PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

POLICING AND CRIME BILL

Seventh Sitting

Tuesday 12 April 2016

(Afternoon)

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not later than

Saturday 16 April 2016

The Committee consisted of the following Members:

Chairs: †Mr George Howarth, Mr David Nuttall

† Berry, Jake *(Rossendale and Darwen)* (Con)
† Berry, James *(Kingston and Surbiton)* (Con)
† Bradley, Karen *(Parliamentary Under-Secretary of State for the Home Department)*
† Brown, Lyn *(West Ham)* (Lab)
† Caulfield, Maria *(Lewes)* (Con)
† Cleverly, James *(Braintree)* (Con)
† Davies, Mims *(Eastleigh)* (Con)
† Dromey, Jack *(Birmingham, Erdington)* (Lab)
† Elphicke, Charlie *(Lord Commissioner of Her Majesty's Treasury)*
† Harris, Carolyn *(Swansea East)* (Lab)
Jones, Gerald *(Merthyr Tydfil and Rhymney)* (Lab)
† Jones, Mr Kevan *(North Durham)* (Lab)
Milling, Amanda *(Cannock Chase)* (Con)
† Penning, Mike *(Minister for Policing, Fire, Criminal Justice and Victims)*
† Saville Roberts, Liz *(Dwyfor Meirionnydd)* (PC)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Whittaker, Craig *(Calder Valley)* (Con)

Ben Williams, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 12 April 2016

(Afternoon)

[Mr George Howarth *in the Chair*]

Policing and Crime Bill

Clause 91

Power to impose monetary penalties

Amendment moved (this day): 231, in clause 91, page 94, line 37, leave out '50%' and insert '200%'.—*(Lyn Brown.)*

2 pm

Lyn Brown (West Ham) (Lab): In conclusion *[Laughter.]* Financial sanctions are an important diplomatic and strategic power. Individuals or companies breaking financial sanctions are a serious threat to the national interest and must be stopped. We cannot allow the civil penalties introduced under the Bill to be perceived as a mere slap on the wrist, and a reasonable risk to take for those who would do business with people they should not. By accepting our amendments, the Minister could prevent that from happening.

The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley): May I start by wishing the hon. Member for West Ham happy birthday for tomorrow? I hope we will not be sitting down to do this the day after her birthday, so I hope she enjoys her day without having to worry about getting up for Committee the next day, although she will obviously continue to represent her constituents in the excellent way that she does.

The enforcement of financial sanctions is vital to our foreign policy and national security, but it is also important to note that the size of a breach and the culpability of those involved in a breach will vary from case to case. It is therefore important to ensure that the enforcement of financial sanctions is both appropriately targeted and proportionate.

I will respond to some of the points made by the hon. Lady. I welcome her support for these measures. I reassure her that the new Office of Financial Sanctions Implementation, or OFSI, and the increased resource behind sanctions enforcement will ensure that financial sanctions make the fullest possible contribution to the UK's foreign policy and national security goals, as well as helping to maintain the integrity of and confidence in the UK financial services sector.

I would also like to reassure her that OFSI will not seek to use monetary penalties as an alternative to a criminal prosecution. Where a serious breach of the kind described by the hon. Lady is identified by OFSI, the full range of potential enforcement mechanisms will be considered. Although the monetary penalties set out in the Bill will provide a valuable contribution, prosecution and asset seizure under the Proceeds of Crime Act 2002 will also be available.

I note that the Crown court will, on conviction, be able to impose an unlimited fine. We intend to consult shortly on where and when to use monetary penalties. The proposed maximum limits of £1 million or 50% of the value of the breach are based on evidence about the value of breaches reported to the Treasury over the past two years. We believe that those levels are both proportionate and adequate to remove profits made from breaches of financial sanctions and provide a sufficient deterrent.

The hon. Lady will also be aware that the clause already obliges the Treasury to keep the maximum limits under review, and it includes a power to vary that figure by regulations. Clearly, if it turns out that the provisions are not appropriate, based on the evidence we have today, we can always vary that figure. Finally, I would like to reassure the hon. Lady that if evidence shows that the limits should be set at a higher level we can, and we will, change them.

In the context of the civil sanction regime, it is right that the legislation should provide clear and proportionate limits on the amount of the financial penalty. We believe that, based on the evidence, £1 million or 50% of the estimated value of the funds is an appropriate limit and, accordingly, I urge the hon. Lady to withdraw her amendment.

Lyn Brown: I am grateful to the Minister for that clear and concise answer to the points that I made. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 91 ordered to stand part of the Bill.

Clauses 92 to 102 ordered to stand part of the Bill.

Schedule 12 agreed to.

Clauses 103 to 107 ordered to stand part of the Bill.

New Clause 1

Initiation of investigations by IPCC

'(1) Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc) is amended as follows.

(2) In paragraph 4 (reference of complaints to the Commission), in sub-paragraph (7), in the words before paragraph (a), after "occasion" insert ", or that has been treated as having been so referred by virtue of paragraph 4A".

(3) After paragraph 4 insert—

"Power of Commission to treat complaint as having been referred

4A (1) The Commission may treat a complaint that comes to its attention otherwise than by having been referred to it under paragraph 4 as having been so referred.

(2) Where the Commission treats a complaint as having been referred to it—

(a) paragraphs 2 and 4 do not apply, or cease to apply, in relation to the complaint except to the extent provided for by paragraph 4(7), and

(b) paragraphs 5, 6, 6A, 15 and 25 apply in relation to the complaint as if it had been referred to the Commission by the appropriate authority under paragraph 4.

(3) The Commission must notify the following that it is treating a complaint as having been referred to it—

(a) the appropriate authority;

(b) the complainant;

(c) except in a case where it appears to the Commission that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), the person complained against (if any).

(4) Where an appropriate authority receives a notification under sub-paragraph (3) in respect of a complaint and the complaint has not yet been recorded, the appropriate authority must record the complaint."

(4) In paragraph 11 (recording etc of conduct matters otherwise than where conduct matters arise in civil proceedings), omit sub-paragraph (5).

(5) In paragraph 13 (reference of conduct matters to the Commission), in sub-paragraph (7), in the words before paragraph (a), after "occasion" insert ", or that has been treated as having been so referred by virtue of paragraph 13A".

(6) After paragraph 13 insert—

"Power of Commission to treat conduct matter as having been referred

13A (1) The Commission may treat a conduct matter that comes to its attention otherwise than by having been referred to it under paragraph 13 as having been so referred.

(2) Where the Commission treats a conduct matter as having been referred to it—

(a) paragraphs 10, 11 and 13 do not apply, or cease to apply, in relation to the matter except to the extent provided for by paragraph 13(7), and

(b) paragraphs 14 and 15 apply in relation to the matter as if it had been referred to the Commission by the appropriate authority under paragraph 13.

(3) The Commission must notify the following that it is treating a conduct matter as having been referred to it—

(a) the appropriate authority;

(b) except in a case where it appears to the Commission that to do so might prejudice an investigation of the matter (whether an existing investigation or a possible future one), the person to whose conduct the matter relates.

(4) Where an appropriate authority receives a notification under sub-paragraph (3) in respect of a conduct matter and the matter has not yet been recorded, the appropriate authority must record the matter."

(7) In paragraph 14A (duty to record DSI matters), omit sub-paragraph (2).

(8) In paragraph 14C (reference of DSI matters to the Commission), in sub-paragraph (3), after "occasion" insert ", or that has been treated as having been so referred by virtue of paragraph 14CA,".

(9) After paragraph 14C insert—

"Power of Commission to treat DSI matter as having been referred

14CA (1) The Commission may treat a DSI matter that comes to its attention otherwise than by having been referred to it under paragraph 14C as having been so referred.

(2) Where the Commission treats a DSI matter as having been referred to it—

(a) paragraphs 14A and 14C do not apply, or cease to apply, in relation to the matter except to the extent provided for by paragraph 14C(3), and

(b) paragraphs 14D and 15 apply in relation to the matter as if it had been referred to the Commission by the appropriate authority under paragraph 14C.

(3) The Commission must notify the appropriate authority that it is treating a DSI matter as having been referred to it.

(4) Where an appropriate authority receives a notification under sub-paragraph (3) in respect of a DSI matter and the matter has not yet been recorded, the appropriate authority must record the matter."

(10) In section 29 of the Police Reform Act 2002 (interpretation of Part 2 of that Act), in subsection (1), in paragraph (a) of the definition of "recordable conduct matter", for "or 11" substitute ", 11 or 13A". —*(Karen Bradley.)*

This new clause is intended to take the place of clause 14. The amendments of Schedule 3 to the Police Reform Act 2002 in the new clause are aimed at giving the IPCC the ability to consider whether or not it is necessary for a complaint, conduct matter or DSI matter to be investigated and, if so, to determine what form the investigation should take, as soon as the IPCC becomes aware of the complaint or matter.

Brought up, read the First and Second time, and added to the Bill.

New Clause 2

SENSITIVE INFORMATION RECEIVED BY IPCC: RESTRICTION ON DISCLOSURE

'(1) Part 2 of the Police Reform Act 2002 (complaints and misconduct) is amended as follows.

(2) After section 21 insert—

"21A Restriction on disclosure of sensitive information

(1) Where the Commission receives information within subsection (3), the Commission must not disclose (whether under section 11, 20 or 21 or otherwise) the information, or the fact that it has been received, unless the relevant authority consents to the disclosure.

(2) Where a person appointed under paragraph 18 of Schedule 3 to investigate a complaint or matter (a "paragraph 18 investigator") receives information within subsection (3), the paragraph 18 investigator must not disclose the information, or the fact that it has been received, to any person other than the Commission unless the relevant authority consents to the disclosure.

(3) The information is—

(a) intelligence service information;

(b) intercept information;

(c) 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—

(i) cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or

(ii) jeopardise the safety of any person.

(4) Where the Commission or a paragraph 18 investigator discloses to another person information within subsection (3), or the fact that the Commission or the paragraph 18 investigator has received it, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.

(5) In this section—

"government department" means a department of Her Majesty's Government but does not include—

(a) the Security Service,

(b) the Secret Intelligence Service, or

(c) the Government Communications Headquarters ("GCHQ");

"intelligence service information" means information that was obtained (directly or indirectly) from or that relates to—

(a) the Security Service,

(b) the Secret Intelligence Service,

(c) GCHQ, or

(d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities;

"intercept information" means information relating to any of the matters mentioned in section 19(3) of the Regulation of Investigatory Powers Act 2000;

"Minister of the Crown" includes the Treasury;

"paragraph 18 investigator" has the meaning given by subsection (2);

"relevant authority" means—

(a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;

(b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;

(c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;

(d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty's forces or the Ministry of Defence, the Secretary of State;

(e) in the case of intercept information, the person to whom the relevant interception warrant is or was addressed;

(f) in the case of information within subsection (3)(c)—

"relevant interception warrant" means the interception warrant issued under section 5 of the Regulation of Investigatory Powers Act 2000 that relates to the intercept information.

21B Provision of sensitive information to the Commission and certain investigators

'(1) A person who provides information that is intelligence service information or intercept information to the Commission or a paragraph 18 investigator (whether under a provision of this Part or otherwise) must—

(a) make the Commission or the paragraph 18 investigator aware that the information is intelligence service information or (as the case may be) intercept information, and

(b) provide the Commission or the paragraph 18 investigator with such additional information as will enable the Commission or the paragraph 18 investigator to identify the relevant authority in relation to the information.

(2) In this section, "intelligence service information", "intercept information", "paragraph 18 investigator" and "relevant authority" have the same meaning as in section 21A."

(3) In Schedule 3 (handling of complaints and conduct matters etc), in Part 3 (investigations and subsequent proceedings)—

(a) omit paragraph 19ZD (sensitive information: restriction on further disclosure of information received under an information notice);

(b) in paragraph 22 (final reports on investigations: complaints, conduct matters and certain DSI matters)—

(i) after sub-paragraph (6) insert—

"(6A) Where a person would contravene section 21A by submitting, or (as the case may be) sending a copy of, a report in its entirety to the appropriate authority under sub-paragraph (2) or (3)(b), the person must instead submit, or send a copy of, the report after having removed or obscured the information which by virtue of section 21A the person must not disclose.";

(ii) in sub-paragraph (8), at the end insert "except so far as the person is prevented from doing so by section 21A";

(c) in paragraph 23 (action by the Commission in response to an investigation report under paragraph 22), after sub-paragraph (2) insert—

"(2ZA) Where the Commission would contravene section 21A by sending a copy of a report in its entirety to the appropriate authority under sub-paragraph (2)(a) or to the Director of Public Prosecutions under sub-paragraph (2)(c), the Commission must instead send a copy of the report after having removed or obscured the information which by virtue of section 21A the Commission must not disclose.";

(d) in paragraph 24A (final reports on investigations: other DSI matters), after sub-paragraph (3) insert—

"(3A) Where a person would contravene section 21A by sending a copy of a report in its entirety to the appropriate authority under sub-paragraph (2)(b), the person must instead send a copy of the report after having removed or obscured the information which by virtue of section 21A the person must not disclose."" —*(Karen Bradley.)*

Paragraph 19ZD of Schedule 3 to the Police Reform Act 2002 currently imposes restrictions on the further disclosure by the IPCC of certain sensitive information received by it under an information notice. This new clause replaces paragraph 19ZD with new section 21A of the 2002 Act, which applies irrespective of how the IPCC has obtained the information. New section 21A also applies to investigators appointed under paragraph 18 of Schedule 3 to the 2002 Act (investigations by an appropriate authority under the IPCC's direction). New section 21A is supplemented by new section 21B, which is intended to assist those needing to comply with section 21A.

Brought up, read the First and Second time, and added to the Bill.

New Clause 3

RELEASE WITHOUT BAIL: FINGERPRINTING AND SAMPLES

(1) The Police and Criminal Evidence Act 1984 is amended as follows.

(2) In section 61(5A) (fingerprinting of person arrested for a recordable offence) —

(a) in paragraph (a) omit "in the case of a person who is on bail,", and

(b) in paragraph (b) omit "in any case,".

(3) In section 63(3ZA) (taking of non-intimate sample from person arrested for a recordable offence)—

(a) in paragraph (a) omit "in the case of a person who is on bail,", and

(b) in paragraph (b) omit "in any case,".—*(Karen Bradley.)*

Sections 61(5A) and 63(3ZA) of PACE allow fingerprints and samples to be taken from persons released on bail. Because of changes in the Bill, persons will be released without bail (rather than on bail) unless pre-conditions are met. The amendments change those sections so they cover persons released without bail too.

Brought up, read the First and Second time, and added to the Bill.

New Clause 4

RELEASE UNDER SECTION 24A OF THE CRIMINAL JUSTICE ACT 2003

(1) Section 24A of the Criminal Justice Act 2003 (arrest for failure to comply with conditions attached to conditional caution) is amended as follows.

(2) In subsection (2) for paragraphs (b) and (c) substitute—

"(b) released without charge and without bail (with or without any variation in the conditions attached to the caution) unless paragraph (c)(i) and (ii) applies, or

(c) released without charge and on bail if—

(i) the release is to enable a decision to be made as to whether the person should be charged with the offence, and

(ii) the pre-conditions for bail are satisfied."

(3) In subsections (3)(a) and (4) for "subsection (2)(b)" substitute "subsection (2)(c)".

(4) After subsection (8) insert—

(8A) In subsection (2) the reference to the pre-conditions for bail is to be read in accordance with section 50A of the 1984 Act."—*(Karen Bradley.)*

This new clause changes the provisions in the Criminal Justice Act 2003 relating to persons who are arrested because they are believed to have

failed to comply with conditions attached to a conditional caution. To reflect the changes made in the Bill, those persons will be released without bail (rather than on bail) unless pre-conditions are met.

Brought up, read the First and Second time, and added to the Bill.

New Clause 5

DUTY TO NOTIFY PERSON RELEASED UNDER SECTION 34, 37 OR 37CA OF PACE THAT NOT TO BE PROSECUTED

(1) The Police and Criminal Evidence Act 1984 is amended as follows.

(2) In section 34 (limitations on police detention) after subsection (5A) (inserted by section 42 of this Act) insert—

(5B) Subsection (5C) applies where—

(a) a person is released under subsection (5), and

(b) the custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(5C) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(5D) Subsection (5C) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

(5E) In this Part "caution" includes—

(a) a conditional caution within the meaning of Part 3 of the Criminal Justice Act 2003;

(b) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998;

(c) a youth caution under section 66ZA of that Act."

(3) Section 37 (duties of custody officer before charge) is amended as follows.

(4) After subsection (6) insert——

(6A) Subsection (6B) applies where—

(a) a person is released under subsection (2), and

(b) the custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(6B) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(6C) Subsection (6B) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given."

(5) After subsection (8) insert—

(8ZA) Where—

(a) a person is released under subsection (7)(b) or (c), and

(b) the custody officer makes a determination as mentioned in subsection (6A)(b),

subsections (6B) and (6C) apply."

(6) Section 37B (consultation with Director of Public Prosecutions) is amended as follows.

(7) After subsection (5) insert—

(5A) Subsection (5) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given."

(8) Omit subsection (9).

(9) In section 37CA (release following arrest for breach of bail) after subsection (4) insert——

(5) Subsection (6) applies where—

(a) a person is released under subsection (2), and

(b) a custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(6) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(7) Subsection (6) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given."

(10) In section 24B(2) of the Criminal Justice Act 2003 (application of provisions of Police and Criminal Evidence Act 1984)—

(a) in paragraph (d) for "(5)" substitute "(5E)", and

(b) in paragraph (f) for "(6)" substitute "(6C)".—*(Karen Bradley.)*

This new clause requires a custody officer to notify a person released under section 34(5), 37(2) or (7)(b) or (c) or 37CA(2) of PACE if it is decided not to prosecute. So the person is put in the same position as a person released under section 37(7)(a) (who is notified under section 37B(5)).

Brought up, read the First and Second time, and added to the Bill.

New Clause 6

DUTY TO NOTIFY PERSON RELEASED UNDER ANY OF SECTIONS 41 TO 44 OF PACE THAT NOT TO BE PROSECUTED

(1) The Police and Criminal Evidence Act 1984 is amended as follows.

(2) In section 41 (limits on period of detention without charge) after subsection (9) insert—

(10) Subsection (11) applies where—

(a) a person is released under subsection (7), and

(b) a custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(11) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(12) Subsection (11) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given."

(3) In section 42 (authorisation of continued detention) after subsection (11) insert—

(12) Subsection (13) applies where—

(a) a person is released under subsection (10), and

(b) a custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(13) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(14) Subsection (13) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given."

(4) In section 43 (warrants of further detention) after subsection (19) insert——

(20) Subsection (21) applies where—

(a) a person is released under subsection (15) or (18), and

(b) a custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(21) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(22) Subsection (21) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given."

(5) In section 44 (extension of warrants of further detention) after subsection (8) insert——

(9) Subsection (10) applies where—

(a) a person is released under subsection (7), and

(b) a custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(10) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(11) Subsection (10) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given." —*(Karen Bradley.)*

This new clause requires a custody officer to notify a person released under section 41(7), 42(10), 43(15) or (18) or 44(7) of PACE if it is decided not to prosecute. So the person is put in the same position as a person released under section 37(7)(a) (who is notified under section 37B(5)).

Brought up, read the First and Second time, and added to the Bill.

New Clause 22

COMBINED AUTHORITY MAYORS: EXERCISE OF FIRE AND RESCUE FUNCTIONS

'(1) The Local Democracy, Economic Development and Construction Act 2009 is amended in accordance with subsections (2) to (4).

(2) After section 107E insert—

"107EA Exercise of fire and rescue functions

(1) This section applies to a mayor for the area of a combined authority who—

(a) by virtue of section 107D(1), may exercise functions which are conferred on a fire and rescue authority in that name ("fire and rescue functions"), and

(b) by virtue of section 107F(1), may exercise functions of a police and crime commissioner.

(2) The Secretary of State may by order make provision—

(a) authorising the mayor to arrange for the chief constable of the police force for the police area which corresponds to the area of the combined authority to exercise fire and rescue functions exercisable by the mayor;

(b) authorising that chief constable to arrange for a person within subsection (4) to exercise functions exercisable by the chief constable under arrangements made by virtue of paragraph (a).

(3) An order under subsection (2) may provide that arrangements made under the order—

(a) may authorise the exercise of any fire and rescue functions exercisable by the mayor;

(b) may authorise the exercise of any fire and rescue functions exercisable by the mayor other than those specified or described in the order;

(c) may authorise the exercise of fire and rescue functions exercisable by the mayor which are specified or described in the order.

(4) The persons mentioned in subsection (2)(b) are—

(a) members of the chief constable's police force;

(b) the civilian staff of that police force, as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011;

(c) members of staff transferred to the chief constable under a scheme made by virtue of section 107EC(1);

(d) members of staff appointed by the chief constable under section 107EC(2).

(5) Provision in an order under section 107D(1) for a function to be exercisable only by the mayor for the area of a combined authority is subject to provision made by virtue of subsection (2).

(6) This section is subject to—

(a) section 107EB (section 107EA orders: procedure), and

(b) section 37 of the Fire and Rescue Services Act 2004 (prohibition on employment of police in fire-fighting).

107EB Section 107EA orders: procedure

'(1) An order under section 107EA(2) may be made in relation to the mayor for the area of a combined authority only if the mayor has requested the Secretary of State to make the order.

(2) A request under subsection (1) must be accompanied by a report which contains—

(a) an assessment of why—

(i) it is in the interests of economy, efficiency and effectiveness for the order to be made, or

(ii) it is in the interests of public safety for the order to be made,

(b) a description of any public consultation which the mayor has carried out on the proposal for the order to be made,

(c) a summary of the responses to any such consultation, and

(d) a summary of the representations (if any) which the mayor has received about that proposal from the constituent members of the combined authority.

(3) Subsections (4) and (5) apply if—

(a) the mayor for the area of a combined authority has made a request under subsection (1) for the Secretary of State to make an order under section 107EA(2), and

(b) at least two thirds of the constituent members of the combined authority have indicated that they disagree with the proposal for the order to be made.

(4) The mayor must, in providing the report under subsection (2), provide the Secretary of State with—

(a) copies of the representations (if any) made by the constituent members of the combined authority about that proposal, and

(b) the mayor's response to those representations and to the responses to any public consultation which the mayor has carried out on that proposal.

(5) The Secretary of State must—

(a) obtain an independent assessment of that proposal, and

(b) in deciding whether to make the order, have regard to that assessment and to the material provided under subsection (4) (as well as the material provided under subsection (2)).

(6) An order under section 107EA(2) may be made only if it appears to the Secretary of State that—

(a) it is in the interests of economy, efficiency and effectiveness for the order to be made, or

(b) it is in the interest of public safety for the order to be made.

(7) The Secretary of State may, in making an order under section 107EA(2) in relation to the mayor for the area of a combined authority, give effect to the mayor's proposal for the order with such modifications as the Secretary of State thinks appropriate.

(8) Before making an order which gives effect to such a proposal with modifications, the Secretary of State must consult the mayor and the combined authority on the modifications.

(9) In this section—

"constituent council", in relation to a combined authority, means—

(a) a county council the whole or any part of whose area is within the area of the combined authority, or

(b) a district council whose area is within the area of the combined authority;

"constituent member", in relation to a combined authority, means a member of the authority appointed by a constituent council (but does not include the mayor for the area of the combined authority).

107EC Section 107EA orders: further provision

'(1) An order under section 107EA(2) may make provision for the making of a scheme to transfer property, rights and liabilities (including criminal liabilities) from a fire and rescue authority or the combined authority to the chief constable (including provision corresponding to any provision made by section 17(4) to (6) of the Localism Act 2011).

(2) A chief constable to whom an order under section 107EA(2) applies may appoint staff for the purpose of the exercise of functions exercisable by the chief constable by virtue of the order.

(3) A chief constable to whom an order under section 107EA(2) applies may—

(a) pay remuneration, allowances and gratuities to members of the chief constable's fire and rescue staff;

(b) pay pensions to, or in respect of, persons who are or have been such members of staff;

(c) pay amounts for or towards the provision of pensions to, or in respect of, persons who are or have been such members of staff.

(4) In subsection (3) "allowances", in relation to a member of staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.

(5) Subject to subsections (6) to (8), a person who is employed pursuant to a transfer by virtue of subsection (1) or an appointment under subsection (2) may not at the same time be employed pursuant to an appointment by a chief constable of the police force for a police area under Schedule 2 to the Police Reform and Social Responsibility Act 2011.

(6) Where an order under section 107EA(2) is in force in relation to the chief constable of the police force for a police area, the person who is for the time being the police force's chief finance officer is to be responsible for the proper administration of financial affairs relating to the exercise of functions exercisable by the chief constable by virtue of the order.

(7) Subsection (5) does not prevent a person who is employed as a finance officer for fire functions from being at the same time employed as a finance officer for police functions.

(8) In subsection (7)—

"finance officer for fire functions" means a member of a chief constable's fire and rescue staff who—

(a) is not a chief finance officer of the kind mentioned in subsection (6), and

(b) is employed to carry out duties relating to the proper administration of financial affairs relating to the exercise of functions exercisable by the chief constable by virtue of an order under section 107EA(2);

"finance officer for police functions" means a member of a chief constable's civilian staff within the meaning of the Police Reform and Social Responsibility Act 2011 who—

(a) is not a chief finance officer of the kind mentioned in subsection (6), and

(b) is employed to carry out duties relating to the proper administration of a police force's financial affairs.

(9) Where an order under section 107EA(2) is in force, the combined authority to which the order applies must pay—

(a) any damages or costs awarded against the chief constable to whom the order applies in any proceedings brought against the chief constable in respect of the acts or omissions of a member of the chief constable's fire and rescue staff;

(b) any costs incurred by the chief constable in any such proceedings so far as not recovered by the chief constable in the proceedings;

(c) any sum required in connection with the settlement of any claim made against the chief constable in respect of the acts or omissions of a member of the chief constable's fire and rescue staff, if the settlement is approved by the authority.

(10) Where an order under section 107EA(2) is in force, the combined authority to which the order applies may, in such cases and to such extent as appears to the authority to be appropriate, pay—

(a) any damages or costs awarded against a member of the fire and rescue staff of the chief constable to whom the order applies in proceedings for any unlawful conduct of that member of staff;

(b) costs incurred and not recovered by such a member of staff in such proceedings;

(c) sums required in connection with the settlement of a claim that has or might have given rise to such proceedings.

