have turned their attention to. As the noble Lord, Lord Blair of Boughton, mentioned, we have been here before with the Sheehy report the last time that the Conservative Party was alone in government.

From memory, it was a decision of the Sheehy report and the Government to abolish the rank of chief inspector. At some stage before that was fully implemented, the decision was rescinded. The police service paid off a lot of chief inspectors to get them to retire because it had been told that the rank was going to be abolished, but it never was. That led to the mass recruitment of chief inspectors to fill the gap that had been left because the police service had pensioned off early a lot of the chief inspectors that it then needed.

My point, which the Minister has made continually over the issue of volunteers, is that it should be left to individual chief officers to decide. In the case of police volunteers, the flexibility should be available to chief officers to use them however they want and to give

them whatever powers they wish. Surely exactly the same argument applies here: it should be left to individual chief constables to promote officers to particular ranks—or not—depending on local need.

While I accept that, especially in legislation, the superintendent has a particular and pivotal role, similar arguments could be made for police sergeants as custody officers and so forth, or for police inspectors who are often operational team leaders. One could go through and make a case—perhaps not as compelling as that put forward on behalf of the superintendent—for each and every particular rank to continue to exist, given different scenarios in different police forces.

I appreciate that the legislation simply gives the power to the Secretary of State through regulations to specify the ranks but I would argue, for the reasons I set out, both that that is unnecessary and that it limits the flexibility of chief officers in designing a police rank structure that suits their local needs.

Lord Kennedy of Southwark (Lab): Amendment 174, in the names of the noble Baroness, Lady Harris of Richmond, and my noble friend Lady Henig, is in the clause dealing with police ranks. It amends Clause 46 to require the rank of superintendent as well as that of constable to be retained. We heard from both the noble Baroness and my noble friend who put their names to the amendment about the important role that the officers holding this rank play. That was confirmed by the noble Lords, Lord Blair and Lord Paddick, in their contributions.

I very much agreed with the noble Baroness, Lady Harris of Richmond, when she spoke about the holders of these ranks being senior officers taking senior operational roles. They are held by people with the ability to undertake those important strategic roles and it is accepted that they have departmental and functional responsibilities.

My noble friend Lady Henig also spoke about the importance of the role these officers play across the piece in all departments. I also recall the Sheehy report, and the abolition of chief superintendents being very controversial at the time. As my noble friend said, they were then quietly brought back a few years later. We have heard from a number of speakers who are former serving officers as well as Members of this House who served as chairs of police organisations, and know much more than I do about police operations. They have all reached the same conclusion, so I suggest that the Minister should reflect on what has been said. I hope that she will give a very warm response.

Baroness Williams of Trafford: I thank the noble Baroness, Lady Harris of Richmond, for this amendment, which gives me the opportunity to pay tribute to our police superintendents. The noble Lord, Lord Kennedy, talked about constables but I think he meant superintendents.

Lord Kennedy of Southwark: Yes.

Baroness Williams of Trafford: It is late at night and I am just making sure we are on the same page. The noble Baroness, Lady Henig, called them the "filling in the sandwich".

In the current policing structure, superintendents play an incredibly important role. They set strategy, they are responsible for day-to-day operational policy and in difficult situations they have to show leadership, manage serious risks and make critical decisions during ongoing operations. These are crucial functions that will continue to be a feature of senior ranks in policing. However, there is a lack of flexibility—a word we have used a lot tonight; the noble Lord, Lord Paddick, just used it—in the way that ranks are effectively stipulated in primary legislation. That is why Clause 46 will allow the College of Policing to recommend a new rank structure to the Home Secretary to be set out in regulations.

In June last year, the College of Policing published the findings of its leadership review, which included a recommendation to review the rank and grading structures in policing. In its report, the college said that flatter structures can enable organisations to be more responsive and communicate more effectively. The police-led review of the rank structure is being developed by the chief constable of Thames Valley Police, Francis Habgood, working with the National Police Chiefs' Council to ensure that proposals will be effective for all forces. The intention is to support policing based on greater levels of practitioner autonomy and expertise. Francis Habgood has developed a proposal for a five management level-model that will sit on top of the existing rank structure and will be based on competence, contribution and skills.

9.15 pm

The Government make no presumption about the rank structure that may be proposed by the College of Policing in future. The provisions in the Bill will allow a new rank structure, which has been recommended by the College of Policing, to be implemented. This includes the ability to make consequential amendments to legislation where named ranks are currently specified. The clause provides that any regulations specifying ranks must include the rank of constable, of whom there are 96,000. They are the bedrock of our policing. The rank of chief constable—and in London, the Commissioner of Police for the Metropolis and the Commissioner of the City of London Police—will also continue to be provided for in primary legislation.

I believe we should let the work of Chief Constable Francis Habgood continue and not constrain police leaders in how forces should be organised—which is kind of what noble Lords have been saying. Parliament will have the opportunity to examine the proposals for changes to the rank structure once the College of Policing has made its recommendations, as these will need to be set out in regulations, which will be subject to the affirmative procedure. On that basis, I hope the noble Baroness will be content to withdraw her amendment, and that noble Lords will join me in supporting the proposition that Clause 46 stand part of the Bill.

Baroness Harris of Richmond: I thank all noble Lords who spoke on this amendment. I thank the Minister, who gave me time earlier to put my views, and her team. I hope that the Home Office will continue

[Baroness Harris of Richmond]
to put pressure on the College of Policing to embed these reforms urgently. It cannot wait much longer just because the NPCC does not like it. Balancing the history, legal powers and organisational role of superintendents, I still feel it is important to enshrine the rank in legislation. I am disappointed by the Minister's response, although I understand it. I will look again at what she said and may come back on Report. In the meantime, I beg leave to withdraw the amendment.

Amendment 174 withdrawn.

Amendment 175 had been withdrawn from the Marshalled List.

Clause 46 agreed.

Clause 47 agreed.

Amendment 176

Moved by ***Earl Attlee***

176: After Clause 47, insert the following new Clause—

"Power to make regulations to ensure that senior appointees have international policing experience

(1) The Police Act 1996 is amended as follows.

(2) After section 50B (inserted by section 46) insert—

"50C Regulations for police forces: requirement for senior appointees to have international policing experience

(1) The Secretary of State may make regulations by statutory instrument to provide that in each police force only one of the top five most senior officers are promoted or appointed without international policing experience.

(2) For the purpose of subsection (1), an officer would be regarded as having "international policing experience" if he or she—

(a) had served in a policing operation for more than five months with a UK police rank lower than inspector in a country outside North America, Europe or Australasia;

(b) had served in a policing operation under United Nations auspices for more than five months with a UK police rank lower than inspector; or

(c) had served in a policing operation under United Nations, NATO or African Union auspices for more than eleven months.

(3) Before making any regulations under subsection (1), the Secretary of State must consult the College of Policing.