(11) In this section "fire and rescue staff", in relation to a chief constable to whom an order under section 107EA(2) applies, means—

(a) staff transferred to the chief constable under a scheme made by virtue of subsection (1);

(b) staff appointed by the chief constable under subsection (2).

107ED Section 107EA orders: exercise of fire and rescue functions

'(1) This section applies if—

(a) an order under section 107EA(2) makes provision in relation to the area of a combined authority, and

(b) by virtue of the order, fire and rescue functions exercisable by the mayor for the area of the combined authority are exercisable by the chief constable of the police force for the police area which corresponds to that area.

(2) The chief constable must secure that good value for money is obtained in exercising—

(a) functions which are exercisable by the chief constable by virtue of the order, and

(b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.

(3) The chief constable must secure that other persons exercising functions by virtue of the order obtain good value for money in exercising those functions.

(4) The mayor must—

(a) secure the exercise of the duties which are exercisable by the chief constable or another person by virtue of the order,

(b) secure the exercise of the duties relating to fire and rescue services which are imposed on the chief constable by or by virtue of any enactment,

(c) secure that functions which are exercisable by the chief constable or another person by virtue of the order are exercised efficiently and effectively, and

(d) secure that functions relating to fire and rescue services which are conferred or imposed on the chief constable by or by virtue of any enactment are exercised efficiently and effectively.

(5) The mayor must hold the chief constable to account for the exercise of such functions.

107EE Section 107EA orders: complaints and conduct matters etc

'(1) If an order is made under 107EA(2) that enables arrangements to be made for the exercise of functions by members of a police force or the civilian staff of a police force, the Secretary of State may by order amend Part 2 of the Police Reform Act 2002 (persons serving with the police: complaints and conduct matters etc) in consequence of that provision.

(2) If an order is made under section 107EA(2) that enables arrangements to be made for the exercise of functions by members of staff transferred to a chief constable under a scheme made by virtue of section 107EC(1) or appointed by a chief constable under section 107EC(2), the Secretary of State may by order make provision of the type described in subsection (3) in relation to those members of staff.

(3) The provision referred to in subsection (2) is—

(a) provision corresponding or similar to any provision made by or under Part 2 of the Police Reform Act 2002;

(b) provision applying (with or without modifications) any provision made by or under Part 2 of that Act.

(4) The Secretary of State may by order, in consequence of any provision made under subsection (2), amend Part 2 of the Police Reform Act 2002.

(5) Before making an order under this section the Secretary of State must consult—

(a) the Police Advisory Board for England and Wales,

(b) the Independent Police Complaints Commission,

(c) such persons as appear to the Secretary of State to represent the views of police and crime commissioners,

(d) such persons as appear to the Secretary of State to represent the views of fire and rescue authorities, and

(e) such other persons as the Secretary of State considers appropriate.

107EF Section 107EA orders: application of local policing provisions

'(1) The Secretary of State may by order—

(a) apply (with or without modifications) any provision of a local policing enactment in relation to a person within subsection (2);

(b) make, in relation to such a person, provision corresponding or similar to any provision of a local policing enactment.

(2) Those persons are—

(a) a mayor for the area of a combined authority to which an order under section 107EA(2) applies,

(b) a chief constable to which such an order applies, and

(c) a panel established by virtue of an order under paragraph 4 of Schedule 5C for such an area.

(3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made by or under a local policing enactment or make provision corresponding or similar to any such provision.

(4) The Secretary of State may by order amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).

(5) In this section "local policing enactment" means an Act relating to a police and crime commissioner.

(3) In section 107D(6)(b) (general functions exercisable by the mayor for the area of a combined authority) after "section 107E" insert "or 107EA".

(4) In section 120 (interpretation) after the definition of "EPB" insert—

""fire and rescue authority" means a fire and rescue authority under the Fire and Rescue Services Act 2004;".

(5) In section 26 of the Fire Services Act 1947 (firefighters' pension scheme) (as continued in force by order under section 36 of the Fire and Rescue Services Act 2004) in subsection (5A) (as inserted by paragraph 12 of Schedule 1)—

(a) omit the "or" at the end of paragraph (a), and

(b) after paragraph (b) insert—

"(c) a transfer to the chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009, or

(d) an appointment by the chief constable under section 107EC(2) of that Act."

(6) In section 63 of the Police Act 1996 (Police Advisory Board for England and Wales) in subsection (4) (as inserted by paragraph 15 of Schedule 1) for "also imposes a requirement" substitute "and section 107EE of the Local Democracy, Economic Development and Construction Act 2009 also impose requirements".

(7) In section 38 of the Police Reform Act 2002 (police powers for civilian staff) in subsection (11A) (as inserted by paragraph 17 of Schedule 1) after paragraph (b) insert—

"(c) any member of staff transferred to that chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009 (transfer of property, rights and liabilities to chief constable to whom fire functions of combined authority may be delegated);

(d) any member of staff appointed by that chief constable under section 107EC(2) of that Act (appointment of staff by chief constable to whom fire functions of combined authority may be delegated)."

(8) In section 34 of the Fire and Rescue Services Act 2004 (pensions etc) in subsection (11) (as inserted by paragraph 9 of Schedule 1)—

(a) omit the "or" at the end of paragraph (a), and

(b) after paragraph (b) insert—

"(c) transferred to the chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009, or

(d) appointed by the chief constable under section 107EC(2) of that Act."

(9) In section 37 of the Fire and Rescue Services Act 2004 (prohibition on employment of police in fire-fighting) (as substituted by paragraph 10 of Schedule 1) in subsection (3)—

(a) after "whom" insert "—(a)", and

(b) after paragraph (a) insert ", or

(b) functions of a fire and rescue authority which are exercisable by the mayor of a combined authority have been delegated under an order under section 107EA(2) of the Local Democracy, Economic Development and Construction Act 2009."

(10) In Schedule 8 to the Police Reform and Social Responsibility Act 2011 (appointment, suspension and removal of senior police officers) in paragraph 2 (no appointment until end of confirmation process) in sub-paragraph (1AA) (as inserted by paragraph 23 of Schedule 1) after "section 4F of the Fire and Rescue Services Act 2004" insert "or section 107EA(2) of the Local Democracy, Economic Development and Construction Act 2009".

(11) In Schedule 1 to the Public Service Pensions Act 2013 (persons in public service: definitions) in paragraph 6 (fire and rescue workers) in paragraph (aa) (as inserted by paragraph 24 of Schedule 1)—

(a) omit the "or" at the end of sub-paragraph (i), and

(b) for the "or" at the end of sub-paragraph (ii) substitute—transferred to the chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009, orappointed by the chief constable under section 107EC(2) of that Act, or"."

(i) transferred to the chief constable under a scheme made by virtue of section 107EC(1) of the Local Democracy, Economic Development and Construction Act 2009, or

(ii) appointed by the chief constable under section 107EC(2) of that Act, or"." —*(Mike Penning.)*

This new clause makes provision for and in connection with enabling the mayor of a combined authority by whom fire and rescue functions are exercisable to delegate those functions to the chief constable for the police area which corresponds to the area of the combined authority.

Brought up, and read the First time.

The Minister for Policing, Fire, Criminal Justice and Victims (Mike Penning): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss Government amendments 216 and 221.

Mike Penning: New clause 22 applies the single employer model to combined authority mayors to enable mayors with both policing and fire functions to delegate fire functions to a single chief officer, who will employ both police and fire personnel. This allows combined authority mayors to realise the core benefits of collaboration between the police and fire services, for example by bringing together a senior management team or allowing rapid consolidation of back-office functions. The candidates for metro mayor who are coming forward are particularly looking for that collaboration: it will be essential to producing the efficiencies, economy and effectiveness needed. The new clause will give metro mayors the ability to function in the way we all expect them to.

Lyn Brown: The new clause will give metro mayors the power to put in place a single employer model for the fire service and for the police force, where they have taken on the role of fire and rescue authority and police and crime commissioner. There are already provisions in the Bill that enable metro mayors to take on responsibility for the governance of policing and fire, but there is no existing legislation to give a mayor who has taken on both roles the power to implement the single employer model.

As we discussed in a previous sitting, the Bill provides for police and crime commissioners who have taken responsibility for fire and rescue to put in place a single employer model; the new clause extends this power to mayors. Since we were opposed to the single employer model then, it will be no surprise to the Minister or the Committee that we are still opposed to it now. The Committee will be relieved to hear that I am not going to repeat the arguments I made on the first day against the single employer model in quite as much detail today—the Committee has heard my concerns, and I am sure the Minister took note of them—but I would like to re-address the important arguments.

A large proportion of the work carried out by the fire service is preventive: smoke alarms are checked, sprinklers are fitted and homes are made safer. This preventive work is not an add-on to the fire service's work; it is at the core of what it does. We need to be honest: there are some people who would not welcome a policeman into their homes without a warrant. Police officers turning up at their door can be a scary experience. There are fears that under the single employer model it may be more difficult for the fire service to carry out vital preventive work if a member of the public is concerned that the firefighters coming into their home may have to share information with or report back to their boss, the police.

There is a fundamental difference between the humanitarian service that the fire and rescue service provides and the law enforcement service carried out by the police. This is not an attack on our police, who provide an important public service, as we all know. However, for the public to allow firefighters into their homes for preventive checks, there has to be a level of trust in the fire service, which is quite simply not paralleled elsewhere.

There is also the issue of workers in the police force and the fire and rescue service enjoying different terms and conditions of employment, not least around the right to strike. I think there are legitimate fears that the single employer model will be used as a means of cutting back on the workers' rights of those in the fire service.

Finally, I am concerned about extending the power of the single employer model to metro mayors at this late stage in the legislative process. By including that in a late amendment, the Government have not given those living in metropolitan areas the time to consider and be consulted about what is on offer. Will the Minister explain why this important part of the Government's reform is being made via an amendment at this late stage?

Mike Penning: I am, sadly, not surprised that Her Majesty's Opposition continue with the concern that they raised about the PCCs. The principle here is pretty simple: that it will have no operational effect on the fire service. There are two separate pillars of funding—two separate positions to be in. We have tabled numerous amendments, which is quite normal; we are making sure that there is no anomaly between PCCs and mayors.

There was initial support from Her Majesty's Opposition. The shadow Policing Minister said:

"I think that police and fire services logically sit within the context of a combined authority."—[*Official Report,* 14 October 2015; Vol. 600, c. 376.]

I agreed with him at the time. What we are now discussing—who trusts whom going into homes—has nothing to do with that; it is to do with whether we have the same system for PCCs as we have for mayors. That is the reason for the amendments.

2.15 pm

Jack Dromey (Birmingham, Erdington) (Lab): This point has been raised previously. It is one thing to seek to get all the statutory agencies effectively to collaborate as part of a combined authority. It is another thing altogether to merge the police and the fire service. We have no problem with the former, but we are opposed to the latter.

Mike Penning: I respect the shadow Policing Minister's position. There are very few things we disagree on, particularly in the Bill, but on this particular point we disagree. There will be plenty of time on Report and in the other place to discuss that further, but it would be wrong to leave an anomaly between PCCs and mayors, which is why the Government have tabled these amendments. I hope the Committee will approve them.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 9, Noes 6.

Division No. 8]

AYES

Berry, Jake	Davies, Mims
Berry, James	Elphicke, Charlie
Bradley, Karen	Penning, rh Mike
Caulfield, Maria	Whittaker, Craig
Cleverly, James	

NOES

Brown, Lyn	Jones, Mr Kevan
Dromey, Jack	Saville Roberts, Liz
Harris, Carolyn	Smith, Jeff

Question accordingly agreed to.

New clause 22 read a Second time, and added to the Bill.

New Clause 23

References to England and Wales in connection with IPCC functions

'(1) In section 29 of the Police Reform Act 2002 (interpretation of Part 2), at the end insert—

"(8) References in sections 26, 26BA and 26C to England and Wales include the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales."

(2) In section 28 of the Commissioners for Revenue and Customs Act 2005 (complaints and misconduct: England and Wales), in subsection (6), at the end insert ", including the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales".

(3) In section 41 of the Police and Justice Act 2006 (immigration and asylum enforcement functions and customs functions: complaints and misconduct), in subsection (7), at the end insert ", including the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales".—*(Karen Bradley.)*

Various of the statutory provisions that concern the conferral of functions on the IPCC contain territorial limitations referring to England and Wales. This new clause provides for those references to include adjacent territorial waters.

Brought up, read the First and Second time, and added to the Bill.

New Clause 24

Investigations by IPCC: powers of seizure and retention

'(1) In Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc), in Part 3 (investigations and subsequent proceedings), before paragraph 19A insert—

"Investigations by the Commission: power of seizure

19ZE (1) The powers conferred by this paragraph are exercisable by a person—

(a) who is designated under paragraph 19(2) in relation to an investigation (the "designated person"), and

(b) who is lawfully on any premises for the purposes of the investigation.

(2) The designated person may seize anything which is on the premises if the designated person has reasonable grounds for believing—

(a) that it is evidence relating to the conduct or other matter to which the investigation relates, and

(b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.

(3) The designated person may require any information which is stored in any electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form, if the designated person has reasonable grounds for believing—

(a) that it is evidence relating to the conduct or other matter to which the investigation relates, and

(b) that it is necessary to do so in order to prevent the evidence being concealed, lost, tampered with or destroyed.

(4) The powers conferred by this paragraph do not authorise the seizure of an item which the designated person exercising the power has reasonable grounds for believing to be an item subject to legal privilege within the meaning of the 1984 Act (see section 10 of that Act).

(5) Where a designated person has the power to seize a thing or require information to be produced under this paragraph and under section 19 of the 1984 Act (by virtue of section 97(8) of the 1996 Act or paragraph 19(4)), the designated person is to be treated for all purposes as acting in exercise of the power conferred by section 19 of the 1984 Act.

(6) In this paragraph "premises" has the same meaning as in the 1984 Act (see section 23 of that Act).

Further provision about seizure under paragraph 19ZE

19ZF (1) This paragraph applies where a designated person seizes anything under paragraph 19ZE(2).

(2) The designated person must provide a notice in relation to the thing seized if requested to do so by a person showing himself—

(a) to be the occupier of the premises on which it was seized, or

(b) to have had custody or control of it immediately before the seizure.

(3) The notice must state what has been seized and the reason for its seizure.

(4) The notice must be provided within a reasonable time from the making of the request for it.

(5) In this paragraph "designated person" has the same meaning as in paragraph 19ZE.

Investigations by the Commission: power of retention

19ZG (1) This paragraph applies to anything which, for the purposes of an investigation in accordance with paragraph 19—

(a) has been seized under paragraph 19ZE(2) or taken away following a requirement imposed under paragraph 19ZE(3), or

(b) is otherwise lawfully in the possession of the Commission.

(2) Anything to which this paragraph applies may be retained by the Commission for as long as is necessary in all the circumstances, including (amongst other things) so that it may be used as evidence in criminal or disciplinary proceedings or in an inquest held under Part 1 of the Coroners and Justice Act 2009.

(3) For the purposes of sub-paragraph (2), the retention of anything to which this paragraph applies is not necessary if having a photograph or copy of the thing would suffice (and the Commission may arrange for the thing to be photographed or copied before it ceases to be retained).

Further provision about things retained under paragraph 19ZG

19ZH (1) This paragraph applies to anything which—

(a) has been seized (whether under paragraph 19ZE(2) or otherwise), and

(b) is being retained by the Commission under paragraph 19ZG.

(2) If a request for permission to be granted access to a thing to which this paragraph applies is made to the Commission by—

(a) a person who had custody or control of the thing immediately before it was seized, or

(b) someone acting on behalf of such a person,

the Commission must allow the person who made the request access to it under the supervision of a member of the Commission's staff.

(3) Sub-paragraph (4) applies if a request for a photograph or copy of a thing to which this paragraph applies is made to the Commission by—

(a) a person who had custody or control of the thing immediately before it was seized, or

(b) someone acting on behalf of such a person.

(4) The Commission must either—

(a) allow the person who made the request access to the thing under the supervision of a member of the Commission's staff for the purpose of photographing or copying it, or

(b) arrange for the thing to be photographed or copied.

(5) If the Commission acts under sub-paragraph (4)(b), the Commission must supply the photograph or copy to the person who made the request within a reasonable time from the making of the request.

(6) The Commission is not obliged to do anything in response to a request under sub-paragraph (2) or (3) if the Commission has reasonable grounds for believing that to do so would prejudice—

(a) any investigation being carried out in accordance with this Schedule, or

(b) any criminal or disciplinary proceedings or any inquest held under Part 1 of the Coroners and Justice Act 2009.

(2) In section 21 of the Police and Criminal Evidence Act 1984 (access and copying), at the end insert—

"(10) The references to a constable in subsections (1) and (2) do not include a constable who has seized a thing under paragraph 19ZE of Schedule 3 to the Police Reform Act 2002." —*(Karen Bradley.)*

This new clause confers powers of seizure and retention on the Independent Police Complaints Commission for the purpose of investigations carried out by it under paragraph 19 of Schedule 3 to the Police Reform Act 2002. The powers are based on those conferred by sections 19, 21 and 22 of the Police and Criminal Evidence Act 1984.

Brought up, read the First and Second time, and added to the Bill.

New Clause 25

Transfer of staff to local policing bodies

'(1) A local policing body may make one or more schemes for the transfer to itself from the chief officer of police of the police force maintained by the local policing body of rights and liabilities under, or in connection with, a relevant contract of employment provided that the condition in subsection (2) is satisfied in relation to each such scheme.

(2) The condition referred to in subsection (1) is that it is desirable to make the scheme to enable the local policing body to discharge functions that are, or are to be, conferred on it under or by virtue of the Police Reform Act 2002 as a result of the amendments of that Act made by section 10 of, and paragraph 36 of Schedule 4 to, this Act.

(3) For the purposes of this section a contract of employment is a relevant contract of employment if it is a contract of employment of a member of the civilian staff of the police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011) and the staff member is not designated under section 38 of the Police Reform Act 2002.

(4) The local policing body must obtain the consent of the chief officer of police to the making of the scheme.

(5) Where the chief officer of police does not consent to the making of the scheme, the local policing body may make the scheme notwithstanding subsection (4) if the Secretary of State consents to the making of the scheme.

(6) A scheme under subsection (1) must make provision that has the same or similar effect as the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) (so far as those regulations do not apply in relation to the transfer)." —*(Karen Bradley.)*

Local policing bodies will acquire additional functions by becoming a relevant review body for the purposes of Part 2 of the Police Reform Act 2002 (under paragraph 36 of Schedule 4 to the Bill) and may acquire additional functions in relation to complaints handling by giving a notice under section 13A of that Act (inserted by clause 10). Those acquired functions are currently chief officer of police functions. This new clause will enable staff to be transferred to local policing bodies to assist in the discharge of the acquired functions.

Brought up, read the First and Second time, and added to the Bill.

New Clause 26

Office for Police Conduct

'(1) The body corporate known as the Independent Police Complaints Commission—

(a) is to continue to exist, and

(b) is to be known instead as the Office for Police Conduct.

(2) Section 9 of the Police Reform Act 2002 (which established the Independent Police Complaints Commission) is amended in accordance with subsections (3) to (8).

(3) For the heading substitute "The Office for Police Conduct".

(4) For subsection (1) substitute—

"(1) The body corporate previously known as the Independent Police Complaints Commission—

(a) is to continue to exist, and

(b) is to be known instead as the Office for Police Conduct."

(5) For subsection (2) substitute—

"(2) The Office is to consist of—

(a) a Director General appointed by Her Majesty, and

(b) at least six other members.

(2A) The other members must consist of—

(a) persons appointed as non-executive members (see paragraph 1A of Schedule 2), and

(b) persons appointed as employee members (see paragraph 1B of that Schedule),

but the powers of appointment under those paragraphs must be exercised so as to secure that a majority of members of the Office (including the Director General) are non-executive members."

(6) In subsection (3)—

(a) for "chairman of the Commission" substitute "Director General";

(b) omit ", or as another member of the Commission,".

(7) In subsection (5)—

(a) for "The Commission shall not—" substitute "Neither the Office nor the Director General shall—";

(b) for "Commission's" substitute "Office's".

(8) In subsection (6) for "Commission" substitute "Office".

(9) Schedule (Office for Police Conduct) makes further provision in relation to the Office for Police Conduct."—*(Karen Bradley.)*

This new clause provides for the Independent Police Complaints Commission to be re-named as the Office for Police Conduct. It also makes other changes in relation to the membership of the Office (in particular, by providing for it to have a Director General) and introduces a new Schedule to the Bill with further provision in connection with its constitution together with other minor and consequential amendments.

Brought up, read the First and Second time, and added to the Bill.

New Clause 27

EXERCISE OF FUNCTIONS

'(1) Section 10 of the Police Reform Act 2002 (general functions of the Commission) is amended in accordance with subsections (2) to (4) (see also paragraph 17 of Schedule (*Office for Police Conduct*) for further minor and consequential amendments).

(2) For "Commission", in each place (including in the heading and in provisions inserted by amendments made by this Act), substitute "Director General".

(3) In subsection (2)—

(a) in paragraph (a), at the end insert "or other concerns raised by virtue of Part 2B (whistle-blowing)";

(b) in paragraph (c), after "complaints" insert "or other concerns".

(4) After subsection (5) insert—

"(5A) In carrying out functions the Director General must have regard to any advice given to the Director General by the Office (see section 10A(1)(c))."

(5) After that section insert—

"10A General functions of the Office

(1) The functions of the Office are—

(a) to secure that the Office has in place appropriate arrangements for good governance and financial management,

(b) to determine and promote the strategic aims and values of the Office,

(c) to provide support and advice to the Director General in the carrying out of the Director General's functions, and

(d) to monitor and review the carrying out of such functions.

(2) The Office also has such other functions as are conferred on it by any other enactment (whenever passed or made).

(3) The Office is to perform its functions for the general purpose of improving the way in which the Director General's functions are carried out (including by encouraging the efficient and effective use of resources in the carrying out of those functions).

(4) In carrying out its functions the Office must in particular have regard to public confidence in the existence of suitable arrangements with respect to the matters mentioned in section 10(2) and with the operation of the arrangements that are in fact maintained with respect to those matters.

(5) The Office may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions.

10B Efficiency etc in exercise of functions

The Director General and the Office must carry out their functions efficiently and effectively.

10C Strategy for exercise of functions

(1) The Director General and the Office must jointly—

(a) prepare a strategy for the carrying out of their functions, and

(b) review the strategy (and revise it as appropriate) at least once every 12 months.

(2) The strategy must set out how the Director General and the Office propose to carry out their functions in the relevant period.

(3) The strategy must also include a plan for the use during the relevant period of resources for the carrying out of functions of the Director General and the Office.

(4) The Director General and the Office must each give effect to the strategy in carrying out their functions.

(5) The Director General and the Office must jointly publish a strategy (or revised strategy) prepared under this section (stating the time from which it takes effect).

(6) In this section "relevant period", in relation to a strategy, means the period of time that is covered by the strategy.

10D Code of practice

(1) The Director General and the Office must jointly prepare a code of practice dealing with the relationship between the Director General and the Office.

(2) In doing so, they must (in particular) seek to reflect the principle that the Director General is to act independently when making decisions in connection with the carrying out of the Director General's functions.

(3) The code must include provision as to the following—

(a) how the strategy required by section 10C is to be prepared, reviewed and revised;

(b) the matters to be covered by the strategy and the periods to be covered by it from time to time;

(c) how the carrying out of functions by the Director General is to be monitored and reviewed by other members of the Office;

(d) the giving of advice to the Director General by other members of the Office in connection with the carrying out of functions by the Director General;

(e) the keeping of written records of instances where the Director General has not followed advice given by other members of the Office and the reasons for not doing so;

(f) how non-executive members of the Office are to give practical effect to the requirement imposed by subsection (2).

(4) The Code may include whatever other provision the Director General and the Office think appropriate.

(5) The Director General and the Office must jointly review the code regularly and revise it as appropriate.

(6) The Director General and the Office must each comply with the code.

(7) The Director General and the Office must jointly publish a code (or revised code) prepared under this section (stating the time from which it takes effect).'—*(Karen Bradley.)*

This new clause provides for the Director General of the Office for Police Conduct to carry out the investigatory and other functions previously carried out by the IPCC. It provides for the Office to have governance and monitoring functions and requires the Director General and the Office to jointly prepare a strategy and code of practice governing the relationship between them and the carrying out of their respective functions.

Brought up, read the First and Second time, and added to the Bill.

New Clause 28

PROTECTIVE SEARCHES: INDIVIDUALS REMOVED ETC UNDER SECTION 135 OR 136 OF THE MENTAL HEALTH ACT 1983

'After section 136B of the Mental Health Act 1983 (inserted by section 61) insert—

"136C Protective searches

(1) Where a warrant is issued under section 135(1) or (2), a constable may search the person to whom the warrant relates if the constable has reasonable grounds for believing that the person—

(a) may present a danger to himself or herself or to others, and

(b) is concealing on his or her person an item that could be used to cause physical injury to himself or herself or to others.

(2) The power to search conferred by subsection (1) may be exercised—

(a) in a case where a warrant is issued under section 135(1), at any time during the period beginning with the time when a constable enters the premises specified in the warrant and ending when the person ceases to be detained under section 135;

(b) in a case where a warrant is issued under section 135(2), at any time while the person is being removed under the authority of the warrant.

(3) Where a person is detained under section 136(2) or (4), a constable may search the person, at any time while the person is so detained, if the constable has reasonable grounds for believing that the person—

(a) may present a danger to himself or herself or to others, and

(b) is concealing on his or her person an item that could be used to cause physical injury to himself or herself or to others.

(4) The power to search conferred by subsection (1) or (3) is only a power to search to the extent that is reasonably required for the purpose of discovering the item that the constable believes the person to be concealing.

(5) The power to search conferred by subsection (1) or (3)—

(a) does not authorise a constable to require a person to remove any of his or her clothing in public other than an outer coat, jacket or gloves, but

(b) does authorise a search of a person's mouth.

(6) A constable searching a person in the exercise of the power to search conferred by subsection (1) or (3) may seize and retain anything found, if he or she has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or herself or to others.

(7) The power to search a person conferred by subsection (1) or (3) does not affect any other power to search the person.'—*(Karen Bradley.)*

This new clause amends the Mental Health Act 1983 to enable constables to carry out searches where a warrant authorising entry to premises and the removal of a person to another place is issued under section 135(1) or (2) or where a person is detained under section 136(2) or (4). The powers to search are exercisable only where there are grounds for suspecting that the person may present a danger to himself or herself or to others. This new clause also provides for other safeguards comparable to those set out in section 32 of the Police and Criminal Evidence Act 1984.

Brought up, read the First and Second time, and added to the Bill.

New Clause 29

APPLICATION OF MARITIME ENFORCEMENT POWERS IN CONNECTION WITH SCOTTISH OFFENCES: GENERAL

'(1) A law enforcement officer may, for the purpose of preventing, detecting or investigating an offence under the law of Scotland, exercise any of the maritime enforcement powers in relation to—

(a) a United Kingdom ship in Scotland waters, foreign waters or international waters,

(b) a ship without nationality in Scotland waters or international waters,

(c) a foreign ship in Scotland waters, or

(d) a ship, registered under the law of a relevant territory, in Scotland waters.

(2) In this Chapter, "the maritime enforcement powers" are the powers set out in—

(a) section (*Power to stop, board, divert and detain in connection with Scottish offences*);

(b) section (*Power to search and obtain information in connection with Scottish offences*);

(c) section (*Power of arrest and seizure in connection with Scottish offences*).

(3) The following persons are "law enforcement officers" for the purpose of this Chapter—

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

(b) a constable who is a member of the British Transport Police Force,

(c) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act),

(d) a National Crime Agency officer having the powers and privileges of a constable in Scotland under the Crime and Courts Act 2013, or

(e) a person of a description specified in regulations made by the Secretary of State.

(4) Regulations under subsection (3)(e) are to be made by statutory instrument.

(5) A statutory instrument containing regulations under subsection (3)(e) is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Regulations under subsection (3)(e) may not make devolved provision except with the consent of the Scottish Ministers.

(7) For the purpose of subsection (6), regulations under subsection (3)(e) make devolved provision if and to the extent that the effect of the regulations is to confer functions under this Chapter on a person of a description specified in the regulations and it would be within the legislative competence of the Scottish Parliament to confer those functions on persons of that description in an Act of the Scottish Parliament.

(8) This section is subject to section (*Restriction on exercise of maritime enforcement powers in connection with Scottish offences*) (which makes provision about when the authority of the Secretary of State is required before the maritime enforcement powers are exercised in reliance on this section).'—*(Karen Bradley.)*

This new clause, together with NC30 to NC39, makes provision for constables serving with Police Scotland (and certain other law enforcement officers) to have powers corresponding to those conferred on members of police forces in England and Wales (and certain other law enforcement officers) by Chapter 4 of Part 4.

Brought up, read the First and Second time, and added to the Bill.

New Clause 30

RESTRICTION ON EXERCISE OF MARITIME ENFORCEMENT POWERS IN CONNECTION WITH SCOTTISH OFFENCES

'(1) The authority of the Secretary of State is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section (*Application of maritime enforcement powers in connection with Scottish offences: general*)(1), in relation to a United Kingdom ship in foreign waters.

(2) The Secretary of State may give authority under subsection (1) only if the State, or the relevant territory, in whose waters the powers would be exercised consents to the exercise of the powers.

(3) The authority of the Secretary of State is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section (*Application of maritime enforcement powers in connection with Scottish offences: general*)(1), in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to Scotland.

(4) The Secretary of State may give authority under subsection (3) in relation to a foreign ship only if—

(a) the home state has requested the assistance of the United Kingdom for the purpose of preventing, detecting or investigating an offence under the law of Scotland,

(b) the home state has authorised the United Kingdom to act for that purpose, or

(c) the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) otherwise permits the exercise of the powers in relation to the ship.'—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 31

EXERCISE OF MARITIME ENFORCEMENT POWERS IN HOT PURSUIT IN CONNECTION WITH SCOTTISH OFFENCES

'(1) A law enforcement officer may, for the purpose of preventing, detecting or investigating an offence under the law of Scotland, exercise any of the maritime enforcement powers in relation to a ship in England and Wales waters or in Northern Ireland waters if—

(a) the ship is pursued there,

(b) immediately before the pursuit of the ship, the ship was in relevant waters,

(c) before the pursuit of the ship, a signal was given for it to stop,

(d) the signal was given in such a way as to be audible or visible from the ship, and

(e) the pursuit of the ship is not interrupted.

(2) For the purposes of subsection (1)(b), "relevant waters" are—

(a) in the case of a United Kingdom ship or a ship without nationality, Scotland waters or international waters;

(b) in the case of a foreign ship or a ship registered under the law of a relevant territory, Scotland waters.

(3) For the purposes of subsection (1)(e), pursuit is not interrupted by reason only of the fact that—

(a) the method of carrying out the pursuit, or

(b) the identity of the ship or aircraft carrying out the pursuit,

changes during the course of the pursuit.

(4) This section is subject to section (*Restriction on exercise of maritime enforcement powers in hot pursuit in connection with Scottish offences*) (which requires the authority of the Secretary of State before the maritime enforcement powers are exercised in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to England and Wales or Northern Ireland).'—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 32

RESTRICTION ON EXERCISE OF MARITIME ENFORCEMENT POWERS IN HOT PURSUIT IN CONNECTION WITH SCOTTISH OFFENCES

'(1) The authority of the Secretary of State is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section (*Exercise of maritime enforcements in hot pursuit in connection with Scottish offences*) in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to England and Wales or Northern Ireland.

(2) The Secretary of State may give authority under subsection (1) in relation to a foreign ship only if—

(a) the home state has requested the assistance of the United Kingdom for the purpose of preventing, detecting or investigating an offence under the law of Scotland,

(b) the home state has authorised the United Kingdom to act for that purpose, or

(c) the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) otherwise permits the exercise of the powers in relation to the ship.'—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 33

POWER TO STOP, BOARD, DIVERT AND DETAIN IN CONNECTION WITH SCOTTISH OFFENCES

'(1) This section applies if a law enforcement officer has reasonable grounds to suspect that—

(a) an offence under the law of Scotland is being, or has been, committed on a ship in relation to which the powers conferred by this section are exercisable by virtue of section (*Application of maritime enforcement powers in connection with Scottish offences: general*) or (*Exercise of maritime enforcement powers in hot pursuit in connection with Scottish offences*), or

(b) a ship in relation to which those powers are so exercisable is otherwise being used in connection with the commission of an offence under that law.

(2) The law enforcement officer may—

(a) stop the ship;

(b) board the ship;

(c) require the ship to be taken to a port in Scotland or elsewhere and detained there.

(3) Except as provided by subsection (5), the authority of the Secretary of State is required before a law enforcement officer may exercise the power conferred by subsection (2)(c) to require the ship to be taken to a port outside the United Kingdom.

(4) The Secretary of State may give authority for the purposes of subsection (3) only if the State, or the relevant territory, in which the port is located is willing to receive the ship.

(5) If the law enforcement officer is acting under authority given for the purposes of section (*Restriction on exercise of maritime enforcement powers in connection with Scottish*

offences)(3) or (*Restriction on exercise of maritime enforcement powers in hot pursuit in connection with Scottish offences*)(1), the law enforcement officer may require the ship to be taken to—

(a) a port in the home state or relevant territory in question, or

(b) if the home state or relevant territory requests, a port in any other State or relevant territory willing to receive the ship.

(6) The law enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of subsection (2)(c).

(7) A law enforcement officer must give notice in writing to the master of any ship detained under this section.

(8) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a law enforcement officer.'—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 34

Power to search and obtain information in connection with Scottish offences

'(1) This section applies if a law enforcement officer has reasonable grounds to suspect that there is evidence relating to an offence under the law of Scotland (other than items subject to legal privilege) on a ship in relation to which the powers conferred by this section are exercisable by virtue of section (*Application of maritime enforcement powers in connection with Scottish offences: general*) or (*Exercise of maritime enforcement powers in hot pursuit in connection with Scottish offences*).

(2) The law enforcement officer may search—

(a) the ship;

(b) anyone found on the ship;

(c) anything found on the ship (including cargo).

(3) The law enforcement officer may require a person found on the ship to give information about himself or herself.

(4) The power to search conferred by subsection (2) is a power to search only to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in subsection (1).

(5) The power to search a person conferred by subsection (2) does not authorise a law enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.

(6) In exercising a power conferred by subsection (2) or (3), a law enforcement officer may (amongst other things)—

(a) open any containers;

(b) require the production of documents, books or records relating to the ship or anything on it, other than anything that the law enforcement officer has reasonable grounds to believe to be an item subject to legal privilege;

(c) make photographs or copies of anything the production of which the law enforcement officer has power to require.

(7) The power in subsection (6)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.

(8) The power of a law enforcement officer under subsection (2)(b) or (c) or (3) may be exercised on the ship or elsewhere.'—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 35

Power of arrest and seizure in connection with Scottish offences

'(1) This section applies if a law enforcement officer has reasonable grounds to suspect that an offence under the law of Scotland has been, or is being, committed on a ship in relation to which the powers conferred by this section are exercisable by virtue of section (*Application of maritime enforcement powers in connection with Scottish offences: general*) or (*Exercise of maritime enforcement powers in hot pursuit in connection with Scottish offences*).

(2) The law enforcement officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of the offence.

(3) The law enforcement officer may seize and retain anything found on the ship which appears to the officer to be evidence of the offence, other than anything that the officer has reasonable grounds to believe to be an item subject to legal privilege.

(4) The power of a law enforcement officer under subsection (2) or (3) may be exercised on the ship or elsewhere.'—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 36

Maritime enforcement powers in connection with Scottish offences: supplementary: protective searches

'(1) This section applies where a power conferred by section (*Power to stop, board, divert and detain in connection with Scottish offences*) is exercised in relation to a ship.

(2) A law enforcement officer may search any person found on the ship for anything which the officer has reasonable grounds to believe the person might use to—

(a) cause physical injury,

(b) cause damage to property, or

(c) endanger the safety of any ship.

(3) The power under subsection (2) may be exercised on board the ship or elsewhere.

(4) A law enforcement officer searching a person under subsection (2) may seize and retain anything found if the law enforcement officer has reasonable grounds to believe that the person might use it for a purpose mentioned in paragraphs (a) to (c) of that subsection.

(5) Anything seized under subsection (4) may be retained only for so long as there are reasonable grounds to believe that it might be used as mentioned in that subsection.

(6) The power to search a person conferred by subsection (2) does not authorise a law enforcement officer to require the person to remove any clothing in public, other than an outer coat, jacket or gloves.'—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 37

Maritime enforcement powers in connection with Scottish offences: other supplementary provision

"(1) A law enforcement officer may—

(a) be accompanied by other persons, and

(b) take equipment or materials,

to assist the officer in the exercise of powers under this Chapter.

(2) A law enforcement officer may use reasonable force, if necessary, in the performance of functions under this Chapter.

(3) A person accompanying a law enforcement officer under subsection (1) may perform any of the officer's functions under this Chapter, but only under the officer's supervision.

(4) A law enforcement officer must produce evidence of the officer's authority if asked to do so.

(5) The powers conferred by this Chapter do not affect any other powers that a law enforcement officer may have."—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 38

MARITIME ENFORCEMENT POWERS IN CONNECTION WITH SCOTTISH OFFENCES: OBSTRUCTION ETC

"(1) A person commits an offence if the person—

(a) intentionally obstructs a law enforcement officer in the performance of functions under this Chapter, or

(b) fails without reasonable excuse to comply with a requirement imposed by a law enforcement officer in the performance of those functions.

(2) A person who provides information in response to a requirement imposed by a law enforcement officer in the performance of functions under this Chapter commits an offence if—

(a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or

(b) the person intentionally fails to disclose any material particular.

(3) A law enforcement officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of an offence under this section.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale."—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 39

MARITIME ENFORCEMENT POWERS IN CONNECTION WITH SCOTTISH OFFENCES: INTERPRETATION

"(1) In this Chapter—

"England and Wales waters" means the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales;

"foreign ship" means a ship which—

(a) is registered in a State other than the United Kingdom, or

(b) is not so registered but is entitled to fly the flag of a State other than the United Kingdom;

"foreign waters" means the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant territory or State other than the United Kingdom;

"home state", in relation to a foreign ship, means—

(a) the State in which the ship is registered, or

(b) the State whose flag the ship is otherwise entitled to fly;

"international waters" means waters beyond the territorial sea of the United Kingdom or of any other State or relevant territory;

"items subject to legal privilege" has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (see section 412 of that Act);

"law enforcement officer" has the meaning given by section (Application of maritime enforcement powers in connection with Scottish offences: general)(3);

"maritime enforcement powers" has the meaning given by section (Application of maritime enforcement powers in connection with Scottish offences: general)(2);

"Northern Ireland waters" means the sea and other waters within the seaward limits of the territorial sea adjacent to Northern Ireland;

"relevant territory" means—

(a) the Isle of Man;

(b) any of the Channel Islands;

(c) a British overseas territory;

"Scotland waters" means the sea and other waters within the seaward limits of the territorial sea adjacent to Scotland;

"ship" includes every description of vessel (including a hovercraft) used in navigation;

"ship without nationality" means a ship which—

(a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant territory, or

(b) sails under the flags of two or more States or relevant territories, or under the flags of a State and relevant territory, using them according to convenience;

"United Kingdom ship" means a ship which—

(a) is registered under Part 2 of the Merchant Shipping Act 1995,

(b) is a Government ship within the meaning of that Act,

(c) is not registered in any State or relevant territory but is wholly owned by persons each of whom has a United Kingdom connection, or

(d) is registered under an Order in Council under section 1 of the Hovercraft Act 1968.

(2) For the purposes of paragraph (c) of the definition of "United Kingdom ship" in subsection (1), a person has a "United Kingdom connection" if the person is—

(a) a British citizen, a British overseas territories citizen or a British Overseas citizen,

"(b) an individual who is habitually resident in the United Kingdom, or

(c) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.

(3) References in this Chapter to the United Nations Convention on the Law of the Sea include references to any modifications of that Convention agreed after the passing of this Act that have entered into force in relation to the United Kingdom."—*(Karen Bradley.)*

Please see the explanatory statement for NC29.

Brought up, read the First and Second time, and added to the Bill.

New Clause 40

CONTROLS ON DEFECTIVELY DEACTIVATED WEAPONS

"After section 8 of the Firearms (Amendment) Act 1988 insert—

"8A Controls on defectively deactivated weapons

(1) It is an offence for a person who owns or claims to own a defectively deactivated weapon—

(a) to make the weapon available for sale or as a gift to another person, or

(b) to sell it or give it (as a gift) to another person.

(2) Subsection (1)(a) does not apply if—

(a) the weapon is made available for sale or as a gift only to a person who is outside the EU (or to persons all of whom are outside the EU), and

(b) it is made so available on the basis that, if a sale or gift were to take place, the weapon would be transferred to a place outside the EU.

(3) Subsection (1)(b) does not apply if—

(a) the weapon is sold or given to a person who is outside the EU (or to persons all of whom are outside the EU), and

(b) in consequence of the sale or gift, it is (or is to be) transferred to a place outside the EU.

(4) For the purpose of this section, something is a "defectively deactivated weapon" if—

(a) it was at any time a firearm,

(b) it has been rendered incapable of discharging any shot, bullet or other missile (and, accordingly, has either ceased to be a firearm or is a firearm only by virtue of the Firearms Act 1982), but

(c) it has not been rendered so incapable in a way that meets the applicable EU technical specifications.

(5) In subsection (4)(c), "the applicable EU technical specifications" means the technical specifications for the deactivation of the weapon that are set out in an EU instrument in force at the time when the weapon is made available for sale or as a gift or (as the case may be) when it is sold or given as a gift.

(6) References in this section to "sale" include exchange or barter (and references to sell are to be construed accordingly).

(7) A person guilty of an offence under this section is liable—

(a) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months) or to a fine, or to both;

(ii) in Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both."—*(Mike Penning.)*

This new clause amends the Firearms (Amendment) Act 1988 to make it an offence to make a defectively deactivated weapon available for sale (or as a gift) or to sell such a weapon (or give it as a gift), other than to a person or persons who are outside the EU. The clause defines what is meant by a defectively deactivated weapon. Any weapon that was a firearm for the purposes of the firearms legislation will be considered to be defectively deactivated unless it has been deactivated in a way that meets the EU technical specifications in force at the time when the weapon is marketed or (as the case may be) sold or given as a gift.

Brought up, read the First and Second time, and added to the Bill.

New Clause 41

OFFENCE OF BREACH OF PRE-CHARGE BAIL CONDITIONS RELATING TO TRAVEL

"(1) This section applies where—

(a) a person is arrested under section 24 of the Police and Criminal Evidence Act 1984, or under article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12), in respect of an offence mentioned in section 41(1) or (2) of the Counter-Terrorism Act 2008,

(b) the person is released without charge and on bail under Part 4 of the 1984 Act or (as the case may be) Part 5 of the 1989 Order, and

(c) the release on bail is subject to a travel restriction condition.

(2) Each of the following is a travel restriction condition—

(a) a condition that the person must not leave the United Kingdom,

(b) a condition that the person must not enter any port, or one or more particular ports, in the United Kingdom,

(c) a condition that the person must not go to a place in Northern Ireland that is within one mile of the border between Northern Ireland and the Republic of Ireland,

(d) a condition that the person must surrender all of his or her travel documents or all of his or her travel documents that are of a particular kind,

(e) a condition that the person must not have any travel documents, or travel documents of a particular kind, in his or her possession (whether the documents relate to that person or to another person),

(f) a condition that the person must not obtain, or seek to obtain, any travel documents (whether relating to that person or to another person) or travel documents of a particular kind.

(3) The person commits an offence if—

(a) the person's release on bail is subject to the travel restriction condition mentioned in subsection (2)(a) and he or she fails to comply with the condition, or

(b) the person's release on bail is subject to a travel restriction condition mentioned in subsection (2)(b) to (f) and he or she fails, without reasonable excuse, to comply with the condition.

(4) A person guilty of an offence under subsection (3) is liable—

(a) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months) or to a fine, or to both;

(ii) in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine, or to both.

(5) Section (Offence of breach of pre-charge bail conditions relating to travel: interpretation) defines words used in subsection (2)."—*(Mike Penning.)*

This new clause applies where a person arrested for certain terrorist offences is released before charge and on bail, subject to a travel restriction condition (defined in subsection (2)). Where the person's release on bail is subject to a condition that he or she does not leave the United Kingdom, the person commits an offence by failing to comply with the condition. Where the person's release on bail is subject to any other travel restriction condition, the person commits an offence if, without reasonable excuse, the person fails to comply with the condition.

Brought up, and read the First time.

Mike Penning: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

Government new clause 42—*Offence of breach of pre-charge bail conditions relating to travel: interpretation.*

New clause 43—*Breach of pre-charge bail*—

"(1) A person commits an offence if, having been released on bail under sections 37, 37C(2)(b) or 37CA(2)(b) of the Police and Criminal Evidence Act 1984 under investigation for a terrorism offence or serious crime offence they breach any of the terms of

their bail specified that place restriction on their ability to travel including surrendering their passport and/or place conditions on their residency.

(2) A person guilty of an offence under this section shall be liable on summary conviction to 6 months imprisonment or a fine or to both.

(3) For the purposes of this section, serious crime shall be specified of the Secretary of State by order."

This new clause would make it an offence for those suspected of serious crimes and terrorism to break bail conditions linked to travel.

Government amendment 226

Mike Penning: This is a very important Government new clause and amendment, which I discussed with the shadow Minister outside the room, but I think it is particularly important that we debate them properly in Committee. The issue of suspected terrorists absconding from pre-charge bail was quite rightly raised on Second Reading. In January, the Prime Minister indicated to the Liaison Committee that the Government would look very carefully at the issue to avoid a repeat of instances in which somebody is not charged, released on police bail and then breaks the conditions of that police bail within the counter-terrorism context.

This new clause is about counter-terrorism suspects, a subject on which I know the Opposition would like to expand. Although I will keep under review any other offences that are alleged against somebody who has been released on pre-charge bail, the Counter-Terrorism Act 2008 already lists a range of offences, including membership of proscribed organisations, that would prevent bail from being granted. The new clause relates to people for whom bail has been granted because the police need to continue with their investigations and do not have evidence to give them concern about a more serious offence taking place. The breach of this bail would carry a maximum penalty of 12 months imprisonment. This very important Government new clause enacts the commitment that we made, and I look forward to the Opposition's response.

2.30 pm

In oral evidence, the police representatives indicated that they would like to have such an offence for all types of pre-charge bail breaches. In such circumstances there would be 400,000 such offences. I am no libertarian—as people may know, I am a little on the right of that particular argument—but we have to take into consideration that no charges have been brought, so the police must use their existing powers, as well as the counter-terrorism powers that will be introduced by the Bill. If it is not a counter-terrorism offence, bail conditions such as the requirement to hand over a passport or travel document before release are already on the statute book. This measure is particularly about counter-terrorism, and I look forward to hearing from Her Majesty's Opposition.

Jack Dromey: The starting point for us is that we may have our disagreements on other fronts but there is unity across the House in opposition to the grotesque threat posed to our nation by terrorist violence. There is utter determination that we rise to the challenge of keeping our communities safe. On Second Reading, my right hon. Friend the Member for Leigh (Andy Burnham), the shadow Home Secretary, called on the Government to toughen the police bail regime for terror suspects, and we are pleased that the Government have listened and are now taking action.

James Berry (Kingston and Surbiton) (Con): Is the hon. Gentleman aware that that was in fact a recommendation of the Select Committee on Home Affairs? The right hon. Member for Leicester East (Keith Vaz) circulated something to the Committee this morning saying that it was his cross-party Committee that brought the issue to the Government's attention, and it is something on which we all agree.

Jack Dromey: All I would say is that this measure was not part of the original Bill. It is certainly true that the Home Affairs Committee has done valuable work on this matter, but ultimately it was our proposal on Second Reading that led to the Government's welcome shift. The fact that there is cross-party support is also welcome.

If we believe that the Government have moved, we are not convinced that they have yet gone far enough. The issue of principle is simple: it should not be right that terror suspects on pre-charge police bail have previously been able to leave the country with ease to escape justice, and it is essential that the loophole is closed as a matter of urgency. The Government's new clause would make it an offence for those suspected of terrorism to break bail conditions linked to travel.

On Second Reading, my right hon. Friend the Member for Leigh referred to the case of Siddhartha Dhar, who absconded while on police bail and went to Syria via Dover, as a prime example of the unacceptable loophole in the current system. In reference to what the hon. Member for Kingston and Surbiton said earlier, the Home Affairs Committee investigated forensically and collected evidence on this important issue. That was strongly buttressed by the compelling evidence given by the head of counter-terrorism, Mark Rowley, and Sara Thornton, the chair of the National Police Chiefs Council, when they came before this Committee. They both made it absolutely clear that they wanted to see the removal of the limitations currently obtaining, which are operational constraints.

Although we welcome the Government's amendment and new clause, we want to ensure that in cases such as that of Siddhartha Dhar the police are able to insist on a suspect's passports being handed over when they are in the custody suite. We should not wait to write to them after they have been released to say, "Please, would you hand over your passport?" because we risk that they may have already used the opportunity to leave the country, as Mr Dhar did. The Home Affairs Committee recommended that to the Government some considerable time ago, and we welcome the fact that Ministers are now acting, but their proposal does not set out how exactly the police can seize travel documentation, where necessary. For example, will the police be able to accompany the suspect to wherever his or her passport is being stored? Could they prevent a suspect from leaving until documentation is brought to the station? Will the police be able to request the surrender of passports and travel documents as a condition of release from custody? What exactly does the Policing Minister envisage happening next time the police arrest a terrorist suspect who inconveniently does not have his travel documentation on him at the time of arrest? I would be grateful if the Government would set out in some detail how they see this working.

Mike Penning: The new clause is about breach of a bail condition that carries a 12-month sentence. The police already have the power to set police bail conditions

and, if they wish, they could say that a person cannot be released on bail until their travel documents have been surrendered. That could be part of the bail. It could be seven days. They already have the powers. It is not within the Bill because it does not need to be.

Jack Dromey: I have looked at what the Minister said in our earlier discussions, in particular in relation to the Terrorism Act 2000. There is no provision for bail, before or after charge, under the Terrorism Act. Under the Act it boils down to either charging or releasing a suspect; the initial detention limit is 48 hours, which is extendable, and there is no existing terrorist legislation, therefore, that provides for the police to seize a passport from a terrorist suspect or relates to the enforcement of pre-charge bail conditions.

Jake Berry (Rossendale and Darwen) (Con): An interesting point in the case of terrorism is that many—not all—people accused of terrorism offences will have dual nationality and more than one passport. Has there been any thought as to how that would be discovered by the police, if the information was not volunteered, and what provisions may be required to get someone to surrender passports of another country as well as their British passport?

Jack Dromey: The hon. Gentleman makes a very good point. That is precisely why I referred earlier to "passports". There have been a number of cases of people having dual nationality in the way the hon. Gentleman has suggested. Fundamentally, this is about making sure that we do not have somebody like Dhar who walks out of the police station, says, "Yeah, okay, I will surrender my passports, I will be back tomorrow" and is then on the first plane to get out of the country. It is about certainty beyond any doubt that that simply cannot happen in future. Relatedly, have the Government looked at the issue of the ability of agencies to communicate immediately when passports are to be surrendered—for example, crucially, the Border Force? We look forward to clarification on these crucial points.

On another issue, the Government proposal applies only to terrorist suspects and not to those suspected of serious crimes. There is no question but that there is something uniquely awful about the terrorist threat to our country but, having said that, our new clause includes serious crime offences to be specified by the Secretary of State in regulation and so would address cases where, for example, suspects have fled the country before standing trial over rape allegations. The Minister has very helpfully said that he will keep this matter under review. We hope, however, that the Government will now give the Home Secretary that power; of course, it is for the Home Secretary to determine, in consultation, how that power is exercised thereafter.

The Minister was right when he said that the National Police Chiefs Council highlighted that it would like this power not to be confined to counter-terrorism. We urge the Government to include suspects of other offences in their proposals. As such, in circumstances where the Government are taking action, we will not press our new clause to a vote today. We seek assurances from the Government on the points I have raised as soon as possible, however, and we stand ready for further dialogue before Report. I very much hope that we can go to Report with a common position. In that dialogue, we will seek a strengthened clause and we will work with the Government to make sure that the pre-charge bail regime truly has teeth. We will return to this on Report; for now, on this crucial issue, we urge the Government to reflect and I stress, once again, that we very much hope that we are able to make common progress by the time of Report. The way we vote on Report will depend on whether we can put our hand on our hearts and say that never again will there be a case like that of Dhar.