(4) The Secretary of State may by regulations made by statutory instrument make provision that is consequential on, or incidental or supplemental to, regulations under subsection (1).

(5) The power conferred by subsection (4) includes power to—

(a) repeal, revoke or otherwise amend legislation that (in relation to members of police forces in England and Wales) makes provision with respect to ranks that are not specified in regulations under subsection (1);

(b) make other amendments of legislation that are consequential on regulations under subsection (1).

(6) Regulations under this section may include transitional, transitory or saving provision.

(7) Regulations under this section may make different provision for different cases or circumstances.

(8) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.""

Earl Attlee (Con): My Lords, in moving Amendment 176 I will speak also to our Amendments 177 and 178. These amendments all concern the quality and experience of senior officers.

Amendment 176 seeks to ensure that it would be unusual for a senior police officer not to have some international policing experience. There are two drivers for this. The main one is that the UK has done some great work with international policing missions. I recall visiting policing missions in the Balkans, where UK secondees were doing first-class work, although a lot of them were from the Royal Ulster Constabulary, for reasons that the Committee will understand. The rapid establishment of justice and the rule of law, JROL, in a post-conflict situation is extremely important—initially, I suggest, much more important than democracy and elections. I hope the Minister can show that we are still doing some useful international policing work somewhere in the world.

A difficulty with my amendment is that there are not always vacancies in international policing operations, for a variety of reasons, which is why I have broadened the qualifying roles. However, there are problems. In the past, particularly when we were carrying out policing operations in the Balkans, I detected reluctance on the part of policing authorities to authorise secondments to international policing operations, for parochial reasons. In other words, they saw no direct benefit to their policing operations—the Committee will understand that. In addition, our high-flying police officers know what they need to have on their CVs in order to secure a post at chief officer rank, and I do not believe it includes international policing operations. Although a relatively junior rank-and-file police officer can do a very good job in an international policing operation, we do not necessarily send out our very best people to those operations.

The other driver is that it is desirable that very senior police officers have broad policing experience, and not just in the UK. I am convinced that a senior police officer with some international experience would be a much better one, rather like politicians who have done something other than the standard route to Westminster: school, university, research assistant, local government. I have realistic aspirations for this amendment and the others, and there may be practical difficulties. But if the principle was implemented in some way, I would envisage high-flying police officers gaining their international experience at an early point in their careers. Police authorities and the College of Policing would know that it would have to be offered as part of the offer to recruits. It may be that they take on a big international policing job later on in their career.

My next amendment seeks to put quite tough limits on internal promotion or appointment to very senior positions within a force. I am more than content with the principle of PCCs, but at Second Reading we heard that there might be an unintended consequence

of less promotion from outside a particular police force. The inherent risks of this are an unwillingness of the senior officers in a force to grasp unpleasant issues, sycophancy in order to gain promotion and, possibly, corruption. It would also tend to make it much more difficult to get wider experience, because positions in other forces would tend to go to internal candidates. An extremely unfortunate end result could be that the best-quality high-flyers might decide not to pursue a career in the police service at all, because they would realise that they would be unfairly competing with weaker, internal candidates. Can my noble friend say whether she has detected any change in recent years in the number of applications for very senior police posts?

My final amendment, Amendment 178, deals with leadership. First, I make it clear to the Committee that I do not regard myself as an expert on the matter of leadership or even an expert on measuring it. I regard leadership as the capability to get others to do things that they would rather not do or, perhaps sometimes, to desist from doing things that they want to do. It is not to be confused with management. For instance, a superior who relocates his or her centre of operations to an office rather more central for the majority of the team is exercising good management. If this relocation is to the superior's personal disadvantage, there is an element of good leadership.

However, it is largely an acquired skill—that of being selfless. Leadership is not charisma, although the two often come together. There is innate leadership, and there may well be genetic factors at play, but I have no doubt at all that environmental and economic factors from the moment of birth are very significant. The good news is that there are methods of objectively measuring leadership, both acquired and innate.

Since at least the last war, our Armed Forces have had objective tests of leadership for selection for a commission. Several well-developed tools are used, but the command task is interesting. Candidates are tasked with the practical task of crossing an obstacle course with a range of 45-gallon oil drums, scaffolding planks and ropes. The directing staff know all the possible plans for achieving the objective, but only a few will work. What is being carefully measured is not the ability to select the correct plan but the ability to effectively lead the team even though the directing staff know that the plan selected will not actually work. How long will members of the team follow the task leader with such a plan? Most importantly, how willing are other members of the team to make a helpful suggestion, and how skilful is the task leader at taking up good suggestions while still maintaining command and control?

I am not suggesting that the Armed Forces have perfect selection procedures. They do not; sadly, I have come across several pretty poor officers. As I understand it, though, the UK police do not select for promotion to any rank taking into consideration an objective measurement of leadership. I am also led to believe that the pool of talent is no longer being properly managed, and I hope that other more experienced members of the Committee will cover that point. I am therefore never surprised at the things that go wrong with UK policing. Your Lordships have only to think of the aftermath of Hillsborough or Operation Midland.

All the amendments in this group seek to head off problems that will only get worse if not addressed. I look forward to the noble Lord, Lord Blair, moving his amendment. In the meantime, I beg to move.

Lord Dear (CB): My Lords, I shall speak to Amendments 176, 177, 178 and, tangentially, 178A. I am pleased to support the noble Earl, Lord Attlee, in his amendments. I want to underpin much of what he has said and, to use his words again, to identify what I think is a growing law of unintended consequences that has flowed over the last five or six years in policing. To many of our minds, there is a growing shortage of leaders as opposed to managers, which the noble Earl has already alluded to. I might take that a little further and say that in my view there is some sign that the quality is diminishing among the senior ranks, and those who are putting themselves forward for senior ranks, within the British police.

It might be helpful if I go very quickly through the history of selection for the British police service, without taking too much of your Lordships' time at this hour of the evening. Prior to 1948—there was a Police Act around that time—there was a superabundance of police forces in this country, many of them very small and most of them not talking to each other. The powers that they could exercise in neighbouring forces were severely limited or indeed non-existent. The words "parish pump" come to mind. This did not matter too much in those days because society was largely static; the great mobility of motorways, railways and that sort of thing had not yet come, so it was more or less okay for the time.

However, by the middle of the 1960s, following the royal commission of 1962, things had begun to change. There was a huge wave of amalgamations, which helped to fashion police forces in such a way that the parish pump largely disappeared, forces were largely aware of what was happening alongside them, co-operation began to grow and the whole policing scene changed for the better.

Underpinning all that was the establishment in 1948 of the Police Staff College. It started off originally in temporary accommodation at Ryton-on-Dunsmore in Coventry but moved fairly quickly in 1960 or thereabouts to Bramshill House in Hampshire. I venture to suggest, having been there as a student and on the staff, that it was probably the Bramshill staff college experience that helped to co-ordinate and make a cohesive whole of the police service in a way that nothing had done before. It brought together officers of various ranks on various courses, opened their eyes and broadened their horizons. It broke down, if you like, the old fetter of local training that was still going on in those days.