Mike Penning: I am genuinely pleased that the shadow Minister is not going to push this to a vote. Perhaps it is right that a subject of this seriousness is debated on the Floor of the House on Report. Yet again, I offer the shadow Minister my help and that of my Bill team to see if we can come to a consensus.

The shadow Minister asked specifically whether the police can accompany the person who was still under arrest before they were given police bail, to ascertain their travel documents; under the Police and Criminal Evidence Act 1984, they can do that. Where police have already requested under the arrest warrant their immediate surrender, they can accompany the individual to their place of residence. If they breach that—in other words, they try to abscond and so on—that is where the sanctions in the new clause apply.

Of course, the shadow Minister is absolutely right that under the Terrorism Act 2000, there is no bail—a point that I made earlier on. This proposal relates to other alleged offences. Let us see what position we can come to. It is very important, because we are all as one in wanting to protect the public. We are as one in wanting people who are suspected of terrorism offences not to abscond. But the police have substantial powers at the moment. I have discussed that with them extensively to make sure that they use their existing powers, including making sure that they have the travel documents.

I do not want to go into individual cases. It is for officers in an operation to make operational decisions, not for politicians, but it is for us to give them the powers and to say to them, sometimes, "By the way, you already have the powers and you should use them." I am pleased that new clause 43 will not be moved and we offer as much assistance as possible to reach consensus, as we have done throughout the progress of the Bill.

Question put and agreed to.

New clause 41 accordingly read a Second time, and added to the Bill.

New Clause 42

OFFENCE OF BREACH OF PRE-CHARGE BAIL CONDITIONS RELATING TO TRAVEL: INTERPRETATION

"(1) This section defines words used in section (*Offence of breach of pre-charge bail conditions relating to travel*)(2).

(2) "Travel document" means anything that is or appears to be—

(a) a passport, or

(b) a ticket or other document that permits a person to make a journey by any means from a place within the United Kingdom to a place outside the United Kingdom.

(3) "Passport" means—

(a) a United Kingdom passport (within the meaning of the Immigration Act 1971),

(b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or

(c) a document that can be used (in some or all circumstances) instead of a passport.

(4) "Port" means—

(a) an airport,

(b) a sea port,

(c) a hoverport,

(d) a heliport,

(e) a railway station where passenger trains depart for places outside the United Kingdom, or

(f) any other place at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with leaving the United Kingdom.".—*(Mike Penning.)*

This new clause defines certain terms used in NC41.

Brought up, read the First and Second time, and added to the Bill.

New Clause 7

NATIONAL ASSEMBLY FOR WALES: DEVOLUTION OF RESPONSIBILITY FOR POLICING

"(1) In Schedule 7 to the Government of Wales Act 2006 after paragraph 20 insert—

Policing

21 Policing, police pay, probation, community safety, crime prevention.

Exceptions—

National Crime Agency

Police pensions

National security".—*(Liz Saville Roberts.)*

Brought up, and read the First time.

Liz Saville Roberts (Dwyfor Meirionnydd): I beg to move, That the clause be read a Second time.

Diolch yn fawr, Mr Cadeirydd. It is a pleasure to serve under your chairmanship, Mr Howarth. This is a probing new clause, and I do not intend to press it to a Division. None the less, I draw the Committee's attention to the fact that policing in Wales is an anomaly in the UK. Although policing is a devolved power in Northern Ireland and Scotland, Welsh policing remains reserved to Westminster. At the same time, the Welsh police forces are unique in the UK in that they are non-devolved bodies operating within a largely devolved public services landscape.

When we were discussing the police and fire authorities earlier in Committee, I was aware that there were perhaps cost implications for the police forces in Wales that are not necessarily appreciated. We are seeing changes happening even during the progress of the Bill. It is as important to draw attention to that as much as to the principle of devolving policing.

The Welsh police forces are unique in the sense that they are required to follow the agenda of two Governments; crucially, that means that Welsh police forces operate on the basis of English priorities, such as knife crime. Some of these issues are major problems in England but less so in Wales; correspondingly, issues that are significant in Wales have a lower priority here. Thus, while there are clear and numerous benefits to devolving policing, the arguments for keeping it reserved to Westminster appear to be comparably weak—and weakening, given that it is already devolved to Scotland and Northern Ireland.

That was, of course, reflected in the recommendations of the Silk commission, which was set up by the previous coalition Government and comprised a nominee from each of the four main parties, academics and industry experts. It received written evidence, heard oral evidence and visited every corner of Wales; it was a very broad consultation project. It heard evidence from the police themselves calling for the devolution of policing, and the report recommended as such. All four parties represented on the Silk commission recommended that policing be devolved, as has every Member of the National Assembly.

2.45 pm

Transferring responsibility to the Welsh Government would not be a massive shift; it would in fact be a simple transfer. Relationships between Welsh forces and UK services such as the police national computer and the Serious Organised Crime Agency would continue as at present, as of course happens in Scotland. Devolution would lead to greater clarity and efficiency by uniting devolved responsibilities such as community services, drugs prevention and safety partnerships with those currently held by the UK Government. That is the nature of the devolved services and the co-operation that already has to happen between the police forces of Wales and the Welsh Government and Welsh Assembly.

We talked earlier about mental health issues. Again, the fact that we are talking about a devolved organisation—a devolved Assembly—being responsible for mental health means that what we were discussing here and the structures co-operating between the police forces and health providers here would be completely different in Wales. I wonder whether we are missing the opportunity to understand fully the implications of decisions made here for Wales and vice versa. The reality of what is happening in Wales—the changes of devolution—means that for the police to operate we need to understand that the situation is different. This call from Members of the Welsh Assembly, as well as from the police forces through the Silk commission, shows their experience, and we need to understand that here.

Let me point to practical examples of the implications. Members will be aware that police and crime commissioners exist only in Wales and England. That role does not exist in Scotland, so part of what we have been discussing today is not relevant there. I mentioned earlier the combined authorities. Much of what the Bill is concerned about is not relevant to Wales. I can only imagine, having talked to my own chief constable, that there will be implications for targets and funding. Unless we fully discuss and understand those, we could walk into a situation where Wales is different and yet these measures have had an impact.

To close, I do not intend to push this new clause to a vote but I do hope the Government will consider those issues, which have also recently arisen in the context of the Wales Bill and in a recommendation from the First Minister of Wales.

Jack Dromey: Wales is a proud nation, well served on the one hand by some excellent Labour Members of Parliament on this Committee, including my hon. Friends

the Members for Swansea East and for Merthyr Tydfil and Rhymney, and on the other hand by a first-class police service. Like the Policing Minister, I have seen that first hand in Wales—more recently in north Wales with David Taylor, looking at the good work being done to tackle rural crime.

In south Wales, only last weekend, together with my hon. Friend the Member for Swansea East, I was looking at how the police safeguard public order at major public events, in that case a football match. I was deeply impressed by the police officers that we met—Jason, Steve and Joe—who were all doing a first-class job together with their police and crime commissioner Alun Michael. They are rooted in the community and talk about the community. That is a style of policing that has evolved over the past 20 years and is popular with the people of Britain as a whole, and Wales in particular.

So Wales is a proud nation, well served. It is right, nevertheless, that the people of Wales have a greater say over the policing of Wales. It is also right that the Welsh Assembly has the right to draw up in partnership a policing plan for Wales. That would be in partnership, on the one hand, with the four forces and their police and crime commissioners and, on the other hand, a range of statutory agencies.

Historically, Labour is the party of devolution. We do support the devolution of greater powers over policing to Wales but time and thought are necessary to get it right. I was speaking only last night with Carwyn Jones, and he has talked about a 10-year process of evolution of the arrangements in Wales and those between Wales and the rest of the UK.

Time and thought are necessary due to the sometimes complex interface with other areas in the criminal justice system and Government, but they are also necessary because I do not believe that anyone is proposing that all powers be devolved to Wales. The hon. Member for Dwyfor Meirionnydd made the point that the work of the National Crime Agency on serious and organised crime would clearly not be devolved. Likewise, counter-terrorism strategy would clearly not be devolved. As an example at the extreme end, when I was in Swansea with my hon. Friend the Member for Swansea East, we talked at length about the policing of the NATO summit and how to keep safe Heads of State from all over the world. Clearly, that would not be devolved either.

It is therefore a question of working through those crucial principles at the next stages. How can the people of Wales have a greater say in their policing? How best can the Welsh Assembly have the right to draw up a policing plan for Wales, in consultation with others? Then comes a process of evolution of the existing arrangements to achieve those objectives. I am grateful to the hon. Lady for her comments, including that she would not push the amendment to a vote. She has raised important and complex issues, but the amendment is not the appropriate vehicle to resolve them; they will require resolving in the next stages.

Finally, I could not let an opportunity like this go by without reminding the Committee that in Labour Wales, a Labour Administration has made a difference to policing, with 500 extra PCSOs, 200 of them in south Wales. It was a privilege to meet some of them at the weekend. They are good men and women on the ground keeping our communities safe, thanks to what a Labour Administration did.

Mike Penning: I reiterate the comments made by the shadow Policing Minister about the tone of how the hon. Member for Dwyfor Meirionnydd introduced her amendments. It has been useful. The issue is enormously complicated for Wales as part of the United Kingdom. The obvious references to Scotland and Northern Ireland are difficult to add to a report, not least because they have completely independent and different criminal justice systems. There is only one police force in Scotland now, and there has been only one police force in Northern Ireland for many years.

This issue must be decided by the people of Wales. The Government have made it clear that if there is not consensus within the Silk commission's proposals, we will not consider devolving full powers to the Government of Wales and the Welsh Assembly. I heard the hon. Lady say that there is consensus, and that is certainly true of the correspondence and conversations that I have been having. I reiterate what the shadow Police Minister said. I have visited Wales on many occasions. There are many Conservative MPs there, not least the Secretary of State for Work and Pensions. What I am trying to indicate politely is that it is not a one-party state.

PCC elections will be held in Wales imminently. They will give the people of Wales the best chance to decide what sort of policing they want in their part of the world. That is devolution, and that is democracy. Although I understand that this is a probing amendment, I am also pleased that new clause 7 will not be pressed to a vote.

Liz Saville Roberts: I welcome the change of standpoint by Labour MPs. Possibly it indicates a shift since the process undertaken through the St David's day negotiation resulted in not all the recommendations of the Silk report being adopted, even though they were cross-party.

On devolution and the issues to be decided by the people of Wales, when I was discussing the draft Wales Bill, we were told that in the St David's day discussions certain issues had been brought ahead or otherwise. I note that the people of Wales did not support the police commissioners in that state when that decision was made.

Finally, another issue that is developing as we speak, in the nature of devolution, is the development of a distinct legal jurisdiction, with a separate legislature in Wales able to produce its own legislation. Although we are talking about 10 years, I anticipate and very much hope that we will see policing devolved to Wales before then. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 10

Annual Report by Chief Inspector of Constabulary

"In Part 2 of the Police Act 1996, omit section (4A) and insert—

"(4A) A report under subsection (4) must include the chief inspector's assessment of—

(a) The efficiency and effectiveness of policing, and

(b) The crime and non-crime demand on police in England and Wales for the year in respect of which the report is prepared."."—*(Jack Dromey.)*

This new clause would add a duty for HMIC to assess demand on police on a yearly basis in addition to the efficiency and effectiveness of policing.

Brought up, and read the First time.

Jack Dromey: I beg to move, That the clause be read a Second time.

We believe it is appropriate to charge the chief inspector of constabulary with producing reports on a regular basis, not just on the efficiency and effectiveness of policing but, crucially, on the crime and non-crime demand on police in England and Wales for the year in respect of which the report is prepared and for two and five years ahead. For example, we may disagree on how to handle cybercrime, but it is common ground across the House that it is a major and growing area of crime and a relatively new development; we must therefore always properly assess the demand on the police service before making decisions about how best to meet that demand.

To be quite frank, the problem is that things are increasingly difficult for the police. Some 18,000 police officers and some 5,000 police community support officers have gone. The thin blue line has been stretched ever thinner; ever fewer are being asked to do ever more, on four fronts in particular.

First, following scandals in recent years, there is now a great national will to do everything necessary to protect children in our society. Only last week, Simon Bailey, the chief constable who heads up the police's multi-faceted strategy on the protection of children, said that it was already costing the police £1 billion, and that that would rise to £3 billion by 2020, such are the scale and complexity of the cases involved, both current and historical, and the investigation necessary.

Secondly, there has been an enormous increase in cybercrime. As we were rehearsing only yesterday, someone is more likely to be mugged online than in the street. Some of the major banks have estimated 20% or 30% increases in attempted crime against their customers every year. The scale of it is enormous.

Thirdly, there is the sheer scale of what is required for counter-terrorism. Last November, the Government decided not to go ahead with what would have been 22% cuts on top of 25% cuts. One reason for that decision was the strong representations, made by people like Mark Rowley and Bernard Hogan-Howe, that numbers matter, both for surge capacity in the event of a Paris-style attack and for neighbourhood policing, which was described by Peter Clarke, the former head of counter-terrorism, as the "golden thread" that runs from the local to the global. The patient building of community relationships is key to gaining intelligence; as a consequence, arrests for terrorism are now happening at the rate of almost one a day. As Bernard Hogan-Howe and Mark Rowley have said before the House, that is a consequence of good neighbourhood policing, but it is incredibly resource-intensive.

Fourthly, there is the wider problem of the police being increasingly seen as the force of last resort. In his powerful contribution this morning, my hon. Friend the Member for North Durham rightly made the point that, if there are no other agencies ready to respond, the police are the force of last resort. Sara Thornton, the chair of the National Police Chiefs Council, said recently that the police tend to be the people who, after 5 o'clock on a Friday, can be counted on to turn out when others perhaps do not because they no longer have the resources. Classically that includes going after looked-after children.

3 pm

To meet demand, the nature of the demand must be understood. Our thinking is, in part, inspired by very good work from the College of Policing. Its infographic—the Minister will be familiar with it—pointed out that, in purely policing terms, about a quarter of police time is spent dealing with crime. Some might ask what they do with the other three quarters. In counter-terrorism, for example, they are cementing good relationships with the local community, which is key to intelligence gathering. The intelligent work from the College of Policing points to the fact that much more needs to be done to understand the nature of demand. I very much hope that the Government will agree to this new clause because it is about understanding what the public needs and using that understanding to inform what is done to protect the public.

Mike Penning: Let me say from the outset that I recognise the importance of understanding the demand on police forces, which is exactly where the shadow Policing Minister is coming from. However, I do not see the need for new clause 10, as we are actually doing many of the things that the shadow Minister has asked for.

It is for a chief constable to assess the demands that their forces face and ensure that resources are allocated accordingly. The purpose of inspectors of constabulary is clearly set out in section 54(2) of the Police Act 1996. Their role is to inspect the "efficiency and effectiveness" of every force. Section 54(4) and section 54(4)(a) of the 1996 Act require the chief inspector of constabulary to prepare an annual report, and for that report to include his assessment of the efficiency and effectiveness of policing in England and Wales.

Reliable, independent information is crucial in understanding the demands on the police force. It is for this reason that the Home Secretary asked the inspectorate to introduce annual, all-force inspections, which has led to the development of the Police Effectiveness, Efficiency and Legitimacy—commonly called PEEL—programme. As part of the efficiency assessment, the inspectorate assesses how effectively each force understands and is responding to the demand that it faces. The inspectorate also works with forces to support them to better understand the demand that they face. There is work going on as we speak, including from the College of Policing, which I think everybody accepts has been a great success.

That includes the development of force management statements, which will be prepared with chief constables, and are intended to ensure that information on a force's available resources and the demand they face is produced annually to an agreed standard—ensuring the same across all forces—and is accessible to chief constables, PCCs and, most importantly, the public. I accept that this is a work in progress, but it is in progress, and the police are doing it themselves with the inspectorate and the College of Policing so, respectfully, I do not see the need for new clause 10. I hope that the shadow Minister understands that.

Jack Dromey: Some of the things that the Minister said were helpful. We have common ground on wanting to understand the nature of need. I hope that the Minister's comments on what the Government are doing and will do in the next stages will contribute to exactly that. In those circumstances we will not push the amendment to a vote. I beg to ask leave to withdraw it.

Clause, by leave, withdrawn.

New Clause 16

Digital Crime Review

"(1) The Secretary of State shall have a duty to provide for a review of legislation which contains powers to prosecute individuals who may have been involved in the commission of digital crime in order to consolidate such powers in a single statute.

(2) In the conduct of the review under subsection (1), the Secretary of State must have regard to the statutes and measures that he deems appropriate, including but not limited to—

(a) Malicious Communications Act 1988, section 1,

(b) Protection from Harassment Act 1997, section 2, 2a, 4, 4a,

(c) Offences against the Person Act 1861, section 16, 20, 39, 47,

(d) Data Protection Act 1998, section 10, 13 and 55,

(e) Criminal Justice Act 1998, section 160,

(f) Regulation of Investigatory Powers Act 2000, section 30(1), (3),(5),(6), 78(5),

(g) Computer Misuse Act 1990, as amended by Serious Crime Act 2015 and Police and Justice Act 2006,

(h) Contempt of Court Act 1981,

(i) Human Rights Act 1998,

(j) Public Order Act 1986, section 4, 4a, 5, 16(b), 18,

(k) Serious Organised Crime Act 2005, section 145, 46,

(l) Wireless Telegraphy Act 2006, section 48,

(m) Criminal Justice and Courts Act 2014, section 32, 34, 35, 36, 37,

(n) Protection of Children Act 1978,

(o) Obscene Publications Act 1959,

(p) Crime and Disorder Act 1998, section 28, 29-32,

(q) Criminal Justice Act 2003, section 145, 146,

(r) Communications Act 2003, section 127, 128-131,

(s) Data retention and Investigatory Powers Act 2014, section 4,

(t) Sexual Offences Amendment Act 1992, section 5,

(u) Counter Terrorism and Security Act 2015,

(v) Protection of Freedoms Act 2012, section 33(5), 29(6),

(w) Criminal Damage Act 1971, section 2,

(x) Sexual Offences Act 2003, section 4, 8, 10, 62,

(y) Criminal Justice and Police Act 2001, section 43,

(z) Magistrates Court Act 1980, section 127,

(aa) Suicide Act 1961, section 2(1) as amended by Coroners and Justice Act 2009,

(ab) Criminal Justice and Immigration Act 2008, section 63,

(ac) Theft Act 1968, section 21, and

(ad) Criminal Law Act 1977, section 51(2)

(3) It shall be a duty of the Secretary of State to determine for the review any other statute under which persons have been prosecuted for a crime falling under section 1 of this Act.

(4) In the conduct of the review under subsection (1), the Secretary of State must consult with any person or body he deems appropriate, including but not limited to—

(a) the Police,

(b) Crown Prosecution Service,

(c) judiciary, and

(d) relevant community organisations."—*(Liz Saville Roberts.)*

Brought up, and read the First time.

Liz Saville Roberts: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 17—*Surveillance and monitoring: offences*—

"(1) A person commits an offence if the person—

(a) uses a digital device to repeatedly locate, listen to or watch a person without legitimate purpose,

(b) installs spyware, a webcam or any other device or software on another person's property or digital device without the user's agreement or without legitimate reason,

(c) takes multiple images of an individual unless it is in the public interest to do so without that individual's permission and where the intent was not legitimate nor lawful,

(d) repeatedly orders goods or services for another person if the purpose of such actions is to cause distress, anxiety or to disrupt that person's daily life,

(e) erases data remotely whilst a digital device is being examined by the police or any other lawful investigation,

(f) monitors a digital device registered to a person aged 17 or less if the purpose of that monitoring is to obtain information about a third person,

(g) monitors any other person's digital device if the intent of the monitor is either to damage or steal data from that person, or

(h) creates a false persona on line without lawful reason if the purpose of such a creation is to intend to attempt to defraud, groom, impersonate or seriously damage the reputation of any other person.

(2) A person guilty of an offence under subsections (1)(a) or (b) is liable on conviction to a term of imprisonment not exceeding 12 months or a fine.

(3) For the purpose of subsection (1)(a) "repeatedly" shall be deemed as on two occasions or more.

(4) A person guilty of an offence under subsection (1)(d) is liable on conviction to a fine not exceeding the statutory limit.

(5) A person guilty of an offence under subsections (1)(e), (f), (g) or (h) is liable on conviction to a term of imprisonment not exceeding 12 months.

(6) The Secretary of State shall introduce restrictions on the sale of spyware to persons under the age of 16 and requests all persons who are purchasing such equipment to state their intended use of such equipment."

New clause 18—*Digital crime training and education*—

"(1) It shall be the responsibility of the Home Department to ensure that each Police Service shall invest in training on the prioritisation, investigation and evidence gathering in respect of digital crime and abuse.

(2) It shall be the responsibility of the Home Department to ensure that all Police services record complaints and outcomes of complaints of digital crime and abuse.

(3) It shall be the responsibility of the Secretary of State for the Home Department to publish annual statistics on complaints and outcomes of digital crime and abuse."

Liz Saville Roberts: Diolch yn fawr. Forgive me if my understanding of procedure is incorrect; I am learning as I go along. I speak about these three new clauses and then I take a response, if I understand correctly.

The Chair: The hon. Lady can speak to all three because they are grouped together.

Liz Saville Roberts: Thank you very much. I am just covering myself in case something goes terribly wrong.

New clause 16 would place a duty on the Secretary of State to undertake a review of all relevant legislation that contains powers to prosecute people involved in digital crime, and to consolidate those powers in a consolidation Bill. This is because prosecution can currently be initiated using a confusing array of criminal legislation. There are 30 Acts listed here; there are actually more than that but these are the most relevant. Some date back to the 19th century. Existing provision is therefore evidently fragmentary and inadequate, and that is a hindrance to effective prosecution. It allows abuse—which, interestingly, we are talking about, from all directions, more and more—to continue unchecked, up to a point.

A very high threshold is set for the prosecution of hate crime over the internet, and this is understandable, but the way this threshold is interpreted varies between police forces across the country. Indeed, this is true of many aspects of digital crime. People's experiences when they approach the police can vary widely under these interpretations, and the fact that so many pieces of legislation have to be referred to does not bring any additional clarity when clarity is what we need, first and foremost. So consolidation is the theme of new clause 16.

New clause 17 relates to offences associated with surveillance and monitoring. It would make it an offence, for example, to post messages or images that are discriminatory, threatening or would cause distress or anxiety. It would make it illegal to install spyware or webcams without good reason. It would also place further responsibilities on social media platforms to block offensive postings or postings inciting violence, for example. Current legislation is insufficient to deal with actions whereby people are now using digital means to harass or carry out crime.

New clause 18 is concerned with digital crime training and education. Given that the College of Policing estimates that half of all crimes reported to front-line officers now has a cyber element, there is a real need to consider how we prepare police personnel at all levels to deal with this problem. It is estimated that there are 7 million online frauds a year and 3 million other online crimes. The Chief Constable of Essex, Stephen Kavanagh, has warned that the police risk being swamped with digital crime cases. None the less—this is where training is important—I have been informed that only 7,500 police officers out of a total of 100,000 across Wales and England have been trained to investigate digital crime. This is a particularly significant area because it is extremely new to senior police officers in particular; it has not been part of their training in the past. There is also an issue for the police in that those who are particularly efficient at dealing with digital crime are often offered posts outside the police service.

To summarise this simplistically, it appears that the police, historically, were trained to deal with 20th century crimes, while we are now seeing crime shifting online. From those answering phones in call centres to those dealing with front-line issues, they all need training to respond appropriately to what threatens to become overwhelming. How do we identify what is crime that needs to be addressed and what is unfortunate social behaviour, which we would not condone but we would not necessarily associate with the police? There have been instances in the past of misinterpretation of the most adequate approach. I do not intend to push these new clauses to a Division, but I await the Minister's response with interest.

Jack Dromey: The hon. Lady made a compelling case. I have three points. First, there is the nature of the growing threat and, I hate to say it, the terrible things that people do in the privacy of their homes, including, for example, hate crime and abuse on social media, which are absolutely unacceptable.

Secondly, the hon. Lady is right when she says that there is a real problem of capacity in the police force. Stephen Kavanagh is an impressive chief constable. Some of us struggle with digital literacy, but the figure to which he referred of fewer than one in 10 people being digitally literate is chilling given the scale and rapid rise of digital crime and cybercrime.

Thirdly and finally, the hon. Lady makes a good point about strategy in the police service. For example, with the national fraud strategy, the police have been moving down the path of a national product but local delivery. Local delivery means the work that the police do in terms of prevention and their being more digitally literate in future. Indeed, Gavin Thomas, the new chairman of the Police Superintendents Association, recently said that many more younger police officers who understand the technology need to be recruited. The hon. Lady has put her finger on a very important set of issues relating to a rapidly growing area of crime, the sheer scale of which the police are struggling to cope with.

Karen Bradley: I am very grateful to the hon. Lady, whose constituency I am going to try to pronounce correctly. I last dealt with this pronunciation when we considered the Serious Crime Bill last year. I have the luxury of the Solicitor General, who is a very adept Welsh speaker, to prompt me on how to pronounce this: Dwyfor Meirionnydd.

Liz Saville Roberts: Not bad.

Karen Bradley: Not bad. I will not try again, but at least I have got that far. I am very grateful to the hon. Lady for tabling the new clauses, because they give the Committee the opportunity to debate these important issues. I hope to reassure her that the Government are absolutely committed to tackling them.

Digital crime and cybercrime are threats that we take very seriously. The Government continue to invest in law enforcement capabilities nationally, regionally and locally to ensure that law enforcement agencies have the capacity to deal with the increasing volume and sophistication of online crime. Through the national cyber-security programme, we invested more than £90 million in the previous Parliament to bolster the law enforcement response, and we will continue to invest. As the Chancellor announced in November, the Government have committed to spending £1.9 billion on cyber-security over the next five years, including for tackling cybercrime.

Additionally, we have invested in the national cybercrime unit in the National Crime Agency and created cyber teams in each of the regional organised crime units. Those teams provide access to specialist capabilities at a regional level. I think that we can all accept that it is expensive to have such technical support available to every force at a local level, and that is why the regional organised crime units, with their fantastic cyber units that are accessible to all forces, are incredibly impressive.

I remember visiting the south-east regional organised crime unit during the last Parliament, when organised crime was part of my portfolio, and meeting the young lady who had sat in that unit and cracked the case—I do not know if hon. Members remember it—of the Xboxes that no one could access at Christmas because of the activity of some hackers. A young lady working in one of our regional organised crime units here in the UK solved that crime and found the individuals responsible. We should be proud of the work that those forces do and the fact that we have such incredibly talented individuals working in the ROCUs.

James Berry: Does my hon. Friend agree that a lot of this online crime—online fraud—is not local crime but happens in boiler rooms that sell, or mis-sell, things across the whole of the UK, and that there needs to be a collective national approach to it? A lot of this work is done by Action Fraud, which is based in the City of London police, so that the people committing these crimes that affect people across the UK are investigated in a single place here in London.

Karen Bradley: My hon. Friend gets this absolutely right. As a central repository of intelligence and information, Action Fraud can work out which force is best placed to investigate. It may well be that that is the National Crime Agency or an international force. I will give an example. One of my constituents could go to the marketplace in Leek in Staffordshire Moorlands and have a fraud committed on them there. It would be very clear that that had happened in Staffordshire Moorlands and that Staffordshire police should investigate. But if that happens online, the criminal could be based in eastern Europe, or the far east, or anywhere in the UK. Action Fraud can put that information into a central repository and get the links; that means that we have an excellent facility for finding the right force to investigate and for finding the criminal.

Mr Kevan Jones: (North Durham) I do not disagree with what the hon. Member for Kingston and Surbiton was saying. These things are best looked at nationally—some of the conspiracies are clearly international as well—but does the Minister also agree that one of the problems with Action Fraud is that many people who have contacted it feel let down because of a lack of feedback about what happens in their individual case, or how their individual case may well be helping a bigger fraud?

3.15 pm

Karen Bradley: The hon. Gentleman makes a valid point. I had ministerial responsibility for Action Fraud, then my right hon. Friend the Policing Minister covered it and it now sits within the portfolio of the Minister for Security. We have all identified that problem and the City of London police are taking action to address that. They understand that feedback.

There has been a problem that local forces feel that they can pass the information to Action Fraud and it will deal with everything. There is a still an obligation on the local force to feed back to the individual. The crime has still been committed on that individual in the local force area, and it is incredibly important, and incumbent on the local force— working with Action Fraud—to make sure that feedback is given. I echo the hon. Gentleman's comments.

It is important to make the point that crime is crime—whether it happens online or offline, it is crime. Somebody stealing money from someone is theft. It may be fraud. It may be that it could be prosecuted under some other offence, but it does not matter what the offence is—it is still crime. We need to make sure that the police have the capabilities to understand where the evidence is. It is not like somebody breaking into your home leaving fingerprints, but they will be leaving fingerprints online. There will be digital fingerprints all the way back. We need to make sure that the forces have the capability to see that and that local forces also know the opportunities that this affords.

One of my favourite examples of the great opportunity of online is that if somebody breaks into a house and they are carrying a smartphone, it will try to find the wi-fi. There will be a digital fingerprint from that smartphone. That is an opportunity for local forces to be able to crack more crimes.

We need to ensure that training is happening. Working across the Home Office with local forces, the National Crime Agency and ROCUs, I know that there is an incredible amount of work going on to ensure that local forces and police officers—bobbies on the beat—understand the problem that they are dealing with and how to tackle it. But it is crime. It does not matter whether it is online or offline: it is crime.

Turning to the new clauses, I will deal first with new clause 16, which calls for a digital crime review. As the hon. Member for Dwyfor Meirionnydd explained, the aim of such a review is to consolidate into a single statute criminal offences and other powers relevant to tackling digital crime and the misuse of digital devices and services. She made a very persuasive argument, but I am far from persuaded that such a lengthy and costly exercise would deliver the benefits she seeks. I do not accept her premise that the criminal law is defective in this area. As a general principle, any action that is illegal offline is also illegal online.

Legislation passed before—in some cases, well before—the digital age has shown itself sufficiently robust and flexible to be used today to punish online offending. Consequently, most of the long list of statutes and offences in new clause 16 relate to offending that may be carried out by both digital and non-digital means. I think the terminology is that this is cyber-enabled crime: it is the same crime that has always happened—it is just that the digital platform of the internet enables criminals from thousands of miles away to have access to victims here in the UK and across the world that they would never have had access to without the internet.

Crime is crime. It does not matter whether it is 20th-century or 21st-century crime—it is crime, and it needs to be tackled. The offences that have long been tested in the courts and in the legal system are the right ones to use, whether they have been committed online or offline.

[Karen Bradley]

The new clause suggests that the Government should review, with a view to producing a single statute, all legislation

"which contains powers to prosecute individuals who may have been involved in the commission of digital crime".

It would be difficult, if not impossible, to separate all those powers from those used to prosecute non-digital crime. The new statute would not consolidate the powers, as the new clause suggests. Rather, it would inevitably reproduce and duplicate many existing offences, which would also need to be retained in existing legislation for non-digital offending.

That is not to say that, where we identify specific gaps in the law or new behaviours that ought to be criminalised, we will not take action to plug those gaps. Indeed, the Bill will criminalise the live streaming of offences relating to the sexual exploitation of children. Years ago, none of us would even have thought it possible, but there is live streaming and we need to make sure that we deal with it.

Likewise, in the last Parliament we created a new criminal offence of disclosing private sexual photographs and films

"without the consent of an individual who appears in the photograph or film, and with the intention of causing that individual distress."

That is what we would perhaps call revenge porn. I think we can all see that that crime may have been committed before, but a partner sharing a photograph with a few friends in the pub, although equally offensive, is not as destructive as that photograph appearing online and being available across the world for millions of people to see. It is very important that where there is criminality and we see gaps like that, we act. We are determined to do so, and will continue to do so. I mentioned that the hon. Lady's predecessor was a member of the Public Bill Committee that considered the Serious Crime Act 2015. In that Act, we further strengthened the Computer Misuse Act 1990.

New clause 17 seeks to create a raft of new offences relating to digital surveillance and monitoring. I presume that the intention is to address issues such as harassment and stalking offences, which can now occur through digital means. I want to be absolutely clear: abusive and threatening behaviour, in whatever form and whoever the target, is totally unacceptable. That includes harassment committed in person or using phones or the internet. The Protection from Harassment Act 1997 introduced specific provisions to deal with incidents of harassment, including the offences of harassment and putting people in fear of violence—offences that may be committed by online or offline behaviour, or a mixture. The 1997 Act also enables victims to apply for an injunction to restrain an individual from conduct that amounts to harassment, and it gives courts the power to make restraining orders. Those powers are regularly used to successfully prosecute offences committed by digital means.

I want to add one other point. I do not think that the issue we are discussing is whether the offence exists or whether it is sufficient; it is about understanding the offences and ensuring that the public and law enforcement know the offences and use them appropriately. I have experience of this in my own constituency: a business run by one of my constituents was subjected to an online trolling attack. I made the point that if my constituent had walked down the street and paint had been thrown at her, we would all have understood that offence. This was, effectively, digital paint being thrown at her from hundreds of miles away to destroy her business. That does not change the fact that she was being harassed. The issue is not that the offences are in some way lacking; it is about ensuring that they are known and understood, and that appropriate evidence is gathered.

Mims Davies (Eastleigh) (Con): Does the Minister agree that online and offline behaviour is partly an educational issue? If my 12-year-old was at the shops for four or five hours, doing what they wanted, unmonitored and unchecked, I would certainly ask who they were talking to, what they were doing and what was going on. There are parents who allow this behaviour, probably not seeing the dangers out there in respect of who children are talking to and what they are getting up to for a significant amount of time.

Karen Bradley: My hon. Friend is absolutely right. That is so important. I co-chair, along with the Minister for Children and Families and Baroness Shields, the UK Council for Child Internet Safety—UKCCIS. It is a very important forum, bringing together internet service providers, education providers and people who have the ability to influence young people and parents. Parents must understand that they need to turn their filters on; it may be a pain to have to occasionally put in a password when looking at a website, but those filters will protect their children.

We are also consulting on age verification for pornography. When I was growing up, it was not possible to access the kind of images that children can download on their smartphones and look at in playgrounds up and down the country. It simply was not available. Again, we have to be clear: if a child cannot purchase that material offline in a corner shop, newsagent or specialist retailer, they should not be able to access it online. We need to make sure that we have those safeguards in place.

We need to get rid of any suggestion that this is too difficult or too hard, and say to parents that they need to understand what the dangers are and to make sure that filters are in place so that their children are protected online. Schools have a role to play in that, too, as we all do. I would be happy to write to all Committee members on the work that we are doing, which they can share with their constituents and local headteachers. I will be delighted if we can get more information to headteachers and others about the work that is being done to protect children online.

New clause 18 deals with digital crime training and education, which is linked to the point that my hon. Friend the Member for Eastleigh made. I support the underlying objective, but I do not think that we need to legislate to require police forces to provide such training. Since the introduction of the College of Policing's cybercrime training course in February 2014, more than 150,000 modules have been completed across all forces, and in September last year the College of Policing launched the second phase of its mainstream cybercrime training course for police forces. This is a modular course consisting of a series of self-taught and interactive

modules that are accessible to all police officers and staff, which provides an introduction to how to recognise and investigate cybercrimes.

We need to get rid of the barriers and obstacles that make people think that they cannot investigate a crime because it happened online. They absolutely can; it is the same type of crime. It is money being stolen, it is harassment, it is stalking or it is grooming. These are all crimes. The fact that they happen online does not change the nature of the crime.

Additionally, more than 3,900 National Crime Agency officers have completed digital awareness training as part of equipping the next generation of highly-skilled digital detectives. The national policing lead for digital investigation and intelligence is co-ordinating a programme of activities to equip forces with the capabilities and technology to effectively police in a digital age and protect victims of digital crime. We need to repeat this point: it is not for the Home Office to mandate this training. Whitehall does not know best here. Delivering that training is something that the police are rightly leading on.

In conclusion, the Government recognise that tackling digital crime is one of the most important challenges that the police face today, and we continue to support and invest in the police to ensure that they have the resources and the capability to respond effectively. Having answered the points that the hon. Member for Dwyfor Meirionnydd made, I hope that I have persuaded her not to press her new clauses.

Liz Saville Roberts: As I stated earlier, this is a probing new clause. The very purpose of tabling it was to hear the response. I am very pleased to hear that the view on cybercrime is that "crime is crime". The Minister very effectively described it as "digital paint" being thrown at her constituents.

I believe, in line with those who advise us, such as Stephen Kavanagh, that there is room to look at this matter in a slightly different way. Training is a significant consideration. It has been brought to my attention that, although there are some powerful, centralised initiatives, the front-line work of all police personnel is significant, because there have been cases like the one that I mentioned, in which somebody in a call centre, taking the first contact call, did not interpret the harassment as something that should be taken as a crime. We should be very alert to the means by which we can strengthen the response.

3.30 pm

To come back to consolidation, the message I have received is that the array of legislation is a cause of concern. It may be negating prosecutions. I believe that the issues I have raised are significant, because we are all concerned about them and have all had constituents come to us who have suffered digital harassment and abuse. We have mentioned online fraud as well. This is certainly an area in which we, as parliamentarians, should consider how best we can serve our constituents into the future.

James Berry: Does the hon. Lady agree that this is not just an issue for the Government to tackle, but an issue for internet companies? Whereas online banking fraud has been quite effectively tackled by the banks, companies such as Google, Twitter and Facebook need to do much more. They are some of the richest companies in the world, with some of the best technical brains in the world and if this was an advertising opportunity by which they could make money, they would be up it like a rat up a drainpipe. This is about protecting users and the public, and they need to do a lot more. It is not just an area for Governments; it is an area for the people who are making money out of these services.

Liz Saville Roberts: I had sat down, but I will stand up again. I agree entirely. What is very interesting is how we define, as a society, the behaviour that parents should be addressing in their children and how children should be taught to behave online. What behaviour is socially unacceptable, what is the behaviour in which the police should be involved, and what behaviour really is a threat to safety?

Karen Bradley: Before the hon. Lady sits down, I would like to give a quick response to the point about internet companies. I want to put it on the record that many internet companies are working very hard with the Government to deal with this issue. There is always more that can be done, but Google, for example, works with the Government and the Internet Watch Foundation to make sure that we close down inappropriate or illegal content as soon as it is identified—if not before it is identified, in fact. I pay tribute to them for the work they have done with the Government on that.

Liz Saville Roberts: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 19

MODERN TECHNOLOGY: SPECIALIST DIGITAL UNIT (CHILD ABUSE)

"(1) The chief officer of each police force in England and Wales must ensure that within their force there is a unit that specialises in analysing and investigating allegations of online offences against children and young people.

(2) The chief officer must ensure that such a unit has access to sufficient digital forensic science resource to enable it to perform this function effectively and efficiently."—*(Liz Saville Roberts.)*

Brought up, and read the First time.

Liz Saville Roberts: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 20—*Child sexual abuse: specialist unit*—

"(1) The chief officer of each police force in England and Wales must ensure that within their force there is a unit responsible for working with local agencies to coordinate early identification of children at risk of child sexual abuse, including child sexual exploitation, and early identification of children and adults at risk of sexual offending."

Liz Saville Roberts: Diolch yn fawr iawn. Everyone will know how to say "thank you" in Welsh by the end of the afternoon.

New clauses 19 and 20 relate to offences against children. New clause 19 relates to online offences against children and calls for modern technology specialist digital units for child abuse. Again, these are probing amendments and are pertinent to what we have just

[Liz Saville Roberts]

been discussing. New clause 19 would ensure that every local police force has a specialist digital child abuse unit with the latest equipment and expertise to analyse, investigate and take action in relation to online offences against children, including children being groomed and forced to commit sexual acts online, and the making and sharing of sexual images and videos involving children.

We have talked about the explosion of online crime, so I will not go through it again, but I echo the concerns that the National Society for the Prevention of Cruelty to Children, the Children's Society and Barnardo's raised during oral evidence to the Committee about the lack of capacity and expertise within local police forces to tackle these crimes. Beyond the cases that reach the Child Exploitation and Online Protection Centre threshold, local forces are left with a huge volume of other cases where children are at risk, which they do not have the expertise or capacity to deal with adequately.

Emerging findings from research by the NSPCC show that the scale of this type of offending is far greater than previously thought. The sheer volume of offenders, devices and images relating to online offences against children has left the police swamped and unable to protect children to the best of their ability. In one sense, the increase in recording and reporting is to be welcomed, as these crimes are now being recorded. None the less, they are increasing, which is an issue that we should be addressing.

Recent reports by Her Majesty's inspectorate of constabulary on the responses of individual police forces to child protection cases have revealed significant delays—in some cases of up to 12 months—in the forensic analysis of the devices of suspected offenders. We are talking about children here. Some of those delays can pose serious risks to the safeguarding of children, leaving offenders free to continue abusing or exploiting other victims, not to mention the impact on the child victim. While the expertise and capacity of high-tech and cybercrime units are crucial, it is child protection and offender management knowledge and skills that are vital to ensuring that children are best protected.

The Prime Minster gave child sexual abuse the status of a "national threat" in the strategic policing requirement, but what assessment has been made of the increased policing capacity and expertise needed to deal with this issue, given the rise of online offences, and what reassurances can the Minister give that those will be made available? What steps are Ministers taking to ensure that police forces are trained and have the necessary technical capacity to investigate such offences using the newest technology available?

New clause 20 is concerned with preventing child sexual exploitation and with the establishment of specialist units for child sexual abuse. It would help to ensure that all police forces had the resource and support that they needed to work with other local agencies to prevent child abuse, including child sexual exploitation. This subject is particularly pertinent to me because I work with North Wales police. Of course, the Macur review, which discusses this area, was published recently. That review was based on the Waterhouse inquiry, one of the recommendations of which was that there should be a children's commissioner for Wales. How forces operate in respect of these issues is very significant. I am glad to say that my force, North Wales police, has a child sexual exploitation unit.

In the current economic climate, the police and others face a significant challenge in focusing on prevention. By the time incidents of grooming or sexual abuse come to the attention of the police, it is too late. The Government need to send a clear message that the early identification of children at risk, and of adults and children at risk of offending, is vital. Improving identification of children at risk means confronting difficult issues. Around a third of sexual offences are committed by children under the age of 18. That is often called peer-on-peer abuse. Barnardo's is currently running a cross-party inquiry into how we can improve our responses to such young people, many of whom have themselves been the victims of abuse or trauma. Police and local agencies must have the resources that they need to work together, and in partnership with charities and others, to prevent horrific crimes such as child sexual exploitation. Will the Minister commit to ensuring that that will happen?

Lyn Brown: I support new clauses 19 and 20. New clause 19 would ensure that there was a unit specialising in analysing and investigating allegations of online offences against children within each police force, and new clause 20 would ensure that there was a unit responsible for working with local agencies to co-ordinate early identification of children at risk of sexual abuse. This is important preventive work.

A report by the Children's Commissioner in November last year showed that only one in eight children who are sexually abused are identified by professionals. I really do not think that that is good enough. Early identification is incredibly important. The National Police Chiefs Council lead for child protection and abuse investigation, Chief Constable Simon Bailey, has said that

"by the time a child reports sexual abuse the damage has been done and we must do more to stop the abuse occurring in the first place."

I could not agree more.

We need to do better on early identification, and the specialist units provided for in new clause 20 would help towards that end. The provision for a specialist unit within each police force would mean that both the police and the Crown Prosecution Service had a specialist or specialists working exclusively on child sexual exploitation, just as now happens with domestic violence. Many police forces already have specialist units dealing with child sexual exploitation and that is to be welcomed, but it would be good to see this replicated across the country if possible. Making the provision of specialist units statutory will help to give vulnerable children in all areas of the country a much greater chance of having their abuse recognised before it is too late.

The last decade has seen a huge increase in the number of children with access to the internet, particularly using smartphones and tablets. Current data shows that 65% of 12 to 15-year-olds, and 20% of eight to 11-year-olds own their own smartphone. In 2004, Barnardo's identified 83 children as victims of some kind of online abuse, but today that number is in the thousands. Clearly, the way in which perpetrators of child sexual abuse contact and groom vulnerable children is changing, and those of us who wish to prevent these awful life-damaging crimes must change the way that we work too.

Barnardo's 2015 report states that

"young people at risk of harm online may not have any previous vulnerabilities that are often associated with being victims of sexual abuse and exploitation".

As a result, these victims are less likely to be known to the authorities and the police may only identify cases of exploitation when it is really rather too late. Encouragingly, in July 2014, initial outcomes of Operation Notarise showed that 660 people suspected of sharing illegal images of children had been arrested and around 500 children had been safeguarded. I welcome the good work that the police and charities like Barnardo's are doing to combat online child sexual exploitation, but this is not the time to be complacent. I am very interested in hearing the Minister's response to the suggestions in these new clauses.

Karen Bradley: I fully understand why the hon. Member for Dwyfor Meirionnydd has tabled these new clauses. I believe that they have been prompted at least in part by concerns about significant digital forensics backlogs in some forces, which were highlighted by the recent Her Majesty's inspectorate of constabulary national child protection investigations. I thank HMIC for the work that it did. It is very important that we all understand what is happening on the ground and that there is an honest appraisal of the work that local police forces are doing, so that police and crime commissioners and others can take the necessary steps to ensure that those issues are addressed.

It almost does not need saying, but I will say it anyway: we can all agree that child sexual exploitation, whether on or offline, is an abhorrent crime and that the police and other relevant agencies must up their game to effectively respond to such crimes and safeguard vulnerable children. The shadow Minister and others have made reference to last year's report by the Children's Commissioner. It is worth setting out the context in which we are operating.

The Children's Commissioner estimated that there are about 225,000 cases of child abuse a year. Of course, the vast majority of that was intra-familial abuse and, as the hon. Member for Dwyfor Meirionnydd mentioned, peer-on-peer abuse—children-to-children, or young people to children abuse. Child sexual exploitation online is part of the problem, but intra-familial abuse is an enormous part of it. The national policing lead, Simon Bailey, is very clear on the work that needs to be done in schools, with social services and others, working in multi-agency safeguarding hubs, to ensure that children are protected and that we have places for people to go. For example, the Government launched the child sexual abuse whistleblowing helpline, which was one of the recommendations in the Louise Casey and Alexis Jay report on Rotherham. The report said that there needed to be a safe place for professionals to report concerns that child sexual abuse that had been reported had not been dealt with. The NSPCC runs that helpline for the Home Office, and will help to make sure that children can be protected.

3.45 pm

I want to repeat the point I made earlier about access to online pornography. It is terrifying to me. I have met many young victims and survivors of sexual abuse and I have not yet met a single one who has not asked for access to online pornography to be dealt with. We are dealing with young people who are sexually maturing ever younger, but whose emotional maturity is the same as it always was. We are dealing with young people who may look sexually mature and believe themselves to be sexually mature, but who emotionally are not. The impact of seeing these unreal and horrendous images online on young men is quite terrifying. The NSPCC in North Staffordshire told me that it is dealing with children as young as seven who are addicted to pornography online. We absolutely have to tackle that, and I am determined that we will.

The point made by the hon. Member for Dwyfor Meirionnydd was specifically about digital forensics teams across forces in England and Wales. I want to assure her that there are digital forensics teams, and forces are working to increase their capacity and ability to examine digital devices and reduce backlogs. They are achieving this through a variety of approaches, including a combination of triage, increased resourcing, outsourcing and structural reform. Although there is still much work to do, the priority that forces have given to this issue has led to tangible successes in reducing backlogs of devices for examination.

The hon. Lady may be interested to know that all forces are now connected to the new child abuse image database—CAID—which is a national policing system that supports law enforcement agencies in pursuing child sexual exploitation offenders and seeks to safeguard the victims. I visited the Child Exploitation and Online Protection centre a few months ago and I have seen some of the work that they can do with the CAID database. It is absolutely astonishing. From an image of a child in a bathroom they are able to identify the town it might have been taken in. They are able to look at, for example, a Coke can in the background—other cola products are available—and look for the date and serial number to determine where it may have been sold. They can look for the style of electrical plugs in the background of the room. The abilities that they have at CEOP are absolutely staggering, and CAID is undoubtedly transforming the way police forces and the NCA tackle online child sexual exploitation.

CAID has contributed to the identification of more than 410 victims in the first 10 months of 2015-16, which is more than double the number in any previous year. I have been told anecdotally that this national database with millions of horrendous images on it has reduced local forces' workload in dealing with this problem by about 80%. I pay great tribute to the incredible professionals who work on it.

CAID can be used more widely to help drive improvements in how the police investigate child sexual exploitation. For example, it is being used as part of a risk-based triage process at the scene of an arrest at a suspect's home or other premises to determine which devices need to be seized for further investigation. This reduces the number of devices seized, and is based on a model pioneered by Cheshire police and championed by the National Police Chiefs Council lead for child abuse investigation.

Moving to new clause 20, the hon. Lady will appreciate that it is an operational matter for chief officers to determine the size, composition and deployment of their workforce. The police already have a key role and statutory duty in safeguarding children and preventing

and investigating crime. Under sections 11 and 28 of the Children Act 2004, PCCs and the chief officer of each police force in England and Wales must ensure that they have regard for the need to safeguard and promote the welfare of children while discharging their functions.

Section 1(8)(h) of the Police Reform and Social Responsibility Act 2011 further provides:

"The police and crime commissioner must, in particular, hold the chief constable to account for the exercise of duties in relation to the safeguarding of children and the promotion of child welfare that are imposed on the chief constable by sections 10 and 11 of the Children Act 2004."

In fulfilling these statutory duties, the chief officer and the PCC will need to work closely with local partners and agencies, but, again, I am not persuaded that we need further legislation to achieve that. Moreover, safeguarding and partnership working should be the responsibility of all police officers and civilian staff, not confined to one unit within a police force.

I am grateful to the hon. Lady for affording us the opportunity to debate this important issue. Having done so, I hope I have been able to reassure her that progress is being made on tackling online child sexual abuse.

Lyn Brown: May I probe the Minister a little on the idea that we do not need specialist units? We now have specialist units within our police forces for domestic violence, which are provided for across the country. They seem to me to have had a massive impact on the safety of women in our communities; they have raised the issue locally and have meant that we are tackling domestic violence so much better than we were. Since those units have had such an impact on domestic violence, may I ask her gently to go away and think about them a bit more, rather than rejecting them out of hand, because they may be the answer to child exploitation and child abuse within our localities.

Karen Bradley: I understand exactly the hon. Lady's point, but I think we need to differentiate between online and offline exploitation of children. Policing online exploitation is a detailed, technical job that requires great skill and depth. CEOP, which is part of the National Crime Agency, leads on that nationally, with the child abuse image database that is rolled out to all forces, and with their expertise. The Prime Minister committed £10 million to CEOP at the first WePROTECT summit at Downing Street in December 2014; my right hon. Friend the Minister for Policing, Crime and Criminal Justice was there. We have the specialist capability sitting within CEOP to give all local police forces access to data on online grooming and exploitation.

However, dealing with child sexual abuse in a wider context—not necessarily online—has to be part of every police officer's work: working with the multi-agency safeguarding hub, with social services, with health professionals and others to ensure that we identify the victim. It is not as easy as finding a victim online—although that is not easy either—because these are very hidden crimes. We need to ensure that they are the business of every police officer, that all officers are aware of what is involved, and that we work within the multi-agency safeguarding hub.

Frankly, it is far too often the police who end up leading on this matter. When a crime is committed, the police absolutely have a role to play. But if there is an allegation of abuse within a family context, two big burly coppers turning up at the front door may not be as successful as a social worker or a health professional. We need to get the right professionals and it needs to be an operational local matter; it is not something that we should be mandating nationally. With that in mind, I hope I have persuaded the hon. Member for Dwyfor Meirionnydd to withdraw her new clause.

Liz Saville Roberts: I reiterate the point that the hon. Member for West Ham made: there is a risk, when making something everybody's responsibility—particularly children and safeguarding—that it becomes nobody's responsibility. It was felt that the particular focus required for the police to deal with domestic abuse would not have come about without units present in every police force; that prompts similar questions for child sexual exploitation, which is very much in the same area.

I do not intend to press the matter to a Division, but I hope we will be able to discuss it further. We are all aware of incidents such as those in Rotherham—we can all list them—and the ongoing cases within Operation Pallial; we know that we have not solved the problem, in any shape or form.

Karen Bradley: May I make an analogy with mental health, which we were debating earlier? I think the difficulty there was that the police stepped into a void that no other agency was stepping into. We have the opportunity here to have multi-agency and cross-agency working, to really help children. My fear is that, if we mandate the police to be the agency that deals with the problem, it will all be police-driven. I am not sure that that is in the best interest of the victims or that it is the best way to tackle this issue. I think that there has to be a multi-agency response, which is what we are working towards through the work that all multi-agency safeguarding hubs and others are doing.