9.30 pm

The college developed two senior courses: the intermediate course, which we need not bother ourselves with, and what was originally the senior staff course and later renamed the senior command course. I want to dwell on that because it is pertinent to what the noble Earl, Lord Attlee, said. The senior command course was geared to produce the top three ranks of

[LORD DEAR]
the service. To get a place on the course was highly competitive. One had to go through three days of extensive interviews, tests, exercises and so on. Having gone through the selection procedure, one had to go through the course for about six months—it varied a little as time went on. It was highly competitive, the evaluation was strict and it was a testing course. Following the evaluation was the selection process for senior command rank, and you could join the ACPO senior ranks only if you had gone through the senior command course with something like flying colours.

If I may, I shall weary the Committee with the detail, because it is important to what we are discussing tonight. If you were a candidate for senior rank, you had not only to go through the senior command course selection and the course itself but to attract the attention and support of the inspectorate—a very different animal then than it is now—and satisfy Home Office officials that you were worth entering the shortlist for selection to the police authority. The detail may be lost on some Members, but that does not matter. The point was that people could put themselves forward for senior rank in police forces only by going through that detailed process and getting all the right ticks in the boxes, as they say these days. Significant in all that was that you had to break away from your own force and go into another force to serve.

I pause because we now have police and crime commissioners and, with the greatest respect to many of them, the quality is variable. There are some very good ones, but most of them are preoccupied with keeping their position: they are locally driven and locally focused. I venture to suggest that there is a drift back towards the parish pump of the 1950s, which bothers me considerably. I see evidence of senior ranks being selected solely from the force concerned—I am getting nods around the Committee from those who know what I am talking about—with the PCC selecting officers who they know within their force and not looking beyond the force's boundary for talent outside. We are going back to what one might usefully and easily call the parish pump as shorthand.

Added to that is the fact that Bramshill staff college was sold three or four years ago and has not been replaced. We have no staff college for higher police training in this country, and the Home Office has, as far as I understand it, no plan to replace it. The drift back to parish pump policing and localism is very pronounced indeed. Higher training takes place more in words than in the product. It is a pallid echo of what went on only a few years before, and there is no great rigour.

I do not want to be unduly critical, because I think this is the law of unintended consequences, but all the way through the Home Office has devolved responsibility to PCCs, but they are not picking it up, there is no staff college and no system and therefore the selection of senior officers is going by the board.

I pause briefly on Amendment 176 and overseas experience. I am not sure that I support every detail of the noble Earl's amendment, but I certainly applaud the drift that goes with it. Overseas attachments were once integral to the senior command force. Everyone went abroad to look at policing experience—not for long, but it was there. One can look at the quality of officers who have gone abroad, which is, as has been alluded to, by and large not as good as it could be.

There are exceptions. One comes to mind straightaway —Mr Richard Monk, who served in the Metropolitan Police, Devon and Cornwall and the inspectorate. On his retirement he helped to replan and then head up the police in both Kosovo and Bosnia, and collected an OBE for one and a CMG for the other. Note the point: he was retired when he did it.

There are quality officers who could contribute massively across the face of the globe in a fast-changing world but we are not making the best use of them—not in the same way as the Armed Forces, which almost insist that good-quality officers will serve abroad for part of their time.

I hope I have said enough to underpin what the noble Earl said in his introduction of those three amendments. A severe problem is beginning to develop that we are not selecting the right people, training them and posting them in the right way. I would advocate—I hate to say this—that we could well go back to where we were a few years ago with some advantage. As we are, we are standing on the brink of what I would call a steady drift towards mediocracy. That bothers me as an ex-police officer. I wish I did not have to say that. The amendments are integral and I support them.

Lord Blair of Boughton: My Lords, I am most grateful to the noble Earl, Lord Attlee, and to the noble Lord, Lord Dear. My response to the situation is quite close to that of the noble Lord, Lord Dear—to be honest, I am quite surprised at how close it is. It is complete dismay. My dismay is that these amendments have been tabled by four Back-Benchers when they should be the responsibility of the Home Office. Police leadership is in crisis not because of the men and women who are doing it now but because the structures and processes just outlined by the noble Lord, Lord Dear, have just been let go.

I will deal first with my response to the noble Earl's amendments. I do not think that the international policing aspect works. It does not work, first, for the reason mentioned by the noble Lord, Lord Dear, that officers tend to go when they have already retired. The second reason is that many police officials across the world are effectively judicial officials and Governments absolutely hold tight to themselves that their nationals should perform those jobs. There is no embedding. The third reason, which is about United Nations or other peacekeeping arrangements, is that the UN, or whatever body, insists that officers should be armed. In our time only the RUC—now the PSNI—would release those officers. In the Metropolitan Police only 7% or 8% of its officers are armed. It will not send those away to police somewhere else under any circumstances. With the greatest respect to the noble Earl, I do not support that position.

On Amendment 177, about experience in different police forces, I absolutely agree with the noble Lord, Lord Dear, who was an inspector of constabulary. At the time, I was the staff officer to the Chief Inspector

of Constabulary and he, on behalf of the Home Secretary, controlled who was appointed to where in this sense: you had to have passed the strategic command course, you were then recommended on the decisions of the inspectors as to what calibre of officer you were, and sometimes you were specifically told by the Home Office that you were not to apply for a job because it was too small for you.

The best people were being sent to the best jobs. I really have expertise in this particular point because I administered that system for two years, as the noble Lord, Lord Dear will know. It was very brutal but it was very accurate. We have lost the rule that you could not do the top three jobs in any police force. You were not allowed to do that; you could not be an assistant, a deputy and a chief constable in the same force; you could not be the parish pump. You just would not get on to the list. Somehow, somewhere during the coalition, that disappeared.

The noble Earl's amendment is about leadership. Somehow, we managed to sell the Police Staff College at Bramshill without replacing it. It is not a royal yacht, it is not just a generally good idea to have one; it was the absolute essential of what made the United Kingdom police service the envy of the world in the selection of its chief officers. We have lost it. Nobody knows where it has gone. Bramshill is sold. Why is the Home Office not bringing this matter forward rather than two, three or four Back-Benchers at 10 pm?

I now move to Amendment 178A, which is tabled in my name and that of my noble friend Lord Condon, who will speak in a moment. I had the pleasure of talking to the Minister this afternoon about this amendment, and I am very grateful to her. I really hope that the Official Opposition and the Liberal Democrats will look at this amendment and perhaps by the time we get to Report we will have some coalescence around this position.

I am sorry to bring the Committee back to this, but I need to return to my speech at Second Reading, which went back to a debate during the passage of the Anti-social Behaviour, Crime and Policing Bill when it was suddenly discovered in this House that there was no longer a requirement for any senior police officer to have policing experience. It had disappeared somewhere in a lacuna in the different legal processes. The four noble Lords who had been commissioners of police were sitting and standing open-mouthed at the discovery that this had happened behind their backs without anybody noticing.

As the noble Lord, Lord Dear, said earlier, we are returning to the pre-Second World War situation. Most of us have seen "The Mousetrap", where the chap reaches for the telephone and says, "I'll ring the chief constable. He was in my regiment". We stopped that after 1945 and said that it would be a good idea if senior police officers had police experience. I accept the ideas of deregulation and devolution, but somehow this Government, and, to be fair, particularly this political party, seem to be of the view that policing is unlike anything else and that it is not important for senior police officers to have had experience of doing middle-ranking work as the superintendents whom the noble Baronesses, Lady Henig and Lady Harris, reported on. I do not understand that. You would not do that in the armed services, law, medicine or accountancy.

This amendment would put back into statute that it would be a good idea—just a simple, good idea—if the beginning point was that it was likely to be useful if somebody had served in a senior police rank before they applied for a higher one. The amendment makes two separate provisions. It allows the exception that the Anti-social Behaviour, Crime and Policing Act put together which allows a foreign officer to do it if he or she has the right experience, and it certainly allows for the kind of transfer, if this is to be the case, in which fire officers become involved via the PCC, but it states that the Secretary of State on the advice of Her Majesty's Chief Inspector of Constabulary should agree that. The opening position is that you cannot be promoted to the senior ranks of the police service without having been at a middle or more senior rank beforehand unless the Secretary of State says so.

If something like this is not enshrined in law, I have to agree that the rather dismal predictions of the noble Lord, Lord Dear, will come true. This Government and their predecessor have created a thing called Police First, which is about bringing bright young men and women into the police service at the rank of superintendent. What is the point of coming in at the rank of superintendent if you can come in at the rank of chief constable? Why would you bother? What is this about? Why is it not the position of the Government, the Opposition and the Liberal Democrats that it is simply a good idea that policing should be like any other profession and that experience is a useful thing to have? That is the simple part of my amendment, to which I hope the noble Lord, Lord Condon, will speak in a moment.

9.45 pm

I want to go back to the moment when the noble Lord, Lord Condon, announced his intention to retire. There was exactly the same debate about whether the commissioner should actually be not a police officer but somebody with different managerial experience. The then Prime Minister, Tony Blair, said, "I am sorry, that is off the agenda. When the bombs go off, I don't want somebody who is an expert in retail—I want somebody who knows what happens when bombs go off". They went off in my time. That is the commissioner—but that is not the point. Just remember Nice. The things that happened in Nice could be happening somewhere in Brighton tonight. You would want the senior officer down there to have some experience of policing; you would not want him or her to have just walked in from a completely different environment.

Lord Condon (CB): My Lords, in view of the time, I am not going to repeat the points made so far. Suffice it to say that I agree totally with what the noble Lords, Lord Dear and Lord Blair, said on these issues. I might put the emphasis slightly differently—in some parts more strongly and less strongly in others—but in the round I agree with all they said.

I go straight to the amendments. On the first amendment, tabled by the noble Earl, Lord Attlee, I agree that overseas experience is desirable—it is nice,

[LORD CONDON]
it is to be welcomed. As commissioner, I spent one Christmas visiting my officers in Sarajevo and elsewhere in that region, and I was very proud of the work that they were doing. I had a wonderful detective sergeant who was in command of more than 400 international police officers, many of them of chief officer rank. In the merits of a local situation, she was selected as a British detective sergeant to command those 400 overseas officers, and she did it magnificently. So I do not underestimate the merits, experience and legacy of working overseas—but it is too narrow an issue to be prescriptive as of today in relation to chief officer posts. It is a laudable aspiration, but let us not make it a prescriptive requirement of being a chief officer.

On the second amendment, on the parochial point about not being promoted from within the one force, I raised that point at Second Reading, as a very serious unintended consequence of police and crime commissioners. One of its great strengths and merits is its very parochialism and local focus—but that is an enormous downside with regard to the selection of chief officers. A couple of months ago, I tabled a Written Question that was answered by the Home Office Minister. I asked how many chief constable promotions over the last year came from an outside force and how many were internal promotions. As the noble Lord, Lord Dear, said, those internal promotions only a few years ago would not have been technically possible; they would not have been allowed by the Home Office or the inspectorate. The answer was that the overwhelming majority of all the appointments of chief constable over the last few years have been internal. Very few have been external appointments—and so good, aspiring, young police officers will not seek to apply any more for those posts.

The movement between forces has now virtually stopped. There is an acceptance that police and crime commissioners will appoint only their sitting deputies and will not consider other candidates. The Government, the inspectorate and the Home Office must find some remedial mechanism which interdicts that process, encourages movement and ensures that the best people are promoted. I do not really mind what the mechanism is, but we need to face up to the challenge and the mischief that is currently happening—we are shrinking the gene pool of talent at the very top levels of policing.

On the final amendment from the noble Earl, Lord Attlee, I support broadly what he is aspiring to do, which is to have clearer ideas and objective measurement of leadership. That must only be a good thing.

The motivation for all the amendments in this group—three from the noble Earl, Lord Attlee, supported by the noble Lord, Lord Dear, and one from the noble Lord, Lord Blair, and me—is to ensure the best possible senior police leadership with appropriate skills and experience. We are where we are—we will not be able to unpick what has happened quickly. My support for the amendment of the noble Lord, Lord Blair, is about facing up to where we are. There is a growing acceptance that outstanding candidates no longer need to start their police careers as constables or to progress through all the police ranks before serving in the most senior ranks.

The noble Lord, Lord Blair, and I, in our amendment, provide for the possibility of an outstanding external candidate with no police experience being considered for the roles of commissioner, chief constable, or Director of the National Crime Agency, if the Secretary of State is so minded, but after he or she has taken advice from Her Majesty's Chief Inspector of Constabulary about the candidates who are available and willing to be considered, as well as any external candidates. But being commissioner or chief constable is about more than being an able leader or an able administrator. It is also about very specific command and control within policing. It is about life and death authority over the use of complex legal powers and authorities, which become more and more important as terrorism becomes more of a threat in Europe. It is about setting professional standards of integrity and performance, based on very detailed understanding of police culture, capabilities and weaknesses. While an able General, Admiral or former Permanent Under-Secretary, for example, can bring enormous leadership and administrative skills, they will be at a disadvantage initially in not understanding or knowing some of the cultural, professional and technical issues that face policing.