Liz Saville Roberts: I thank the Minister for her comments, which I appreciate, but none the less it strikes me that in my own area North Wales police, evidently as a result of the Waterhouse inquiry and Operation Pallial, which is, of course, ongoing, felt it needed a child sexual exploitation unit. We know that child sexual abuse is not restricted to certain areas of the country. Yes, many cases—the majority of cases, possibly—are intra-familial and we have talked about peer-on-peer, but if it was felt to be significant and necessary in north Wales, and wherever the other units are, I feel strongly that it is necessary throughout all police forces. I ask the Minister to consider this again on Report. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 21

"Offence of abduction of a vulnerable child aged 16 or 17

'(1) A person shall be guilty of an offence if, knowingly and without lawful authority or reasonable excuse, he—

(a) takes a child to whom this section applies away from the responsible person; or

(b) keeps such a child away from the responsible person; or

(c) induces, assists or incites such a child to run away or stay away from the responsible person or from a child's place of residence;

(2) This section applies in relation to a child who is—

(a) a child in need as defined in Section 17 of the Children Act 1989;

(b) a child looked after under Section 20 of the Children Act 1989;

(c) a child housed alone under part 7 of the Housing Act 1996;

(d) a child who is suffering or is likely to suffer significant harm subject to Section 47 1(b) of the Children Act 1989.

(3) In this section "The responsible person" is—

(a) a person with a parental responsibility as defined in the Children Act 1989; or

(b) a person who for the time being has care of a vulnerable child aged 16 and 17 by virtue of the care order, the emergency protection order, or section 46, as the case may be; or

(c) any other person as defined in regulations for the purposes of this section.

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both such imprisonment and fine; or

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years.

(5) No prosecution for an offence above shall be instituted except by or with the consent of the Director of Public Prosecutions."—*(Liz Saville Roberts.)*

Brought up, and read the First time.

Liz Saville Roberts: I beg to move, That the clause be read a Second time.

Diolch yn fawr iawn eto byth. You may be glad to hear that this is the last time you will be hearing my voice on another aspect of children's safeguarding in relation to abduction. Again, I shall not be pushing new clause 21 to a Division. This probing measure concerning child abduction warning notices, or CAWNs, would ensure that police can protect vulnerable 16 and 17 year-olds by the same method they use to protect younger children.

Child abduction warning notices are used by the police to disrupt inappropriate relationships between children and people who seek to groom them. We mentioned earlier that children are maturing sexually earlier, but not emotionally. There are, of course, people who are very vulnerable although they have reached the age of 16 or 17. These notices are civil orders stemming from the Child Abduction Act 1984. In addition to their use with under-16s, they can currently be used to protect very limited groups of vulnerable 16 and 17 year-olds—those children who have been formally taken into care under section 31 of the Children Act 1989, those subject to an emergency protection order and those in police protection. This, as you can imagine, accounts for a very small number of vulnerable 16 and 17 year-olds. Latest statistics for England show that just 190 16 and 17 year-olds were taken into care under section 31 last year. This left a further 4,320 young people of that age who became looked-after in the same year who would not have the same protections if they were at risk of sexual exploitation.

This is particularly concerning when reported sexual offences are on the rise. In Wales alone there was an increase from 1,545 incidents in 2013-14 to 1,903 in 2014-15. Anything we can do to prevent these offences, including using child abduction warning notices, is vital, as I am sure we would all agree. Professionals working with vulnerable young people and charities such as the Children's Society and Barnardo's have consistently argued that CAWNs should be available for police to use in the protection of all vulnerable 16 and 17-year olds. Will the Minister therefore consider closing this loophole in the law?

Lyn Brown: I do not want to repeat everything the hon. Lady has said, but I agree with much of it. Child abduction warning notices can only currently be issued with regard to children under the age of 16, or to 16 and 17 year-olds formally taken into social care under a section 31 notice. We believe that, when it comes to sexual exploitation, this is simply too narrow a definition of a child and that there are very vulnerable 16 and 17 year-olds who could be protected by a child abduction warning notice. The most recent annual statistics available show that only 190 children aged between 16 and 17 were taken into care by their local authorities under a section 31 notice and would thus be able to be protected by a child abduction warning notice. However, a further 4,320 young people of that age are looked after by their local authorities and, as the law currently stands, they are not able to receive that form of protection. The Children's Society report, "Old enough to know better?", calculated that the number of 16 and 17-year-olds who live outside the family and are vulnerable to sexual exploitation is actually as high as 7,200. Whatever the exact number, there is clearly a substantial gap between the number of vulnerable 16 and 17-year-old children and the number eligible to be protected by a child abduction warning notice.

4 pm

New clause 21 would deal with the problem by increasing the number of 16 and 17-year-olds who are protected by laws against child abduction and thus can be named on a child abduction warning notice. For example, subsection (2)(a) would protect those children with severe disabilities and health difficulties and subsection (2)(b) would protect those children who do not have a legal guardian or parent to care for them.

This amendment would be a really important strengthening of the law. I do not want to go into the details of individual cases, but with the Oxford, Rochdale and Rotherham grooming rings, there were allegations that 16 and 17-year-old girls were raped, among a litany of other crimes that were committed against children under the age of consent. My first job when I left university was as a residential social worker for children between the ages of 13 and 18. I saw those children moving in and out of care. They did not become suddenly less vulnerable at the age of 16 or 17. We are their guardians. We are their corporate parent and we need to ensure that we provide them with as many safeguards as we possibly can. These children need our protection and agreeing to the new clause would go some way to doing that.

Karen Bradley: As with other amendments that the hon. Member for Dwyfor Meirionnydd has tabled, I understand and have great sympathy for the intention behind the new clause, but there are problems, as I hope she and the shadow Minister would acknowledge. Sixteen and 17-year-olds are adults. They are lawfully able to get married. They are generally deemed capable of living independently of their parents and are otherwise able to make decisions affecting their way of life, not least in sexual matters. Extending the offence of abducting a child who is capable of exercising his or her own free will could therefore raise difficult issues. We therefore need to think very carefully about and debate this matter. I would be delighted to meet the hon. Member for Dwyfor Meirionnydd and the shadow Minister to discuss it, and I have talked to the Children's Society about it.

We have a very difficult balance to strike here. We discussed this issue—and will be discussing it shortly—in connection with the coercive control offence when we debated the Serious Crime Bill last year. The difficulties we have—of recognising and ensuring that we respect the rights of somebody who is legally able to leave home and legally able to engage in sexual intercourse, while recognising their need for protection and their vulnerabilities—are considerable, and there is a very fine line. The fact is that there are many 21 and 22-year-olds who are incredibly vulnerable people. It is about the nuance and where we draw the line on these matters.

Lyn Brown: I appreciate that the Minister is doing her best here and I appreciate having the opportunity to talk about this issue, but my colleague on the team—my hon. Friend the Member for Rotherham (Sarah Champion)—who is not here today is probably the better person to talk to about it. However, I just say to the Minister that the children who have been in and out of care are so vulnerable. They are desperate for love, affection and to be able to put down roots. They are so vulnerable. We really should be able to find a way through the difficulties with the law with regard to 16 and 17-year-olds to provide protection for this small number of very vulnerable young people.

Karen Bradley: I understand the hon. Lady's point. I am working closely with my colleagues in the Department for Education to ensure that children in care have special treatment. To be clear, children in care do get different treatment from those who are otherwise vulnerable.

I will give an example, which I raised with the Children's Society when it gave evidence, of where that could create problems. In an honour-based violence situation, a young person may have chosen to leave home because they fear what might happen to them there. I have heard horrendous examples of 16 and 17-year-old girls who left home and were forced to go back to their parents because they were vulnerable and that was the best place for them. In some cases, that led to the most horrendous outcomes. We have to be very careful and mindful of the fact that we confer rights on 16 and 17-year-olds over and above the rights that are conferred on 14 and 15-year-olds.

I appreciate fully the hon. Lady's point about ensuring that children in care have special protections and, as I say, I am working closely with the Department for Education to ensure that we deal with that. I hope that she will recognise that the Government have legislated to introduce new civil orders, sexual risk orders, and slavery and trafficking risk orders, which provide the police with powers to tackle predators of 16 and 17-year-olds. We need to use those orders and civil powers, not make a blanket decision at this stage without having thought very carefully about the consequences.

That is why I would appreciate having a discussion. I understand that the hon. Lady referred to the hon. Member for Rotherham. I would be happy to meet them both to discuss this issue further, but we need to be careful. Before making a blanket decision on a matter such as this, we need to think about all the risks and consequences for all young people, on whom, as I say, at 16 and 17 we confer rights of adulthood in many ways. We need to respect those rights. For that reason, although the hon. Member for Dwyfor Meirionnydd said that she would not press the new clause to a Division, I would be happy to discuss this issue further.

Liz Saville Roberts: I thank the Minister for her full response and I appreciate that she is endeavouring to address this issue. I am particularly concerned that, as we are very much aware, vulnerable 16 and 17-year-olds can be targeted and are more open to abuse because they have reached an age at which some people perceive that it is legal to act so. The 1984 Act gives some precedent for us to look at those groups of people. If three categories of young people are already defined in that Act, are there other categories that we could look at pushing ahead with? However, I appreciate what the Minister said about being cautious about taking a blanket approach and I would very much like to take her up on her offer to meet her and the hon. Member for Rotherham. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 44

CONTROLLING AND COERCIVE BEHAVIOUR IN NON INTIMATE OR FAMILY RELATIONSHIPS IN RELATION TO A CHILD AGED 16 AND 17

'(1) Section 76 of the Serious Crime Act is amended as follows.

(2) After Section 76, insert—

"76a Controlling and coercive behaviour in non intimate or family relationships in relation to a child aged 16 and 17

(1) A person (A) commits an offence if—

(a) A repeatedly or continuously engages in behaviour towards a child (B) aged 16 or 17 that is controlling or coercive,

(b) at the time of the behaviour A and B are not in an intimate or family relationship which each other,

(c) the behaviour has a serious effect on B, and

(d) A knows or ought to know that the behaviour will have a serious effect on B.

(2) A's behaviour has a 'serious effect' on B if—

(a) it causes B to fear, on at least two occasions, that violence will be used against B, or

(b) it causes B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities, or

(c) it inhibits B's ability to withhold consent to activities proposed by A through A supplying B with drugs or alcohol.

(3) In this section the 'non intimate or family relationships' are relationship other than those defined in Section 76.

(4) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;

(b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both."'—*(Carolyn Harris.)*

This new clause would make controlling and coercive behaviour towards a 16 or 17 year old a criminal offence.

Brought up, and read the First time.

Carolyn Harris (Swansea East) (Lab): I beg to move, That the clause be read a Second time.

It is a pleasure to serve under your chairmanship, Mr Howarth. I congratulate the hon. Member for Dwyfor Meirionnydd—I can say it—on the excellent way in which she presented her arguments on the measures tabled in both her name and mine. I support everything that she said.

New clause 44 would make controlling and coercive behaviour towards 16 and 17-year-olds a criminal offence. I cannot accept the argument that 16 and 17-year-olds are that capable of knowing their own minds; there seems to be a contradiction if they are capable of making decisions about their sexual behaviour but are not permitted to vote. That aside, this behaviour—child sexual exploitation—is happening every day in our constituencies and communities and in the homes of many young people. That behaviour takes many forms, and it is our job to ensure that the law is able to address them all.

Through the Serious Crime Act 2015, the Government introduced a new offence of coercive and controlling behaviour. That rightly seeks to prevent vulnerable individuals in intimate and family relationships from suffering abuse. It recognises that domestic abuse is wrong and illegal, and that individuals do not need to prove specific instances of sexual or physical violence. The 2015 Act focuses on habitual arrangements, but there are parallels to be drawn in other contexts. In the case of child sexual exploitation, police often struggle to prove specific instances of sexual or physical violence. Supplementary documents to the Government's guidance, "Working Together to Safeguard Children", acknowledged that

"Violence, coercion and intimidation are common, involvement in exploitative relationships being characterised in the main by the child or young person's limited availability of choice resulting from their social/economic and/or emotional vulnerability."

However, the current offence of child sexual exploitation is much more narrowly defined in legislation. It mentions power and coercion, but it must go further. In particular, we must recognise the role of drugs and alcohol in coercing a child into sexual activity in a private residence. Will the Minister commit to reviewing the offence in the 2015 Act, and will she consider what more can be done to ensure that those who are grooming children using drugs and alcohol receive appropriate sentences?

Lyn Brown: I speak in support of my hon. Friend the Member for Swansea East. As the Minister rightly said, children aged 16 and 17 are over the age of consent, but there is no doubt that they can still be victims of child sexual exploitation. Often without financial means and the life experience necessary for complete independence, children can be manipulated and pressured into complying with the wishes of those who have power over them. They may find themselves in a situation where they are frightened of saying no to someone, or stressed that if they say no they will lose the financial support and assistance that that person provides them with. However, under current legislation, it is very difficult for the police to prosecute in those situations, as they are required to prove specific instances of sexual or physical violence. The new clause would make it easier to protect that vulnerable group of people from grooming and sexual exploitation.

The Serious Crime Act 2015 introduced a new offence of coercive and controlling behaviour in the home and I welcomed that move, as it rightly seeks to protect those individuals in intimate and family relationships who suffer the agony of domestic abuse. It recognises that domestic abuse is wrong and illegal, and for the first time it established that individuals do not need to prove specific instances of sexual or physical violence in order to demonstrate they have been the victim of the crime of domestic abuse. A partner who manipulates, bullies and emotionally torments is an abuser and the law finally recognises that.

The new clause would extend the provisions on manipulative and controlling behaviour to protect 16 and 17-year-olds in non-habitual arrangements with their abuser. It would make any behaviour that has a serious effect on a child, such as increasing their levels of stress or creating the fear of violence, controlling and coercive. It would, for example, have applied to the girls in Rotherham who were described by the Jay report as fearing the violent tendencies of their abusers, even if the men had not directly and physically attacked them. I would be grateful if the Minister would seriously consider the new clause.

Jake Berry: I want to speak briefly to the new clause to say that I hope the Minister will listen to the arguments being made. It is a hugely important issue. I pay tribute to the work that she has done on violent and coercive behaviour.

This is not an issue that I was particularly aware of, though I was aware that the Government had taken action. If anyone is a fan of "The Archers", they will have heard, I am sure, the sensitive and good way that the issue is being covered in a relationship on that programme, which has made huge steps in raising awareness. I have been deeply shocked by this form of abuse, to the point of being unable to listen to a programme that I have listened to for the last 15 years.

I am extremely proud of the Minister and our own Government for all that we have done so far, but I hope that she will listen to Opposition voices and perhaps take this away to review. Protecting 16 and 17-year-olds, in the way that we have already done, is something that we should investigate, even if just for the future.

4.15 pm

Karen Bradley: We had this debate when we introduced the coercive control offence in the Serious Crime Bill in 2015. It goes back to the points that we discussed during debate on previous clauses about the need to

[Karen Bradley]

respect individuals' right at 16 or 17 to leave home, marry legally and make decisions, and how best to respect that in law. I am a great believer in legislating where there is a true gap in the law—where new legislation is needed because at the moment prosecution cannot be brought.

On the offence of coercive control, my hon. Friend the Member for Rossendale and Darwen mentioned "The Archers". He may well have spotted me on "Countryfile" on Sunday night, discussing exactly that point. It was very difficult; we knew that there was a problem. When I was talking about the issue at a meeting recently, I met a lady who grabbed me afterwards with tears in her eyes—a well-to-do lady, somebody whom one would perhaps not expect it to have happened to—and said, "That was me 30 years ago. All the police told me was that they had to hope he kicked my door in, because then they could get him for criminal damage." There was no offence available that the police could use.

That is the point. Is there an offence available, and is it possible to get a prosecution? The answer goes back to the point that we were discussing earlier about digital offences. Where an offence exists, it is not a case of re-legislating or creating new offences; we should ensure that the offence is used. It will be understood by the courts and the legal system, and we need to ensure that the police understand it and use it appropriately. However, where there is no offence and protection cannot be offered, the Government want to take note and listen. I fear that on this issue, there are offences already in place. A suite of powers are available to the police and others. Therefore, although I am happy to discuss the point, I am not persuaded that at this stage, the amendment is the right approach.

The new coercive control offence, which we commenced on 29 December last year, was introduced to address a specific gap in the law and capture patterns of abuse in an intimate partner relationship. Patterns of abuse outside an intimate partner relationship, which the new clause seeks to address, are already captured by harassment, the test for which is partially replicated in the proposal, and stalking offences, which can apply to patterns of abuse directed against 16 and 17-year-olds.

One question that we faced when considering the coercive control offence was how to get evidence. Much of what the hon. Member for Swansea East and the shadow Minister discussed involves gathering evidence. We have seen from stalking offences that it is perfectly possible for the police to gather evidence of persistent or repetitive behaviour to ensure prosecutions, which is what we all want.

The hon. Member for Swansea East mentioned child sexual exploitation. I hope that she has seen that we have recently consulted on the definition of child sexual exploitation, making it clear that the term applies to children under 18 and thus includes 16 and 17-year-olds. As I said, stalking and harassment also apply to 16 and 17-year-olds. The new domestic abuse offence enacted in the Serious Crime Act 2015 means that 16 or 17-year-olds in intimate partner relationships who are coerced or controlled are covered by the new criminal law. Equally, if a 16 or 17-year-old is living with a parent or other family member who seeks to control them in a way that causes them to fear violence or feel alarmed or distressed, the domestic abuse offence offers protection. For the sake of completeness, I should say that if a young person does not live with the family member or parent concerned, existing harassment legislation will offer the same protection.

The hon. Lady discussed gangs and the approaches that they might take in terms of drug trafficking and so on. That is precisely the reason why the Government's new ending gang violence and exploitation programme, which has replaced our ending gang and youth violence programme, is there.

The point that the hon. Lady makes about vulnerable young people being exploited by gangs, under what is known as the county line phenomenon, is something that we are determined to tackle, but it is possible to tackle it using existing legislation and offences; it does not require a new offence. For example, the Policing and Crime Act 2009 introduced a new civil tool that allows the police or a local authority to apply for an injunction against an individual to prevent gang-related violence and, from 1 June 2015, gang-related drug dealing, which we discussed during the passage of the Serious Crime Act last year.

A wide range of powers are available. I would be very happy to sit down and thrash out whether there really is a gap in the law, or whether it is merely that the existing powers are not being properly used; we need to be clear on that. I hope at this stage that the hon. Lady will withdraw her new clause.

Carolyn Harris: We believe that there is still a gap in the existing harassment legislation that is not covered, as was recently proven in Rotherham. I thank the hon. Lady for her comments and I am delighted that she has offered further conversation on this important matter. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 45

PREVENTION OF CHILD SEXUAL EXPLOITATION AND PRIVATE HIRE VEHICLES

"(1) The Local Government (Miscellaneous Provisions) Act 1976 is amended as follows—

(a) after section 47(1) insert—

"(1A) A district council must carry out its functions under this section with a view to preventing child sexual exploitation".

(b) at end of section 48 (1) insert—

"(c) a district council must carry out its functions under this section with a view to preventing child sexual exploitation".

(2) Section 7 of the London Cab Order 1934 is amended as follows—

(a) after Section 7(2) insert—

"(2A) Transport for London must carry out its functions under this section with a view to preventing child sexual exploitation".

(3) Section 7 of the Private Hire Vehicles (London) Act 1998 is amended as follows—

(a) after Section 7(2) insert—

"(3) The licensing authority must carry out its functions under this section with a view to preventing child sexual exploitation".—*(Carolyn Harris.)*

This new clause would place local authorities under a duty to consider how they can prevent child sexual exploitation when they issue licences for taxis and private hire vehicles.

Brought up, and read the First time.

Carolyn Harris: I beg to move, That the clause be read a Second time.

Licensing authorities have a duty to protect children from harm. Horrific cases that we have seen on television, in connection with Rotherham, have highlighted the need for this amendment, which could bring us a step closer to making our communities safer for our most vulnerable children. We already place duties on authorities that license premises to sell alcohol to carry out functions with a view to protecting children from harm. This amendment would create similar duties for licensing authorities in relation to taxis and minicabs. We know that taxis and private hire vehicles often feature in cases of child sexual exploitation. Indeed, in February of this year, Mohammed Akram was found guilty of sexual activity with a child under the age of 16, which took place in the back of his cab. He was sentenced to five years in prison.

This is not to say that all drivers are inherently likely to be involved in these crimes. The vast majority of drivers are law-abiding citizens but, along with other night-time economy workers, they have a role to play in helping to keep young people safe. Licensing authorities have a role to play in raising awareness so that drivers can spot the signs of harm and know how to intervene. There have been examples of good practice in Oxford, but we should have good practice across the United Kingdom. We need much more consistency.

Barnardo's has been working with a range of night-time economy workers across the country to help improve awareness of children at risk. It is a part of the move towards prevention, which we need to see in this area. Will the Government consider introducing new duties on licensing authorities so that communities can be confident that all taxi and minicab drivers are able to spot the signs of abuse, and can help to keep children safe?

Lyn Brown: As my hon. Friend the Member for Swansea East said, the new clause would place local authorities under a duty to consider child protection when they issue licences for drivers of taxis and private hire vehicles. We support it because we think it could lead to important safeguarding measures.

Taxi drivers do a fantastic job up and down the country. I could not happily live my life without them. More than 242,000 licensed vehicles in England provide transport for millions of people every day. Outside of rural areas, interestingly, there is a high satisfaction level—about 68%—with taxi and private hire services. The review of child exploitation in Oxford made it clear that taxi drivers can and do play a very positive role in tackling grooming and child exploitation. The report noted that taxi drivers had driven young girls to the police station when they were worried that the girls were being sexually exploited, and that they were well regarded across the city because of the role that they had played.

However, we have to recognise that in some of the grooming rings exposed in recent years taxi drivers have not played such a positive role. Taxi drivers have been reported as abusing their position of power when they collect young people. The independent inquiry into child sexual exploitation in Rotherham found:

> "One of the common threads running through child sexual exploitation across England has been the prominent role of taxi drivers in being directly linked to children who were abused".

This is, quite clearly, a problem that needs to be tackled. I believe that my hon. Friend's amendment could pave the way for important safeguarding measures that, frankly, should already be in place. For example, a number of local authorities up and down the country have imposed "conditions of fitness" tests on taxi drivers. These can involve criminal record checks and even live reporting to licensing authorities if a taxi driver commits a criminal offence after they have been granted a licence. Realistically, I do not believe that a licensing authority could carry out its duty to promote the prevention of harm to children, which is what the new clause provides for, without conducting checks on all drivers.

The Department for Transport provides guidelines on how local authorities should assess the criminal records of those who wish to have a licence to drive a private hire vehicle. The guidelines state that authorities

> "should take a particularly cautious view of any offences involving violence, and especially sexual attack."

Those are proportionate and appropriate words. However, because local authorities have discretion to interpret what is meant by a "fit and proper" person to drive a private hire vehicle, not all private hire vehicle drivers outside London are even subject to a criminal record check. We should consider reversing that; I believe that this proposed statutory duty to protect would have precisely that effect.

Other good practice can be considered. In Oxford, taxi drivers have been trained how to respond if they believe that their customers are victims of sexual exploitation. The independent review suggests there is evidence that that training is working. With a statutory duty in place to promote the prevention of child sexual exploitation, we could see such practices replicated across the country. Will the Minister say what measures the Government have put in place to ensure that best practice, like that in Oxford, can be shared across the country?

Karen Bradley: I hope that I am going to cheer everybody up—spoiler alert! I am not going to repeat the arguments made by the hon. Member for Swansea East and the shadow Minister, who have summed up the problem exactly. We have been working closely with the Local Government Association and others to ensure that best practices are spread. I recently enjoyed a taxi ride from Stoke-on-Trent station to my constituency home, in which the taxi driver, without knowing who I was, told me all about the safeguarding training he had been through that day. It was very good to hear him share that knowledge with someone he thought was a complete stranger to it.

We still need to go further. I have been working with the Under-Secretary of State for Transport, my hon. Friend the Member for Harrogate and Knaresborough (Andrew Jones) on the further reforms that are urgently needed on taxi and private hire vehicle licensing arrangements.

[Karen Bradley]

Although I absolutely agree with the spirit of the new clause, I suspect—the hon. Member for Swansea East may be shocked to hear this—that more will be required, with respect both to strengthening the Bill's provisions and to making additional amendments to relevant legislation. I assure her that I am committed to delivering this change; we want to ensure, working with colleagues at the Department of Transport, that those exercising licensing functions have access to the powers and are subject to the appropriate duties that best ensure that our licensing arrangements provide the strongest possible protections. Once we have determined the best way forward, we will carefully consider what legislative vehicle is most appropriate to make any necessary changes. I cannot promise that that will be in this Bill, but it may be. With that assurance, I hope that the hon. Lady will be content to withdraw her new clause.

Carolyn Harris: I am happy to withdraw it. In the words of my hon. Friend the Member for West Ham, "You've made my day". Thank you very much.

The Chair: I think those were originally the words of Clint Eastwood.

Carolyn Harris: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 46

CHILD SEXUAL EXPLOITATION: ASSESSMENT OF NEEDS FOR THERAPEUTIC SUPPORT

'(1) Where police or a local authority have received a disclosure that a child who has been sexually exploited or subject to other forms of child abuse, police or the local authority must make a referral to a named mental health service.

(2) The named mental health service must make necessary arrangements for the child's treatment or care.

(3) The Secretary of State must by regulations—

(a) define "named mental health service" for the purpose of this section;

(b) specify a minimum level of "necessary arrangements" for the purpose of the section."

This new clause enables the Future in Mind report's recommendation that those young people who have been sexually abused or exploited should receive a comprehensive initial assessment, and referral to appropriate services providing evidence-based interventions according to their need.—(Mr Kevan Jones.)

Brought up, and read the First time.

Mr Kevan Jones: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 47— *Child sexual exploitation: duty to share information—*

"The local policing body that maintains a police force shall have a duty to disclose information about children who are victims of sexual exploitation or other forms of abuse to relevant child mental health service commissioners in England and Wales."

See the explanatory statement for NC46.

4.30 pm

Mr Jones: The new clauses are probing. This afternoon we have talked about some of the issues surrounding child exploitation. This is about the support that should be given to the victims of child exploitation. The NSPCC and the Children's Society have been campaigning very hard to ensure that victims of sexual and physical abuse have access, as a matter of course, to therapeutic services. It is true that these things are costly—we talked about that this morning—but in my experience of talking to organisations that deal with such cases, proper, early intervention, especially with young victims, can save money in the long term, by preventing greater trauma many years later.