I acknowledge that we are where we are. The gene pool of police leadership should and must be improved. Ideally, it would be through taking some of the best from history, recognising where we are now, and moving forward in the way that the noble Lord, Lord Dear, indicated. But, in improving it, we should not do so in a way that trivialises relevant police experience or demoralises able men and women who have already embarked on police careers. Some have very recently come in as direct entrants at superintendent level and have aspirations and expectations to rise to the most senior posts in the service. I hope that the Minister will acknowledge that while room and encouragement should be given for exceptional candidates without a policing background to be brought into top police posts, more effort should now be put into developing, as soon as possible, able men and women who see policing as a career that occupies much of their professional life, building on the current schemes for direct entry at various levels up to and including that of superintendent.

I am approaching almost my 50th anniversary of being around policing. I am very proud to have been a police officer. Like the noble Lords, Lord Dear and Lord Blair, I am a product of the system that was described. Some people crassly call for leadership to be helicoptered in from almost anywhere. This is not about education. I am an Oxford graduate, as is the noble Lord, Lord Blair, and the noble Lord, Lord Dear, is a Cambridge graduate. The current commissioner is an Oxford graduate. As I say, this is not about education. If it is about performance, past police leaders have outperformed on courses such as those of the Royal College of Defence Studies and the Cabinet Office Top Management Programme, on which I was sent by Prime Minister Thatcher. So there is a legacy of police leaders competing with, and outperforming, their peers and contemporaries in the military, in public service and the private sector.

However, this issue is not about that. In some cases, I fear that it becomes almost a pernicious class argument. As the noble Lord, Lord Dear, hinted, I worry that we

are going back to the good old, bad old days—the pre-war thinking that not enough commissioners or chief constables have spent enough time in some of the best public schools. It is so sad when the argument boils down to that. This is really about trying to get the best leadership in policing, I hope that the Government, the Home Office and the Chief Inspector of Constabulary will put their heads together to help us find a way through this, because the direction in which we are going will not enhance police leadership; it will weaken it.

Lord Rogan (UUP): My Lords, the PSNI has a requirement that before potential chief constables are appointed, they have to serve—I think for one or two years—in a force other than one in Northern Ireland. Perhaps that requirement could be introduced in the rest of the UK.

Lord Paddick: My Lords, I shall try to be brief. I am getting wind-up signals already. As regards Amendments 176, 177 and 178, the opportunities for international police experience are very limited. Therefore, to mandate it would be to disadvantage many able candidates for promotion. Something desperately needs to be done to stop people being promoted just from within the most senior ranks within the force because the police and crime commissioner knows the candidates and does not know candidates from outside forces. As the noble Lord, Lord Blair, and others have said, it used to be a rule that, if you wanted to be the chief constable, you could not have been the assistant chief constable and the deputy chief constable in that same force. That rule needs to be brought back.

I say to the noble Earl, Lord Attlee, that the difference between leadership and management is that management is about getting people to do what you want them to do and leadership is about getting them to want to do what you want them to do. The latter approach is essential in policing because in most circumstances you are not with the officer when the officer is in contact with the public.

As regards what the noble Lord, Lord Dear, said, the three-day extended interview, the strategic command course and the strategic leadership course were good models and produced good candidates. Something needs to be done to rectify that situation.

I was slightly disappointed that the first I knew of the amendment of the noble Lord, Lord Blair of Boughton, was when I saw it in the Marshalled List. If he had sought our help, we would have supported his amendment. I hope that we can work together on it between now and the next stage of the Bill. The noble Lord may recall that when we had discussions about direct entry at superintendent level, I went further than him and the noble Lord, Lord Condon, in terms of the need for police experience.

The Minister can learn from the experience of the noble Lord, Lord Blair, as commissioner. Within weeks of him becoming commissioner, the bombing on the London Underground and on the bus in Russell Square happened. Do the Government want to put somebody who has no experience of policing, or even somebody who has had experience in another country and who does not know the capacity and the powers of the British police service or the laws that apply in this country, in a situation where within weeks they could face that sort of disaster?

10 pm

Lord Rosser: I do not know whether I should have been declaring an interest throughout today's proceedings but it is a bit of a shock to find that throughout them I have been clutching a pen on which is written: "Metropolitan Police Forensics—New Scotland Yard", so I had better declare it now.

This has been an illuminating debate for me on some of the issues that confront the police over training, appointments and leadership under the present arrangements and organisational structure. If the noble Lord, Lord Blair of Boughton, wishes to discuss his amendment, I will be more than happy to do so. I can say only that I thought that we would find a significant conflict between the two sets of amendments, but now that I have listened to the debate, that does not appear to be the case. Perhaps the ideal would be if the noble Lords, Lord Dear, Lord Blair of Boughton and Lord Condon, produced an amendment with which all three of them could associate themselves if they wish to pursue the matter through to the next stage. Obviously, they will want to hear the Government's response before seeking to make any decisions on that point. However I will leave it at that, and I certainly await with interest what the Minister has to say on behalf of the Government.

Baroness Williams of Trafford: My Lords, I almost hesitate to stand up given that I am surrounded by experts in this field—and I did not go to Oxbridge either. All noble Lords have said in different ways this evening that choosing our police leaders is of the utmost importance for the future of policing, and as the noble Lord, Lord Condon, said, we need to think about it now. We fully support initiatives to ensure that police leaders are drawn from different backgrounds. That is why the Government asked the College of Policing to carry out a leadership review for policing in 2014. We wanted to look at how we could open up policing to fresh perspectives, including by expanding external recruitment to the senior ranks in policing. The review also examined how we could encourage officers to gain experience outside policing before returning later in life and how we could open up senior ranks to candidates from different backgrounds.

The review, which was published in June 2015, was a landmark for policing, setting the agenda for change and for police workforce reform. Its impact is already being felt across policing, from the new qualifications and apprenticeships for those at the start of their careers to opening up police leadership through direct entry and senior secondments, as some noble Lords pointed out.

The review recommended that national standards for recruitment and promotion into all roles, ranks and grades should be established and that all vacancies are advertised nationally. Building on the qualities for professional policing which have been defined in the College of Policing's new competency and values framework will help to ensure that there are clear and

[Baroness Williams of Trafford]
consistent standards for each rank. Advertising roles nationally will open recruitment and make it easier for officers and staff to apply for roles in other force areas—noble Lords mentioned that that does not happen as much as it should. The college has statutory powers to recommend that the Home Secretary makes regulations on a range of issues, including the qualifications for appointment and the promotion of police officers, thus ensuring that these are implemented across England and Wales.

As part of implementing the leadership review, the college is exploring how to improve the diversity of top teams by increasing the pool of candidates for chief officer posts and supporting police and crime commissioners in their selection processes and recruitment campaigns. They are also identifying development packages for those who are appointed from overseas or, as a result of the provisions in Part 1 of the Bill, from the fire service. To support this work, the college has led for policing by undertaking a survey of PCCs, as well as of chief constables and other senior police officers, to understand the issues around senior appointments and developing the talent pool.

It should be the norm that police leaders have a breadth of experience and that they have access to other professions and fields to harness new skills that they can apply in policing. We strongly believe that it is possible to learn from policing overseas, and that is why we have already given the College of Policing the power to approve overseas police forces from which senior police officers are eligible to be appointed as a chief constable in England and Wales or as the Commissioner of the Metropolitan Police. These are set out in the Appointment of Chief Officers of Police (Overseas Police Forces) Regulations 2014 and include forces from Australia, Canada, New Zealand and the United States.

We support the work of Chief Constable Andy Marsh, the National Police Chiefs' Council's lead on international policing, in establishing the Joint International Policing Hub to act as the single, recognised gateway for international policing assistance for domestic and global partners.

The amendments tabled by my noble friend Lord Attlee seek to open up recruitment to the senior ranks in policing. As I have set out, the Government are very supportive of initiatives to achieve this. However, we believe that this should be led by the College of Policing, as the professional body for policing, and that it already has the necessary powers to achieve this.

We deploy police officers overseas to pursue matters of interest to the UK and share our expertise. For example, we sent officers to France to work alongside the French police in dealing with football fans at the Euros.

The noble Lord, Lord Blair, clearly comes at this issue from a different perspective. Amendment 178A in his name seeks to enshrine in statute a presumption that all those who are appointed to chief officer rank must previously have served as a senior officer in a UK police force.

When we introduced police and crime commissioners in 2012, we wanted people to have a say in policing in their local community. We gave PCCs the power to appoint the chief constable because we recognised that this appointment was crucial to implementing the PCC's policing and crime plan. PCCs understand what the local issues are and are best placed to understand the leadership requirements of their force. It should not be for the Home Secretary to give prior approval as to who is eligible to apply for each and every chief officer post that is advertised. That would not be practical or desirable. However, today I gave the noble Lord, Lord Blair, an undertaking—and I offer it to other noble Lords; I have such a field of expertise around me that I shall open it up—to have further discussions on this area. I would welcome them and would be very happy for them to take place before Report.

The College of Policing has the power to set standards for all police ranks and can introduce new measures as recruitment at senior ranks is opened up further. It has shown how successful it is at this with the introduction of the direct entry programme and the fact that talented people from other sectors are now working in policing. The college is now working to compare the skills, abilities and knowledge needed to be a chief constable with those of chief fire officers to develop a rigorous assessment and development package for those who are interested in the top jobs in policing as a result of the reforms in Part 1 of the Bill.

As I have indicated, the Government want the best people leading policing. We believe the best way to achieve that is to have open recruitment from a wide talent pool, national standards set by the professional body and local decision-making that reflects the needs of the force and the local community. I realise that we have gone past 10 pm, but I hope that the noble Earl will be content to withdraw his amendment.

Earl Attlee: My Lords, this debate has exceeded all my expectations. There have been few times in your Lordships' House when I have tabled an amendment that has been as effective. I will read what my noble friend the Minister has said with great care, but I suspect that I will not be surprised.

On one condition, I will not only withdraw my amendment but will not return to the issue—although other noble Lords may want to return to their issues. The condition is this: the Minister has an excellent Bill team manager—I know that because he has worked with me and with the Chief Whip—and I would like him to cut out this debate from *Hansard* and put it in the Policing Minister's red box and the Home Secretary's red box. The speeches from the noble Lords, Lord Dear, Lord Blair, and Lord Condon, were very serious and said that we are going in the wrong direction on this problem—that will come to bite us eventually. I believe that the Home Secretary needs to do something about this, and to listen to the warnings from the noble Lord, Lord Dear. I thank all noble Lords who contributed to this debate and beg leave to withdraw my amendment.

Amendment 176 withdrawn.

Amendments 177 and 178 not moved.

Amendment 178A

Moved by ***Lord Blair of Boughton***

178A: After Clause 47, insert the following new Clause—

"Eligibility for senior police posts

(1) The Police Act 1996 is amended as follows.

(2) After section 50B (inserted by section 46) insert—

"50C Eligibility for senior police posts

Subject to section 140 of the Anti-Social Behaviour, Crime and Policing Act 2014 (appointment of chief officers of police)—

(a) an application may not be considered from any individual applying for the post of—

(i) Assistant or Deputy Chief Constable in any police service;

(ii) Commander or Deputy Assistant Commissioner in the Metropolitan Police Service; or

(iii) Commander or Assistant Commissioner in the City of London Police;

without previous experience in the police service in the United Kingdom at the rank of Superintendent or above, unless prior approval has been given by the Secretary of State, following advice from Her Majesty's Chief Inspector of Constabulary;

(b) an application may not be considered from any individual applying for the post of—

(i) Chief Constable in any police service;

(ii) Assistant Commissioner, Deputy Commissioner or Commissioner of the Metropolitan Police Service;

(iii) Commissioner of the City of London Police; or

(iv) Director or Deputy Director of the National Crime Agency;

without experience in the United Kingdom's police service in a rank no lower than two ranks below that to which the application is being made unless prior approval has been given by the Secretary of State, following advice from Her Majesty's Chief Inspector of Constabulary.""

Lord Blair of Boughton: My Lords, I should say to the noble Lords, Lord Paddick and Lord Rosser, that the reason I did not consult either of them was that I never expected that we would reach this clause on this day. It was only on Friday that I discovered, through the excellent Bill team, that we were going to reach this point. I would like the opportunity to talk through with Labour, the Liberal Democrats and the Government whether we can move forward.

Peel said something very interesting—that,

"this should not be an occupation for gentlemen".

It took me 30 years to understand what that remark meant. It meant an extraordinary Victorian experiment, because that was the period in which you bought commissions, you bought livings and you bought places in the Civil Service. Peel was saying that the police service should be a meritocracy.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): Does the noble Lord wish to withdraw his amendment?

Lord Blair of Boughton: I beg leave to withdraw the amendment.

Amendment 178A withdrawn.

10.15 pm

Clause 48: Duties of Police Federation of England and Wales in fulfilling its purpose

Amendment 179

Moved by ***Baroness Henig***

179: Clause 48, page 69, leave out line 32

Baroness Henig: My Lords, I am very conscious of the lateness of the hour and I will try to be brief. I am particularly grateful for being allowed to move the amendment now because next Wednesday I have some important responsibilities; I am captaining the House of Lords bridge team against the House of Commons, and that is why I cannot be here next week. Again, I am grateful that we are able to take the amendment tonight.

I should say at the outset that I have worked alongside and observed the activities of members of the Police Federation for more than 25 years at both the local and national level. I would say that this experience has given me some expertise in Police Federation matters, but of course expertise currently is not something to boast about or perhaps even to lay claim to.

I am sure that we all know that the chief objective of the federation is to represent the interests of its members, and in my experience the Police Federation does this extremely well at both the local and the national level. Indeed, that support network is very necessary. Police officers do a difficult and often dangerous job. They need and deserve the security of knowing that the Police Federation will always be there to defend them if or when things go wrong, particularly legally, but every now and again in relation to terms of service and powers, and politically as well.