New clause 46 says that where police or others receive a disclosure that a child has been sexually exploited or subjected to other forms of child abuse, they should refer them to mental health services. It comes back to the question we asked this morning about whether reference to mental health services is a police function. Yes, it is, in terms of investigating the crime that was committed, but how do we then put the holistic bubble around the victim and support them? We need to ensure that the perpetrator of the abuse is taken to court and dealt with, while making sure that the individual gets the emotional and mental health support that they need. Is that naturally a police issue? Directly, no, it is not, but as the Minister said this morning, it is about how we create a link-up between the police service, the health service and other support services.

I accept that some of the services will be provided not by statutory services but by the voluntary sector. A great organisation in my constituency called the Just for Women Centre works with women who have been victims of domestic violence or abuse. It was very interesting listening to the debate this afternoon about victims coming forward. The spike in Durham has come out of the Savile revelations, but it is not about well-known individuals; the issue in that local group is the number of people who have come forward to report family members who abused them over many years.

There has been huge concentration, nationally, on the more high-profile figures, but in local areas a lot of victims who have never come forward before have now done so and are in need of a huge amount of emotional support. This provision refers to children, but without the support given to many of the women at the Just for Women Centre in Stanley in my constituency, early abuse would have led to other problems. Talking to those individuals, we hear that their problems throughout life stem from the fact that they were abused as youngsters. I commend Durham police for their proactive approach to investigating such cases and ensuring that victims get the proper emotional support.

New clause 47 is about information sharing. It says that local policing bodies shall maintain a duty to disclose information about a child who has been a victim of sexual exploitation to the relevant mental health services. I can hear minds crunching among the civil servants in the room, saying that there are obviously problems about sharing information and so on. I accept that, but if we are to ensure that those young people do not fall through the cracks between our statutory services, some method of getting that information to the services that count needs to be put in place.

I accept that ultimately, victims cannot be forced to accept help, but it must be on offer for them. Many of the women whom I have met who have been supported by the Just for Women Centre in my constituency had years of anguish and torment, the root cause of which was not getting help and assistance when they were young. If we can put in place a system that prevents that for future generations, that early intervention could prevent a lifetime of mental health issues, relationship problems and other things. As I said, these are probing amendments to explore how we can put in place practical support for victims of sexual and physical child abuse.

Lyn Brown: New clauses 46 and 47 act on a recommendation made in a joint report by NHS England and the Department of Health in 2013 called "Future in mind", which argued that we need to ensure that those who have been sexually abused and/or exploited receive a comprehensive assessment and referral to the services that they need, including specialist mental health services.

In 2014, the NSPCC produced a summary of the academic literature on the relationship between childhood sexual abuse and victims' later mental health. In each instance, the NSPCC offered a conservative estimate of the known impact of one on the other. Despite that effort not to sensationalise, the numbers are truly shocking. Children who are victims of sexual abuse are twice as likely to suffer from depression as those who are not victims. They are three times as likely to attempt suicide, to self-harm or to suffer from post-traumatic stress disorder at some point in their lifetime and twice as likely to become dependent on alcohol, meaning that their physical health as well as their mental health is endangered.

All the evidence shows that the trauma and emotional confusion that follows childhood sexual abuse leaves victims more likely to suffer from poor mental health. We should, as a matter of course, do all we can to prevent that from happening, or at least to ensure that those mental health issues are made easier for victims to manage. That involves high-quality and appropriate mental health treatment and professional emotional counselling. There is evidence, for example, that abuse-specific therapeutic interventions relieve depressive symptoms among victims.

New clause 46 would require police or local authorities to make a referral whenever they receive a disclosure that a child has been the victim of sexual or other abuse. They would have to make a referral even if they do not believe there is enough evidence or grounds to take further legal action. That is important, because the burden of proof necessary for law enforcement to use its full array of powers is obviously higher than the level of suspicion needed for our full safeguarding and health measures to be utilised.

The NSPCC has found that delays between children suffering from traumatic events and receiving treatment lead to exacerbated mental health issues and we know that victims of sexual abuse have often had difficulty in being believed by the professionals charged with their care and protection. Duties to refer are not new to our legal system when dealing with safeguarding measures. For example, some employers must refer an individual to disclosure and barring services whenever an allegation of a sexual or abusive nature is made. The provisions in the new clause would not charge local authorities or the police to carry out the task of diagnosis, which they are not trained to do. It would be a precautionary measure that applied to all those about whom they receive a disclosure, not just those they believe to be suffering from a mental or emotional health issue. It is a sensible proposal, in keeping with established safeguarding practice and the assignment of appropriate professional duties.

The proposals are also well thought out. New clause 47 would put a duty on the police to share information with the relevant mental health service commissioner in their area. I believe that that new clause would work with new clause 46 to create a culture of collaboration between law enforcement, health agencies and local government, which is needed if the victims of child sexual exploitation are to be given the care and support that they need.

Karen Bradley: I thank the hon. Member for North Durham for again raising a very important issue. He is absolutely right. We must make sure that vulnerable or traumatised children must never fall through the gaps between services. I would appreciate it if, when we meet, we could discuss the way that that might best be addressed, because I am not convinced that the best way is a mandatory way. For example, some young people who are abused or exploited do not develop mental health problems and I have a nervousness about intervening unnecessarily, which could create unintended harms. We need to make sure that we intervene where we need to and that each child is treated as an individual and has the care that they need; I do not think that it should be mandated.

Mr Kevan Jones: I take the Minister's point. We cannot force anyone to have treatment, but the offer of some support for individuals would make a real difference.

Karen Bradley: I would really appreciate talking this matter through outside the Committee, and I would like the shadow Minister to attend that meeting as well. There is work being done. The shadow Minister mentioned the "Future in mind" report, which the Department of Health is working on to ensure that an emerging workforce strategy is put in place. Perhaps we can discuss that privately.

The hon. Member for North Durham referred to civil servants getting slightly scared about the idea that personal data should automatically be disclosed to third parties. I appreciate the good intentions, but I do think that that is a dangerous road to be travelling down. We need to have a conversation about how best to manage that.

It is right that we need to make sure that children get support. I have talked about the children I have met who have experienced abuse. They need the right support. At what point do they go into recovery? At what point can they lead a functioning life? It is clear from the work we are doing through the troubled families programme that in the families who have gone through the programme, there are multiple problems—mental health, abuse, domestic abuse and other problems. We need to tackle all of those. I know these are probing amendments and I hope that the hon. Gentleman will allow us to discuss them at length outside this room.

Mr Kevan Jones: I thank the Minister for her reply. Discussing these issues is worth while. I know there is an onus on things somehow being about cash, especially in a time of austerity, but I have to say that, if properly implemented, the new clause would save money in the long term as well as help individuals. Nevertheless, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 51

SUSPENSION OF LICENCES

"(1) Licensing Act 2003 is amended as follows—

(2) After section 171 insert—

"171A Suspension of Licences

(1) A licensing authority may suspend a premises licence, or a club premises certificate if the holder of the licence or certificate has failed to pay the non-domestic rates due, from one or more previous financial years, to the licensing authority in respect of the premises for which the licence or certificate relates.

(2) A licensing authority may not suspend a premises licence or a club premises certificate using the powers granted by this section if—

(a) the licensing authority is unable to demonstrate that earlier efforts to secure payment of the debt have been made but have failed, or

(b) either—

(i) the licence holder failed to pay the required amount of non-domestic rates at the time it became due because of an administrative error (whether made by the holder, the authority or anyone else), or

(ii) before or at the time the non-domestic rates became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the rates.

(3) If a licensing authority suspends a premises licence or club premises certificate under subsection (1), the authority must give the holder of the licence or certificate notice of the grounds on which the licence or certificate has been revoked and specify the day the suspension takes effect.

(4) The date specified in the notice under subsection (3) must be at least 10 working days after the day the authority gives the notice.

(5) The amendments made by this section apply in relation to any outstanding non-domestic rates which are owed to the licensing authority six months after the commencement of this section.""—*(Lyn Brown.)*

This new clause would enable a licensing authority to suspend a premises licence where a business has wilfully or persistently failed to pay the business rates due to the licensing authority.

Brought up, and read the First time.

Lyn Brown: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss:

New clause 52—*Cap on Licensed Premises*—

"(1) Amend the 2003 Licensing Act as follows.

(2) At the end of subsection 3 of section 18 insert—

"(c) have regard to the cumulative impact of granting the licence application given the number of other licensed establishments in the vicinity of the applicant premise."

This new clause would allow local authorities to reject a licensing application on the grounds that there are already too many licensed premises.

New clause 53—*Public health licensing objective*—

"(1) The Licensing Act 2003 is amended as follows.

(2) After section 4(d) insert—

"(e) promoting public health.""

This new clause would make promoting public health a statutory objective for licensing authorities.

4.45 pm

Lyn Brown: These new clauses have all been tabled to help local authorities to carry out their alcohol licensing function.

New clause 51 would enable a licensing authority to suspend a premises licence where a business had wilfully or persistently failed to pay the business rates due. It has been tabled with the support of the Local Government Association. New clause 52 would allow local authorities to reject a licensing application if they felt there were already enough licensed premises in a particular area. New clause 53 would make promoting public health a statutory objective for licensing authorities.

New clause 51 has been tabled because, as the law stands, local authorities must issue licences to businesses even when they may owe debts running into tens of thousands of pounds. I am told by the LGA that that has become a problem in some localities, such as West Sussex, where local authorities are struggling to collect the business rates to which they are entitled. The new clause would end the problem by allowing local authorities to suspend the licence of an establishment that has persistently failed to pay its business rates. The hope is that the power would rarely be used, as premises would change their behaviour as they would no longer have reason to see their local authority as a soft creditor.

The new clause is by no means an attack on drinking establishments. We recognise the role that they play in our communities as social hubs that are an important part of our cultural heritage. The Opposition want to ensure that we keep as many of our well-run drinking establishments open as possible. We understand that the proposal could be seen as a threat to that, which is why it contains a power for a local authority to revoke a licence that would apply only if it was able to demonstrate first that earlier efforts to secure payment of the debt had been made but failed. That safeguard is included to ensure that the power is used only as a last resort.

Furthermore, the power to revoke a licence would not apply if the business failed to make the payment because of an administrative error on the part of the holder, the authority or anybody else—for example, the business's bank. Taken together, those safeguards would ensure that the power to revoke licences was used only as a very last resort and would protect well-run local pubs from accidentally having their licence removed because of an administrative error.

The Local Government Association predicts that the safeguards, alongside the Government's extension of small business rate relief, would mean that we would not see important community pubs closing as a result of the new power. However, the power would enable local authorities to ensure that they do not lose out on important revenue to which they are entitled and on which many of our basic services rely.

New clause 52 would allow local authorities to reject a licensing application if they felt they were saturated with licensed premises in a particular area. The Licensing Act 2003 allows local authorities to reject licensing

applications only in a limited and defined set of situations: either where the premises has not demonstrated that it will meet statutory licensing objectives, or where door or cover supervision is not provided for.

Home Office guidance suggests that a local authority can refuse a licence based on

"the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area."

However, a local authority can do so only if it demonstrates in its licensing statement that the number of licensed premises in its area has already had a negative cumulative impact on its licensing objectives. That is called a cumulative impact policy and means that local authorities have to wait until they can demonstrate a negative impact on the prevention of crime and disorder, public safety, the prevention of public nuisance or the protection of children from harm. That leaves local authorities powerless to act until after the fact, and I just do not think that that is right. I believe that the licensing objectives are incredibly important and I want to give local authorities the power to be proactive to ensure that they are upheld.

For instance, a small town with two large nightclubs could not reject an application for a licence from a third nightclub even if the local authority believed that it would not be appropriate for the town to have yet another nightclub. It is of course important to consider the individual characteristics of the premises concerned, but it is also important to consider the individual characteristics of our towns and cities, which many residents want to see conserved. In effect, local authorities have no power to control the number of licensed premises in any given locality until they can demonstrate that it is having an adverse impact on one of their licensing objectives, by which point it would be rather late.

New clause 52 would allow a local authority to reject a licensing application based on the belief that an area is already saturated with drinking establishments. It would give local authorities a sure footing and a legal foundation to allow them to be proactive in ensuring that their licensing objectives are met, and more power over how their towns and cities look and operate.

New clause 53 would make promoting public health a statutory objective for licensing authorities. I do recognise—honest—the important place that pubs, clubs, bars and restaurants play in our society. Drinking is a social activity, and drinking establishments are essentially social places where people go for conversation, relaxation and pleasure. I understand that in our busy and stressful lives, the socially integrative, egalitarian environments in our favourite locals can be the perfect way to switch off and unwind. For me, a decent beer, a good meal, an engaging book and the company of my four-legged friend is a great joy and a perfect way to spend a weekend afternoon or an evening. I also acknowledge that that can provide significant public health benefits—it certainly does for me—but we must not lose sight of the significant impact that drinking can have on public health.

It is well known that there is a causal relationship between alcohol consumption and a range of health problems, including alcohol dependency, liver diseases, some cancers and cardiovascular diseases. Furthermore, it can lead to unsafe behaviour and thus the spread of sexually transmitted diseases. The World Health Organisation estimates that 5.1% of the global disease burden is due to harmful use of alcohol. New clauses 52 and 53 would enable local authorities to reject licensing applications on the basis that the number of premises in an area was having a negative impact on public health. We cannot ask local authorities to be responsible for public health and then not give them the powers that they say they need to have an impact upon it.

I understand that implementing public health as a licensing objective in Scotland has proved to be somewhat difficult; however, that should not deter us from at least considering it. Alcohol clearly has a major impact on public health, so local authorities should be enabled to consider that impact when undertaking their licensing function. I believe that we have to find a way of successfully implementing what was attempted in Scotland. Local practitioners certainly think so; a recent Local Government Association survey of directors of public health found that nine out of 10 were in favour of adding a public health objective to the Licensing Act 2003, saying that it would help them do their jobs more effectively. Our amendment has the support of the Local Government Association.

Karen Bradley: I thank the shadow Minister for her comments. I too have read the very informative LGA briefing. I ought to declare an interest in that I am not just an avid—and regular—user of licensed premises. I grew up in a licensed premises, and my brother still has a licence and runs the family pub, which has been in the family since 1967. I think we probably have some experience of these things. Perhaps I could deal with the new clauses in the order that I am attracted to them.

I will start with new clause 51. The four licensing objectives that local authorities have are the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm. It is very important that we stick to those when we come to look at the new clause. The hon. Lady will know that there is a provision in the 2003 Act for the licensing authority to suspend a premises licence or club premises certificate if the premises has failed to pay the annual fee. That power is directly linked to the local authority's need to obtain a fee from premises in order to carry out its functions. If it is not paid it undermines licensing authorities' ability to operate fully, and it is therefore right that they should have the corresponding power to suspend the licence and thus the legal operation of such premises.

Business rates are a different matter. They must be paid by not just licensed premises but all businesses. There are already enforcement remedies available to local councils for the non-payment of those rates. I am not sure that linking the payment of business rates to the right to hold a licence to sell alcohol is necessarily an appropriate route to take. I am therefore afraid that I cannot commend new clause 51 to the Committee.

New clause 53 seeks to introduce a health-based licensing objective. I want to assure the hon. Lady that the Government have sympathy for the view that considerations of public health should play a greater role in licensing, and we remain interested in the possibility of introducing a health-related licensing objective. However, this is neither the right time nor the legislative vehicle to do so. It may superficially seem straightforward, but licensing decisions must be proportionate and made on a case-by-case basis. To try to establish direct causal

[Karen Bradley]

links between alcohol-related health harms and particular premises would be very difficult. Without the necessary processes and supporting evidence in place, licensing decisions based on health grounds would be unlikely to stand up to legal challenge.

Lyn Brown: I have an awful lot of sympathy with what the hon. Lady says, especially about this not being the right legislative vehicle. It was an opportunity for us to test the waters.

We did not envisage this new clause being about the health risk of a particular pub, premises or bar, but about the amount in a particular area, or possibly the type of risks in a particular area. Effectively, the new clause would allow local authorities to take that into consideration when making decisions on licences.

Karen Bradley: I understand the hon. Lady's point. I should make the point that the public health requirement, in the case of two-tier authorities, is on the county council, as it is in my case, but the district council deals with licensing. Licensing decisions are taken on a case-by-case basis, so we would be asking a district or borough council to take a licensing decision on an individual premises on the basis of a public health implication that may or may not be properly founded. I want to assure the hon. Lady that Public Health England is looking at the lessons learned from the evidence-based work that was done in 2014-15. A consultation process would need to follow, but it is looking carefully at that point.

New clause 52 covers the cumulative impact. The hon. Lady linked new clauses 52 and 53, but I do not think we need to do that. I hope that she has read avidly the Government's modern crime prevention strategy, which was published just last month, because in that we made a commitment to put cumulative impact policies on a statutory footing.

5 pm

Mr Kevan Jones: It is my understanding that if a local authority draws up a local policy, it can use cumulative impact to refuse further licences in an area.

Karen Bradley: The hon. Gentleman is absolutely right. There are already more than 200 cumulative impact policies in England and Wales and they allow local authorities to control the number or type of licence applications granted in an area where it can be shown that high numbers or densities of licensed premises are having an adverse impact on the licensing objectives. They can also put a levy on such premises. However, the cumulative impact policies currently have no statutory basis and it is unclear whether all local authorities are making best use of the power. That is why we intend to place them on a statutory footing both to maximise their effectiveness and to improve local authorities' ability to ensure that the right premises for their area are granted licences to sell alcohol and late-night refreshment.

Mr Kevan Jones: I am a bit of an anorak on the Licensing Act 2003 from when we were in power. The Minister makes an important point about putting cumulative impact on a statutory footing. One thing that confuses the public is that while the ability to reduce licences or take action is there—the onus is on the local authority—in many cases they do not use the powers they have got.

Karen Bradley: The hon. Gentleman is absolutely right that local authorities do not necessarily use the powers available to them and this measure will ensure that they understand those powers and use them. I hope that he and the hon. Member for West Ham understand that the change requires proper consultation with those affected. We need to consult the licence trade, the alcohol industry and local authorities. Therefore—I hope that the hon. Lady will forgive me—we need a little time to undertake such consultations. We will do them as quickly as possible. I cannot promise that they will have been completed in time for Report, but suffice it to say that we support the objectives behind new clause 52 and will seek to bring forward proposals of our own as quickly as possible.

Lyn Brown: The Minister has obviously delighted me. I therefore beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Schedule 1

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

"1 The Ministry of Defence Police Act 1987 is amended as follows.

2 (1) Section 3A (regulations relating to disciplinary matters) is amended as follows.

(2) After subsection (1A) insert—

"(1B) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (1A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

(a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of the chief constable of the Ministry of Defence Police, the Ministry of Defence Police Committee, the Independent Police Complaints Commission, the Police Investigations and Review Commissioner or the Police Ombudsman for Northern Ireland,

(b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of the Ministry of Defence Police, and

(c) either—

(i) 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 paragraph (a), or

(ii) 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 paragraph (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 paragraph (a) does not exceed the period specified in the regulations.

(1C) Regulations made by virtue of subsection (1B) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they are commenced within the period specified in the regulations, which must begin with the date when the person ceased to be a member of the Ministry of Defence Police."

(3) In subsection (2), for "The regulations" substitute "Regulations under this section".

3 In section 4 (representation etc at disciplinary proceedings), in subsection (4)—

(a) in the definition of "the officer concerned", after "member" insert "or, as the case may be, the former member";

(b) in the definition of "relevant authority"—

(i) after paragraph (a) insert—

(ii) after paragraph (b) insert—

4 In section 4A (appeals against dismissal etc), in subsection (1)(a), after "member" insert ", or former member,".

5 Regulations made in pursuance of section 3A(1B) of the Ministry of Defence Police Act 1987 (as inserted by paragraph 2)—

(a) may not make provision in relation to a person who ceases to be a member of the Ministry of Defence Police before the coming into force of paragraph 2 of this Schedule;

(b) may make provision in relation to a person who ceases to be a member of the Ministry of Defence Police after the coming into force of paragraph 2 of this Schedule even though the alleged misconduct, inefficiency or ineffectiveness occurred at a time before the coming into force of that paragraph, but only if the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, there could be a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of the Ministry of Defence Police.

Railways and Transport Safety Act 2003 (c. 20)

6 The Railways and Transport Safety Act 2003 is amended as follows.

7 In section 36 (police regulations: general), after subsection (1) insert—

"(1A) To the extent that subsection (1) concerns regulations made in pursuance of section 50(3A) of the Police Act 1996, or matters that could be dealt with by such regulations, the reference in subsection (1) to constables or other persons employed in the service of the Police Force includes former constables and other persons formerly employed in the service of the Police Force."

8 In section 37 (police regulations: special constables), after subsection (1) insert—

"(1ZA) To the extent that subsection (1) concerns regulations made in pursuance of section 51(2B) of the Police Act 1996, or matters that could be dealt with by such regulations, the reference in subsection (1) to special constables of the Police Force includes former special constables of the Police Force."

9 In section 42 (police regulations by Secretary of State), in subsection (3)—

(a) after "50(3)" insert "or (3A)";

(b) after "51(2A)" insert "or (2B)".

10 Regulations made under section 36, 37 or 42 of the Railways and Transport Safety Act 2003 that make provision that applies regulations made in pursuance of section 50(3A) or 51(2B) of the Police Act 1996, or that deals with matters that could be dealt with by such regulations, in relation to former constables, and former special constables, of the British Transport Police Force and other persons formerly employed in the service of the British Transport Police Force—

(a) may not make provision that would not be permitted in relation to former members of a police force and former special constables by section 22(7)(a);

(b) may make provision that would be permitted in relation to former members of a police force and former special constables by section 22(7)(b).

Energy Act 2004 (c. 20)

11 The Energy Act 2004 is amended as follows.

12 In section 58 (government, administration and conditions of service of Civil Nuclear Constabulary), in subsection (1)(a), after "members" insert "or former members".

13 (1) In Schedule 13 (directions by Secretary of State about Civil Nuclear Constabulary), paragraph 3 (government, administration and conditions of service) is amended as follows.

(2) After sub-paragraph (2) insert—

"(2A) To the extent that sub-paragraph (2) concerns provision that may be made in pursuance of section 50(3A) of the Police Act 1996, the reference in sub-paragraph (1) to members of the Constabulary includes former members."

14 Provision made by the Civil Nuclear Police Authority that relates to former members of the Civil Nuclear Constabulary and matters which are the subject of regulations made in pursuance of section 50(3A) of the Police Act 1996—

(a) may not be provision that would not be permitted in relation to former members of a police force and former special constables by section 22(7)(a);

(b) may be provision that would be permitted in relation to former members of a police force and former special constables by 22(7)(b)."—*(Mike Penning.)*

This new Schedule includes amendments relating to the Ministry of Defence Police, the British Transport Police Force and the Civil Nuclear Constabulary which produce an equivalent effect to the amendments at clause 22 of the Bill.

Brought up, read the First and Second time, and added to the Bill.

New Schedule 2

Office for Police Conduct

Part 1

Amendments to Schedule 2 to the Police Reform Act 2002

Introductory

1 Schedule 2 to the Police Reform Act 2002 is amended in accordance with this Part of this Schedule (see also paragraph 54 below for further minor and consequential amendments).

Director General

2 (1) Paragraph 1 (chairman) is amended as follows.

(2) For sub-paragraph (1) substitute—

(1) The Director General holds office in accordance with the terms of his or her appointment.

(1A) A person who holds office as Director General must not be an employee of the Office (but may have been such an employee before appointment as the Director General)."

(3) In sub-paragraph (2) for "chairman of the Commission" substitute "Director General".

(4) In sub-paragraph (3)—

(a) for "chairman of the Commission" substitute "Director General";

(b) for "chairman" substitute "Director General".

(5) In sub-paragraph (4)—

(a) for "chairman of the Commission" substitute "Director General";

(b) for "chairman" substitute "Director General".

(6) In sub-paragraph (5) for "chairman" substitute "Director General".

Appointment etc of members

3 After paragraph 1 insert—

"Appointment of members

1A (1) The non-executive members of the Office are to be appointed by the Secretary of State.

(2) A person who is a non-executive member must not be an employee of the Office (but may have been such an employee before appointment as a non-executive member).

1B (1) The employee members of the Office are to be appointed from the staff of the Office by the non-executive members.

(2) If the non-executive members propose to appoint an employee member, the Director General must recommend a person to the non-executive members for appointment.

(3) The Director General may also recommend a person to the non-executive members for appointment as an employee member without any proposal having been made under sub-paragraph (2).

(4) On a recommendation of a person for appointment under sub-paragraph (2) or (3), the non-executive members may—

(a) appoint the person, or

(b) reject the recommendation.

(5) If the non-executive members reject a recommendation they may require the Director General to recommend another person for appointment (in which case this sub-paragraph applies again and so on until somebody is appointed).”

4 (1) Paragraph 2 (ordinary members of the Commission) is amended as follows.

(2) In sub-paragraph (1) for “an ordinary” substitute “a non-executive”.

(3) Omit sub-paragraph (2).

(4) In sub-paragraph (3) for “an ordinary” substitute “a non-executive”.

(5) In sub-paragraph (4)—

(a) for “an ordinary”, in both places, substitute “a non-executive”;

(b) for “five” substitute “three”.

(6) In sub-paragraph (5) for—

(a) for “An ordinary” substitute “A non-executive”;

(b) for “his office as a member of the Commission” substitute “from being a non-executive member of the Office”.

(7) In sub-paragraph (6)—

(a) for “an ordinary” substitute “a non-executive”;

(b) omit paragraph (b).

(8) Omit sub-paragraph (8).

5 After paragraph 2 insert—

“Terms of appointment etc: employee members

2A (1) A person holds office as an employee member in accordance with the terms of his or her appointment (subject to the provisions of this Schedule).

(2) Those terms may not include arrangements in relation to remuneration.

(3) An appointment as an employee member may be full-time or part-time.

(4) The appointment of an employee member terminates—

(a) if the terms of the member’s appointment provides for it to expire at the end of a period, at the end of that period, and

(b) in any event, when the member ceases to be an employee of the Office.

(5) An employee member may resign by giving written notice to the non-executive members.

(6) The non-executive members may terminate the appointment of an employee member by giving the member written notice if they are satisfied that any of the grounds mentioned in paragraph 2(6)(a) to (g) apply in relation to the employee member.”