It is of course true that the Police Federation should not operate exclusively on behalf of its members. We the public need to have confidence in police officers, so it is important that members and particularly officers of the federation, in carrying out their functions, maintain high standards of conduct and of transparency. Here I have to observe that their conduct has often left something to be desired. I have myself seen at first hand evidence of bullying and of loutish behaviour. I have seen intimidation and ways of operating that manifestly do not command confidence in the integrity of federation officers. I am not alone. There can be no doubt that in recent years their collective actions and attitudes have on occasion grated on successive Governments, and they have alarmed middle England and the devoted readers of the *Daily Mail*. In the wake of the fiasco surrounding the clash of who said what and did what in Plebgate, the federation itself resolved to carry through a raft of root-and-branch reforms, It asked Sir David Normington to carry out an examination of the structure of the Police Federation and of its objectives. In his resulting report, Sir David proposed among other changes that in fulfilling its statutory responsibilities for the welfare and efficiency of its members, the Police Federation should,

"act in the public interest".

[Baroness Henig]
The Government are taking on board this recommendation but have modified it somewhat to stipulate that the Police Federation must act to "protect the public interest". I believe this to be a massive overreaction and a serious mistake.

This is for two principal reasons. The first is that I do not know what "protecting the public interest" means. I have served as a local magistrate for 20 years and I know the importance of having laws that are clearly worded and fully understandable to the general public. Opaque words lead to bad law. I have therefore spent some time asking a number of my legal friends, some of them in this House, what they think is meant by "the public interest". My learned friends cannot tell me. They do not agree and there is no accepted understanding of the phrase, and indeed there is some disagreement on what it might mean. So what precisely are we asking the Police Federation to do? They and we need clarity, so I would like the Minister to spell out to me, and more importantly to the legal profession, what she believes is meant by "protecting the public interest" as it applies to the Police Federation.

My second concern is that in representing its members, which the Police Federation has a prime duty to do, it could easily be drawn into doing the opposite of protecting the public interest. There may be officers whose cases, once the evidence is heard, could undermine trust and confidence in the police and could suggest that they have behaved in ways that have not protected the public interest, either deliberately or inadvertently. Should the federation not represent such officers? It is not difficult to foresee a conflict between the federation's duty to look after the interests of its members and the obligation to protect the public interest, however it is defined. My strong view is that the federation is first and foremost a staff association, although I accept that it is a body that needs to act in a way which commands the trust and confidence of the public. So while it certainly should maintain high standards of conduct and high levels of transparency, fear of breaching this clause about protecting the public interest should not be able to inhibit the federation from representing the interests of its members. I believe that that might well be a consequence. It sounds grand to bestow on the federation a public purpose, which some of the more grandiose officers in the federation actually rather like, but to my mind it is a hollow aspiration. It is just words that sound good but have no agreed or clear meaning. I therefore believe that the words in proposed new subsection (1A)(a) in Clause 48 should be removed. I beg to move.

Baroness Harris of Richmond: My Lords, in drafting this amendment, the noble Baroness, Lady Henig, and I spent many happy hours trying to determine what exactly the "public interest" is, as she has said. It can mean a whole lot of different things to different people and its interpretation is interesting in the context in which it is presented in the Bill.

As we have heard, the Police Federation has followed the recommendation—I emphasise "recommendation"—of Sir David Normington's review into how to improve itself. It decided that it would establish an independent reference group. At Second Reading I gave your Lordships a full account of how that independent reference group, which I chaired, had been treated. After we were set up as a fully functioning group in January this year, the Police Federation decided it did not want to use us to help it realise its stated purpose of reforming. This was in spite of the membership of that group having within it people with more than 100 years' experience of working with the police, a very senior and highly respected retired civil servant and the first woman to run a fire authority—so not all of us were politicians, to whom the present chair of the Police Federation was vehemently opposed anyway. Yet all of us were committed to helping the Police Federation improve its image. We were, effectively, sacked in May this year, having been unable to do anything meaningful to help.

I am quizzical about just where the "public interest" fits into this scenario. It is bandied about, as the noble Baroness suggested, but nobody can actually pin down what it means. Is the Police Federation in denial of its obligations to the public interest by behaving in the way it has? If so, what is the meaning of the phrase now? Will the public be pleased at how the organisation has conducted itself—in their interest—or will they be as puzzled as we were about the behaviour of the management of the Police Federation arbitrarily to interpret that interest in this particular way? The phrase needs removing from the Bill unless the Minister can convince me that it is at all meaningful. I would be grateful if she could give me some examples.

Lord Wasserman (Con): My Lords, I very much welcome the amendment. It deals with an issue I raised in the Second Reading debate on the Bill in your Lordships' House. As I said at that time, and repeat for the sake of maintaining the highest standards of conduct and transparency, I was, until a few months ago, an unpaid adviser to the Police Federation of England and Wales and had been acting in that capacity for the best part of the previous three years.

I hope that I also made clear in that debate that the line I was about to take in respect of Clause 48 had not been prompted by the Police Federation. Indeed, it was not even supported by the leadership of that organisation. That position has not changed. My views on Clause 48 and, in particular, on the four words which this amendment seeks to omit, remain as they were in July—that is, mine and mine alone. Indeed, it is a cause of some regret that not even my noble friends on the Front Bench are likely to agree with me.

I say that this is a cause of some regret because my views stem directly from my experience as an official in the Home Office—an official doing very much the same job as those who prepared the Bill. The rule in the Home Office at that time was that, when preparing legislation, every effort had to be made to avoid giving hostages to fortune, or making rods for one's own back—or any number of similar clichés. In practice, this meant that one's seniors and betters were constantly on the lookout for words which they could strike out of draft legislation because they were not absolutely necessary. Every word in every Bill, we were taught, could be used by clever, rapacious lawyers as a stick with which to beat the Government—or at least a stick to beat other clever and rapacious lawyers. For this

reason, every word in a piece of draft legislation, particularly primary legislation, had to be justified as being absolutely necessary and not amenable to misinterpretation or exploitation for purposes other than those directly related to the main purpose of the legislation in question.

I regard the words "protect the public interest" in Clause 48, as the noble Baronesses who spoke before me said, as precisely the kind of words that are amenable to misinterpretation and exploitation. They certainly are not necessary to achieve the purposes of this particular part of the Bill. I therefore regard them as prime candidates for omission.

The same problems do not arise with the words in the other two paragraphs. I believe that it is very sensible to place a duty on the federation to maintain high standards of conduct and transparency. Everyone understands what those words mean. More importantly, I believe that they are quite sufficient by themselves to achieve the Government's aims for the federation. In fact, they are probably more than enough.

All of us who take an interest in policing know very well why the previous Home Secretary felt moved to introduce these words into the Bill. I for one strongly supported her doing so. But the words "protect the public interest" are quite different. The federation is at bottom a staff association and its job is to represent its members. It is clearly in the public interest that it should do so effectively—that is why it was established. And it is clearly in its own interest that it should act, as Sir David Normington said, to maintain exemplary standards of conduct, integrity and professionalism and to retain public confidence.

To require the federation to act to "protect the public interest" is quite another matter. I fear that these words are tantamount to giving the federation a licence to interfere in policing matters well beyond its expertise. For example, I see the federation deciding that it is in the public interest that it should monitor and make recommendations on the type of equipment and systems which police forces purchase and deploy; on the leadership qualities of candidates for chief constable rank and other operational matters; or on issues of police governance such as the size and composition of police and crime panels.

Of course, individual members of the federation will have views on all these matters and on many more besides. But what we would be doing by including the words "support the public interest" in this Bill is to give the leaders of the federation grounds for spending their money on studying these matters and publicly advocating for changes in them. Indeed, I believe that these words would permit the federation to extend its remit almost indefinitely and to employ clever, rapacious lawyers to justify this on the grounds that it has a statutory duty to protect the public interest.

The federation has more than enough on its plate in carrying out its core mission. Placing on the federation a duty to "support the public interest" may sound good, as the noble Baroness, Lady Henig, said, but it does not pass the test of being essential to the purposes of the Bill. In fact, I believe that it falls squarely into the category of words which could come back to bite the Government in very unpleasant ways.

That is why I strongly support this amendment and urge the Minister to agree with me that omitting these four words would in no way weaken the motivation of the federation to operate in the public interest but would minimise the opportunity for it to make trouble for itself and others in due course.

Lord Paddick: My Lords, my noble friend Lady Hamwee and I have given notice of our intention to oppose the proposition that Clause 48 stand part. The reason is that all officers of the federation hold public office. They are therefore all subject to the Nolan principles—the seven principles of public life. Can the Minister explain what is to be added by the clause, over and above the Nolan principles?

Lord Rosser: I will briefly make two points. I have a great deal of sympathy with the amendment that has been moved by my noble friend Lady Henig. I do not necessarily share the interpretation of the words "protect the public interest" that the noble Lord, Lord Wasserman, attached to them. I think that probably, under some of its other responsibilities to its members, the Police Federation would be entitled to pursue at least some of the issues to which he made reference.

Do the Government interpret this wording of "protect the public interest" to mean that the federation must put the interests of the public before the interests of the members of the police forces it is there to represent? Secondly, does this wording mean that legal proceedings or some other action can be taken against the Police Federation by someone who believes that it has not protected the public interest? If so, who can take such legal proceedings or such other action?

10.30 pm

Baroness Williams of Trafford: My Lords, I thank the noble Baroness, Lady Henig, for her explanation of this amendment to Clause 48, which amends the 1996 Act to require the Police Federation, in fulfilling its core purpose, to protect the public interest and maintain high standards of conduct and of transparency —as the noble Baroness said. There was a discussion the other day about what the public interest is. I understood that, in a different context, it was not what the public were interested in but something quite different.

In the spring of 2013, the Police Federation commissioned a review to consider whether any changes were required to its operation or structure to ensure that it continued to promote the public good as well as the interests and welfare of its members. The panel's final report, *Police Federation Independent Review*, known widely as the Normington review, was published in January 2014 and made 36 recommendations to improve trust, accountability, professionalism and member services. Recommendation 1 was the adoption of a revised core purpose that reflects the Police Federation's commitment to act in the public interest. The Police Federation accepted the review's recommendations in their entirety and has already publicly adopted a revised core purpose on a non-statutory basis. The Normington review was clear that a reformed federation would act in the interests of both its members and the public.

[Baroness Williams of Trafford]

Clause 48 focuses on how the Police Federation discharges its representative role—namely by considering the public interest in its actions, in the same way that the police uphold the public interest in all their actions, whether that is fighting crime on the front line or representing colleagues as a member of the federation. The clause does not conflict with the Police Federation's representative purpose and will not, for example, require it to act against the interests of its members. The ambition here is to ensure that the federation does not operate against the public interest. Indeed, the Police Federation itself, acting in line with the recommendations of Sir David Normington and his review, asked the Government to enshrine its revised core purposes in legislation. That is exactly what this clause achieves.

Sadly, as the Normington review highlighted, a culture of "narrow self-interest" has permeated the federation in recent years—one of "distrust and division", as he described it. The Government wish to support the federation in proving that it can serve its members and respect the public interest in providing a representative voice for police officers, with professionalism and integrity.

The noble Lord, Lord Rosser, made a point about changing the purpose of the Police Federation as set out in the Police Act 1996. Clause 48, as worded, is clear that the federation must protect the public interest and maintain high standards of conduct and transparency in fulfilling that purpose. The Police Act 1996 sets out what the federation should do and Clause 48 sets out how it must deliver that.

The noble Lord also asked what happens when the public interest and the interests of the police diverge. The Normington review was clear that a reformed federation would act in the interests of both its members and the public. Section 59 of the Police Act 1996 provides that the purpose of the Police Federation is to represent members of the police forces in England and Wales in all matters affecting their welfare and efficiency.

Could the federation be challenged in the courts? It could, on the basis that it was not fulfilling its purpose as set out in Section 9(1) of the Police Act 1996 in a way that protected the public interest, but it may already be challenged on the basis that it was not fulfilling its existing purpose.

I hope I have provided some explanation and that the noble Baroness will feel able to withdraw her amendment.

Lord Paddick: I do not think the Minister answered my question about what the clause adds over and above what is within the Nolan principles.

Baroness Williams of Trafford: The Nolan principles underpin every single aspect of involvement in public life. Obviously, this is specific to the police in a certain context, but I think the two should go hand in hand. Obviously, there are different aspects to the police compared with other public professions, but anyone who is in public office needs to sign up to the Nolan principles. This is an aspect that applies to the police.

Baroness Henig: I thank all noble Lords who have spoken at this late hour. Although it is late, this is an important debate. I listened very carefully to the Minister but she did not actually answer the question. She did not tell the Committee what the words actually mean. I have to say again that if it is not clear what a phrase means, it is not going to be good law and it is going to lead to an awful lot of disagreement in years to come. If four lawyers in a room cannot agree what "protect the public interest" means, that is a recipe for problems. The Minister did not explain what it meant. There was a lot of vagueness and phraseology but nothing clear or precise.

Obviously, at this point in the evening I will withdraw the amendment but I want to think about this a bit more. Some of us might want to return to this at a later stage because it really is not in the public interest to put something in a Bill the meaning of which people cannot agree on. That cannot be a good thing to do. But at this stage, I beg leave to withdraw the amendment.

Amendment 179 withdrawn.

Clause 48 agreed.

Clauses 49 to 50 agreed.

House resumed.

House adjourned at 10.38 pm.