6 Omit paragraph 3 (deputy chairmen) (including the italic heading before that paragraph).

7 Omit paragraph 5 (chief executive) (including the italic heading before that paragraph).

Vacancy or incapacity in office of Director General

8 After paragraph 3 insert—

“Director General: vacancy or incapacity

3A (1) This paragraph applies if—

(a) the office of Director General is vacant, or

(b) it appears to the Office that the ability of the Director General to carry out the Director General’s functions is seriously impaired because of ill health (whether mental or physical).

(2) The Office may, with the agreement of the Secretary of State, authorise an employee of the Office to carry out the functions of the Director General during the vacancy or period of ill health.

(3) A person who falls within section 9(3) may not be authorised under this paragraph to carry out the functions of the Director General.

(4) A person who has been sentenced to a term of imprisonment of three months or more may not, at any time in the five years following the day of sentence, be authorised under this paragraph to carry out the functions of the Director General.

(5) Paragraph 1(6) applies for the purposes of sub-paragraph (4).

(6) Authorisation of a person under this paragraph ceases to have effect—

(a) at the end of the vacancy or period of ill health,

(b) on the Office revoking the authorisation for any reason, or

(c) on the Secretary of State withdrawing agreement to the authorisation for any reason.”

Remuneration arrangements

9 (1) Paragraph 4 (remuneration, pensions etc of members) is amended as follows.

(2) In sub-paragraph (1), for the words from “the chairman” to the end substitute “the Director General as the Secretary of State may determine”.

(3) In sub-paragraph (2)—

(a) in paragraph (a), for “chairman, deputy chairman or member of the Commission” substitute “Director General”;

(b) in the words after paragraph (b) for “Commission” substitute “Office”.

(4) After sub-paragraph (2) insert—

(3) The Secretary of State may make remuneration arrangements in relation to non-executive members of the Office.

(4) Remuneration arrangements under sub-paragraph (3)—

(a) may make provision for a salary, allowances and other benefits but not for a pension, and

(b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.

(5) Amounts payable by virtue of sub-paragraph (4) are to be paid by the Office.”

Staff

10 (1) Paragraph 6 (staff) is amended as follows.

(2) For sub-paragraph (1) substitute—

(1) The Office may appoint staff.”

(3) In sub-paragraph (2) for “Commission”, in both places, substitute “Office”.

(4) In sub-paragraph (3)—

(a) for “Commission” substitute “Office”;

(b) after “staffing” insert “(including arrangements in relation to terms and conditions and management of staff)”;

(c) for “it” substitute “the Director General”.

(5) In sub-paragraph (4)—

(a) for “Commission”, in the first place, substitute “Office”;

(b) for “Commission”, in the second place, substitute “Director General”.

(6) After sub-paragraph (4) insert—

(4A) The powers under this paragraph are exercisable only by the Director General acting on behalf of the Office (subject to the power under paragraph 6A(1)).”

(7) In sub-paragraph (5) for “by the Commission of its” substitute “of the”.

Delegation of functions

11 After paragraph 6 of Schedule 2 insert—

“Delegation of functions

6A (1) The Director General may authorise a person within sub-paragraph (2) to exercise on the Director General’s behalf a function of the Director General.

(2) The persons within this sub-paragraph are—

(a) employee members of the Office;

(b) employees of the Office appointed under paragraph 6;

(c) seconded constables within the meaning of paragraph 8.

(3) The reference in sub-paragraph (1) to a function of the Director General is to any function that the Director General has under this Act or any other enactment.

(4) A person (“A”) who is authorised under sub-paragraph (1) to exercise a function may authorise another person within sub-paragraph (2) to exercise that function (but only so far as permitted to do so by the authorisation given to A).

(5) An authorisation under this paragraph may provide for a function to which it relates to be exercisable—

(a) either to its full extent or to the extent specified in the authorisation;

(b) either generally or in cases, circumstances or areas so specified;

(c) either unconditionally or subject to conditions so specified.

(6) Provision under sub-paragraph (5) may (in particular) include provision for restricted persons not to exercise designated functions.

(7) For the purposes of sub-paragraph (6)—

(a) “designated functions” are any functions of the Director General that are designated by the Director General for the purposes of this paragraph (and such functions may in particular be designated by reference to the position or seniority of members of staff);

(b) “restricted persons” are, subject to any determination made under sub-paragraph (8), persons who fall within section 9(3).

(8) The Director General may, in such circumstances as the Director General considers appropriate, determine that persons are not to be treated as restricted persons so far as relating to the exercise of designated functions (whether generally or in respect of particular functions specified in the determination).

(9) The Director General must publish a statement of policy about how the Director General proposes to exercise the powers conferred by sub-paragraphs (7)(a) and (8).

(10) The statement must in particular draw attention to any restrictions on the carrying out of functions imposed by virtue of their designation under sub-paragraph (7)(a) and explain the reasons for imposing them.

(11) The exercise of the powers conferred by sub-paragraphs (7)(a) and (8) is subject to any regulations under section 23(1) of the kind mentioned in section 23(2)(g) (regulations limiting persons who may be appointed to carry out investigations etc).

(12) An authorisation under this paragraph does not prevent the Director General from exercising the function to which the authorisation relates.

(13) Anything done or omitted to be done by or in relation to a person authorised under this paragraph in, or in connection with, the exercise or purported exercise of the function to which the authorisation relates is to be treated for all purposes as done or omitted to be done by or in relation to the Director General.

(14) Sub-paragraph (13) does not apply for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person.”

Protection from personal liability

12 After paragraph 7 insert—

“Liability for acts of the Director General

7A (1) A person holding office as the Director General has no personal liability for an act or omission done by the person in the exercise of the Director General’s functions unless it is shown to have been done otherwise than in good faith.

(2) The Office is liable in respect of unlawful conduct of the Director General in the carrying out, or purported carrying out, of the Director General’s functions in the same way as an employer is liable in respect of any unlawful conduct of employees in the course of their employment.

(3) Accordingly, the Office is to be treated, in the case of any such unlawful conduct which is a tort, as a joint tortfeasor.”

Regional offices

13 For paragraph 9 (power of Commission to set up regional offices) substitute—

9 (1) The Office may set up regional offices in places in England and Wales.

(2) But the power under sub-paragraph (1) is exercisable only by the Director General acting on behalf of the Office (subject to the power in paragraph 6A(1)).

(3) The power under sub-paragraph (1) may be exercised—

(a) only with the consent of the Secretary of State, and

(b) only if it appears to the Director General necessary to do so for the purpose of ensuring that the functions of the Director General, or those of the Office, are carried out efficiently and effectively.”

Proceedings

14 In paragraph 10 (proceedings), after sub-paragraph (1) insert—

(1A) But the arrangements must include provision for—

(a) the quorum for meetings to be met only if a majority of members present are non-executive members of the Office, and

(b) an audit committee of the Office to be established to perform such monitoring, reviewing and other functions as are appropriate.

(1B) The arrangements must secure that the audit committee consists only of non-executive members of the Office.”

Part 2

Minor and Consequential Amendments to the Police Reform Act 2002

15 The Police Reform Act 2002 is amended in accordance with this Part of this Schedule.

16 For the italic heading before section 9, substitute “The Office for Police Conduct”.

17 (1) Section 10 (general functions of the Commission) is amended as follows.

(2) In subsection (1)(a) omit “itself”.

(3) In subsection (1)(e) for “its” substitute “the Director General’s”.

(4) In subsection (1)(f) for “it” substitute “the Director General”.

(5) In subsection (3) for “it” substitute “the Director General”.

(6) In subsection (3A) (as inserted by this Act), for “it” substitute “the Director General”.

(7) In subsection (3B) (as inserted by this Act), for “it” substitute “the Director General”.

(8) In subsection (4), in paragraph (a)—

(a) for “it”, in both places, substitute “the Director General”;

(b) for “its” substitute “the Director General’s”.

(9) In subsection (6)—

(a) for “it” substitute “the Director General”;

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

(10) In subsection (7)—

(a) for "it", in both places, substitute "the Director General";

(b) for "its", in both places, substitute "the Director General's".

18 (1) Section 11 (reports to the Secretary of State) is amended as follows.

(2) In subsection (1)—

(a) for "its", in the first place it occurs, substitute "the Office's";

(b) for "Commission shall" substitute "Director General and the Office must jointly";

(c) for "its", in the second place it occurs, substitute "their".

(3) For subsection (2) substitute—

(2) The Secretary of State may also require reports to be made (at any time)—

(a) by the Director General about the carrying out of the Director General's functions,

(b) by the Office about the carrying out of the Office's functions, or

(c) jointly by the Director General and the Office about the carrying out of their functions."

(4) After subsection (2) insert—

(2A) The Director General may, from time to time, make such other reports to the Secretary of State as the Director General considers appropriate for drawing the Secretary of State's attention to matters which—

(a) have come to the Director General's notice, and

(b) are matters which the Director General considers should be drawn to the attention of the Secretary of State by reason of their gravity or of other exceptional circumstances."

(5) In subsection (3)—

(a) for "Commission" substitute "Office";

(b) for "Commission's" substitute "Office's".

(6) After subsection (3) insert—

(3A) The Director General and the Office may jointly make reports under subsections (2A) and (3)."

(7) In subsection (4)—

(a) for "Commission" substitute "Director General";

(b) for "it", in both places, substitute "the Director General";

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

(8) In subsection (6) for "Commission" substitute "Office".

(9) After subsection (6) insert—

(6A) The Director General must send a copy of every report under subsection (2A) —

(a) to any local policing body that appears to the Director General to be concerned, and

(b) to the chief officer of police of any police force that appears to the Director General to be concerned."

(10) In subsection (7) for "Commission", in both places, substitute "Office".

(11) In subsection (8)—

(a) after "subsection" insert "(2A) or";

(b) for "Commission" substitute "Director General or the Office (as the case may be)".

(12) In subsection (9)—

(a) after "subsection" insert "(2A) or";

(b) for "Commission" substitute "Director General or the Office (as the case may be)".

(13) In subsection (10) for "Commission" substitute "Director General".

(14) In subsection (11)—

(a) for "Commission", in each place, substitute "Director General";

(b) for "it" substitute "the Director General";

(c) for "(3)" substitute "(2A)".

(15) After subsection (11) insert—

(12) The Office must send a copy of every report made or prepared by it under subsection (3) to such of the persons (in addition to those specified in the preceding subsections) who—

(a) are referred to in the report, or

(b) appear to the Office otherwise to have a particular interest in its contents, as the Office thinks fit.

(13) Where a report under subsection (2A) or (3) is prepared jointly by virtue of subsection (3A), a duty under this section to send a copy of the report to any person is met if either the Director General or the Office sends a copy to that person."

19 In section 12 (complaints, matters and persons to which Part 2 applies), in subsection (6)(a) for "Commission" substitute "Director General".

20 (1) Section 13B (power of the Commission to require re-investigation) (as inserted by this Act) is amended as follows.

(2) For "Commission", in each place (including the heading), substitute "Director General".

(3) In subsection (1)—

(a) for "it", in both places, substitute "the Director General";

(b) in paragraph (b), before "under" insert "(or, in the case of an investigation carried out under paragraph 19 of Schedule 3 by the Director General personally, is otherwise completed by the Director General)".

(4) In subsection (2) for "it" substitute "the Director General".

(5) In subsection (3) for "it" substitute "the Director General".

(6) In subsection (9)—

(a) for "it" substitute "the Director General";

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

(7) In subsection (10)—

(a) for "it" substitute "the Director General";

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

21 (1) Section 15 (general duties of local policing bodies, chief officers and inspectors) is amended as follows.

(2) In subsection (3), in the words after paragraph (c) after "Director General" insert "of the Agency".

(3) In subsection (4)—

(a) for "Commission", in each place, substitute "Director General";

(b) for "Commission's" substitute "Office's".

22 (1) Section 16 (payment for assistance with investigations) is amended as follows.

(2) For "Commission", in each place except as mentioned in sub-paragraph (3), substitute "Director General".

(3) In subsection (4), for "the Commission", in the second place where it occurs, substitute "Office".

(4) In subsection (5)(b), after "Director General" insert "of that Agency".

23 (1) Section 17 (provision of information to the Commission) is amended as follows.

(2) For "Commission", in each place (including the heading), substitute "Director General".

(3) In subsection (2)—

(a) for "it" substitute "the Director General";

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

24 (1) Section 18 (inspections of police premises on behalf of the Commission) is amended as follows.

(2) For "Commission", in each place (including the heading and provisions inserted by amendments made by this Act), substitute "Director General".

(3) In subsection (2)(b), for "its" substitute "the Director General's".

25 (1) Section 19 (use of investigatory powers by or on behalf of the Commission) is amended as follows.

(2) In the heading, for "Commission" substitute "Director General".

(3) In subsection (1), for "Commission's" substitute "Director General's".

26 (1) Section 20 (duty to keep complainant informed) is amended as follows.

(2) For "Commission", in each place (including provisions inserted by amendments made by this Act), substitute "Director General".

(3) In subsection (1)(b) for "its" substitute "the Director General's".

(4) In subsection (3) for "it", where it occurs after "as", substitute "the Director General".

(5) In subsection (8A) (as inserted by this Act)—

(a) for "its" substitute "their";

(b) after "submitted", in the first place it occurs, insert "(or finalised)";

(c) after "submitted", in the second place it occurs, insert "(or completed)".

(6) In subsection (9) for "its" substitute "their".

27 (1) Section 21 (duty to provide information for other persons) is amended as follows.

(2) For "Commission", in each place (including provisions inserted by amendments made by this Act), substitute "Director General".

(3) In subsection (6)(b) for "its" substitute "the Director General's".

(4) In subsection (8) for "it", where it occurs after "as", substitute "the Director General".

(5) In subsection (11A) (as inserted by this Act)—

(a) for "its" substitute "their";

(b) after "submitted", in the first place it occurs, insert "(or finalised)";

(c) after "submitted", in the second place it occurs, insert "(or completed)".

28 In section 21A (restriction on disclosure of sensitive information) (as inserted by this Act), for "Commission", in each place, substitute "Director General".

29 In section 21B (provision of sensitive information to the Commission and certain investigators) (as inserted by this Act), for "Commission", in each place (including the heading), substitute "Director General".

30 (1) Section 22 (power of the Commission to issue guidance) is amended as follows.

(2) For "Commission", in each place (including the heading), substitute "Director General".

(3) In subsection (3)(c) for "it" substitute "the Director General".

31 (1) Section 23 (regulations) is amended as follows.

(2) For "Commission", in each place, substitute "Director General".

(3) In subsection (2)(o) for "it" substitute "the Director General or the Office".

32 In section 24 (consultation on regulations) for paragraph (a) substitute—

"(a) the Office;

(aa) the Director General;".

33 In section 26 (forces maintained otherwise than by local policing bodies), for "Commission", in each place, substitute "Director General".

34 In section 26BA (College of Policing), for "Commission", in both places, substitute "Director General".

35 (1) Section 26C (the National Crime Agency) is amended as follows.

(2) In subsection (1)—

(a) for "Independent Police Complaints Commission" substitute "Director General";

(b) before "and other" insert "of the National Crime Agency".

(3) In subsection (2) for "Independent Police Complaints Commission" substitute "the Office or its Director General".

(4) In subsection (4) for "Independent Police Complaints Commission", in both places, substitute "Director General".

(5) In subsection (5)—

(a) for "Independent Police Complaints Commission" substitute "Director General";

(b) for "Commission's", in both places, substitute "Director General's";

(c) for "Commission" substitute "Director General".

36 (1) Section 26D (labour abuse prevention officers) is amended as follows.

(2) For "Commission", in each place, substitute "Director General".

(3) In subsection (4), for "Commission's", in both places, substitute "Director General's".

37 (1) Section 27 (conduct of the Commission's staff) is amended as follows.

(2) For "Commission's", in each place (including the heading), substitute "Office's".

(3) In subsection (4) for "Commission" substitute "Office and the Director General".

38 Omit section 28 (transitional arrangements in connection with establishing Commission etc).

39 (1) Section 28A (application of Part 2 to old cases) is amended as follows.

(2) For "Commission", in each place other than in subsection (3) of that section, substitute "Director General".

(3) In subsection (1), for "it" substitute "the Director General".

(4) In subsection (4), for "it" substitute "the Director General".

40 (1) Section 29 (interpretation of Part 2) is amended as follows.

(2) In subsection (1)—

(a) omit the definition of "the Commission";

(b) after the definition of "death or serious injury matter" insert—

""the Director General" means (unless otherwise specified) the Director General of the Office;";

(c) after the definition of "local resolution" insert—

""the Office" means the Office for Police Conduct;".

(3) In subsection (6)—

(a) for "Commission" in each place substitute "Director General";

(b) omit "itself".

41 In section 29C (regulations about super-complaints) (as inserted by this Act), in subsection (3) for "Independent Police Complaints Commission", in both places, substitute "Director General".

42 (1) Section 29E (power to investigate concerns raised by whistle-blowers) (as inserted by this Act) is amended as follows

(2) For "Commission", in each place, substitute "Director General".

(3) In subsection (2) for "it" substitute "the Director General".

43 (1) Section 29F (Commission's powers and duties where it decides not to investigate) (as inserted by this Act) is amended as follows.

(2) For "Commission", in each place, substitute "Director General".

(3) In the heading—

(a) for "Commission's" substitute "Director General's";

(b) for "where it decides" substitute "on decision".

44 (1) Section 29G (special provision for "conduct matters") (as inserted by this Act) is amended as follows.

(2) For "Commission", in each place, substitute "Director General".

(3) In subsection (2)—

(a) or "it", in both places, substitute "the Director General";

(b) for "its" substitute "the".

45 (1) Section 29H (Commission's powers and duties where whistle-blower is deceased) (as inserted by this Act) is amended as follows.

(2) For "Commission", in each place, substitute "Director General".

(3) In the heading for "Commission's" substitute "Director General's".

(4) In subsection (1) for "it" substitute "the Director General".

46 In section 29HA (duty to keep whistle-blowers informed) (as inserted by this Act), in subsection (1)—

(a) for "Commission" substitute "Director General";

(b) for "it" substitute "the Director General".

47 In section 29I (protection of anonymity of whistle-blowers) (as inserted by this Act) for "Commission", in both places, substitute "Director General".

48 In section 29J (other restrictions on disclosure of information) (as inserted by this Act), for "Commission", in both places, substitute "Director General".

49 In section 29K (application of provisions of Part 2) (as inserted by this Act), for "Commission", in each place, substitute "Director General".

50 In section 29L (regulation-making powers: consultation) (as inserted by this Act), for "Commission" substitute "Director General".

51 In section 29M (interpretation) (as inserted by this Act), in subsection (1)—

(a) omit the definition of "the Commission";

(b) after the definition of "conduct" insert—

""the Director General" means the Director General of the Office for Police Conduct;".

52 In section 36 (conduct of disciplinary proceedings), in subsection (1)(a) for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct".

53 In section 105 (powers of Secretary of State to make orders and regulations), in subsection (5) for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct".

54 (1) Schedule 2 (the Independent Police Complaints Commission) is amended as follows.

(2) For the italic heading before paragraph 1 substitute "Director General".

(3) For the italic heading before paragraph 2 substitute "Terms of appointment etc: non-executive members".

(4) In paragraph 7—

(a) for "Commission", in each place, substitute "Office";

(b) for "chairman or as a deputy chairman of the Commission" substitute "Director General";

(c) omit "or as a member of it".

(5) In paragraph 8—

(a) for "Commission", in both places, substitute "Office";

(b) for "Commission's", in both places, substitute "Office's".

(6) In the heading before paragraph 9 omit "of Commission".

(7) In paragraph 10—

(a) for "Commission", in each place, substitute "Office";

(b) for "Commission's", in each place, substitute "Office's";

(c) in sub-paragraph (5)(c) omit "by the chief executive or".

(8) In paragraph 11—

(a) for "Commission", in each place, substitute "Office";

(b) in paragraph (a) for "chairman, a deputy chairman" substitute "Director General";

(c) in paragraph (b) for "chairman" substitute "Director General".

(9) In the italic heading before paragraph 12, for "Commission's" substitute "Office's".

(10) In paragraph 12—

(a) in the words before paragraph (a), for "Commission" substitute "Office";

(b) in paragraph (a) for "Commission" substitute "Office";

(c) in paragraph (b) for "Commission" substitute "Director General".

(11) In paragraph 13 for "Commission" substitute "Office".

(12) In paragraph 14—

(a) for "Commission" substitute "Office";

(b) in paragraph (a), after "it" insert "or the Director General";

(c) in paragraph (b)—

(i) after "it", in both places, insert "or the Director General";

(ii) for "its" substitute "their".

(13) In the italic heading before paragraph 15, for "Commission" substitute "Office".

(14) In paragraph 15 for "Commission" substitute "Office".

(15) In paragraph 16 for "Commission" substitute "Office".

(16) In paragraph 17 for "Commission", in each place, substitute "Office".

(17) In the italic heading before paragraph 18, for "Commission" substitute "Office".

(18) In paragraph 18 for "Commission", in both places, substitute "Office".

55 (1) Schedule 3 is amended as follows.

(2) For "Commission", in each place where it occurs, substitute "Director General".

(3) For "Commission's", in each place where it occurs, substitute "Director General's".

(4) For "it", in each place where it occurs and is used as a pronoun in place of "the Commission", substitute "the Director General".

(5) For "its", in each place where it occurs and is used to mean "the Commission's", substitute "the Director General's".

(6) The amendments made by virtue of sub-paragraphs (2) to (5)—

(a) include amendments of provisions of Schedule 3 that are inserted, or otherwise amended, by other provisions of this Act (whether or not those other provisions come into force before or after the coming into force of this paragraph);

(b) do not apply if otherwise provided by another provision of this paragraph.

(7) In paragraph 19 (investigations by the Commission itself)—

(a) in the heading omit "itself";

(b) in sub-paragraph (1) omit "itself";

(c) for sub-paragraph (2) substitute—

(2) The Director General must designate both—

(a) a person to take charge of the investigation, and

(b) such members of the Office's staff as are required by the Director General to assist the person designated to take charge of the investigation.

(2A) The person designated under sub-paragraph (2) to take charge of an investigation must be—

(a) the Director General acting personally, or

(b) another member of the Office's staff who is authorised to exercise the function of taking charge of the investigation on behalf of the Director General by virtue of paragraph 6A of Schedule 2 (delegation of Director General's functions).";

(d) in sub-paragraph (4) for "member of the Commission's staff" substitute "person";

(e) in sub-paragraph (5) for "member of the Commission's staff" substitute "person designated under sub-paragraph (2)";

(f) in sub-paragraph (6) for "members of the Commission's staff" substitute "persons";

(g) in sub-paragraph (6A) for "member of the Commission's staff" substitute "person designated under sub-paragraph (2) who is".

(8) In paragraph 19ZH (further provision about things retained under paragraph 19ZG) (as inserted by this Act)—

(a) in sub-paragraph (2) for "Commission's" substitute "Office's";

(b) in sub-paragraph (4)(a) for "Commission's" substitute "Office's".

(9) In paragraph 19A (as substituted by this Act), in sub-paragraph (2)(b) after "investigating" insert "or, in the case of an investigation by a designated person under paragraph 19, the Director General,".

(10) In paragraph 19F (interview of persons serving with police etc during certain investigations), in sub-paragraph (1)(b) for "the Commission itself" substitute "a person designated under paragraph 19 (investigations by Director General)".

(11) In paragraph 20 (restrictions on proceedings pending conclusion of investigation), in sub-paragraph (1)(b) at the end insert "or, where under paragraph 19 the Director General has personally carried out the investigation, a report has been completed by the Director General".

(12) In paragraph 20A (as substituted by this Act)—

(a) in sub-paragraph (1)(a) after "investigating" insert "or, in the case of an investigation by a designated person under paragraph 19, the Director General,";

(b) in sub-paragraph (3) after "and" insert "(where the person investigating is not also the Director General carrying out an investigation under paragraph 19 personally)";

(c) in sub-paragraph (4)(b) after "investigation" insert "or, where the investigation is carried out under paragraph 19 by the Director General personally, finalise one,".

(13) In paragraph 21A (procedure where conduct matter is revealed during investigation of DSI matter)—

(a) in sub-paragraph (1), omit "or designated under paragraph 19";

(b) after sub-paragraph (2A) (as inserted by this Act), insert—

(2B) If during the course of an investigation of a DSI matter being carried out by a person designated under paragraph 19 the Director General determines that there is an indication that a person serving with the police ("the person whose conduct is in question") may have—

(a) committed a criminal offence, or

(b) behaved in a manner which would justify the bringing of disciplinary proceedings,

the Director General must proceed under sub-paragraph (2C).

(2C) The Director General must—

(a) prepare a record of the determination,

(b) notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of the determination, and

(c) send to it (or each of them) a copy of the record of the determination prepared under paragraph (a).";

(c) in sub-paragraph (5), after paragraph (a) insert—

(aa) is notified of a determination by the Director General under sub-paragraph (2C),".

(14) In paragraph 22 (final reports on investigations: complaints, conduct matters and certain DSI matters)—

(a) for sub-paragraph (5) substitute—

(5) A person designated under paragraph 19 as the person in charge of an investigation must—

(a) submit a report on the investigation to the Director General, or

(b) where the person in charge of the investigation is the Director General acting personally, complete a report on the investigation.";

(b) in sub-paragraph (6) after "submitting" insert "or, in the case of an investigation under paragraph 19 by the Director General personally, completing";

(c) in sub-paragraph (8) after "submitted" insert "or, in the case of an investigation under paragraph 19 by the Director General personally, completed".

(15) In the italic heading before paragraph 23 (action by the Commission in response to investigation reports), for "response" substitute "relation".

(16) In paragraph 23—

(a) in sub-paragraph (1)(b) before "under" insert ", or is otherwise completed,";

(b) in sub-paragraph (1A) (as inserted by this Act), after "submission" insert "or completion";

(c) in each of the following places, after "receipt of the report" insert "(or on its completion by the Director General)"—

(i) sub-paragraph (2);

(ii) sub-paragraph (5A) (as inserted by this Act);

(iii) sub-paragraph (5F) (as inserted by this Act).

(17) In paragraph 24A (final reports on investigations: other DSI matters)—

(a) after sub-paragraph (2) insert—

(2A) Sub-paragraph (2)(a) does not apply where the person investigating is the Director General carrying out an investigation personally under paragraph 19, but the Director General must complete a report on the investigation.";

(b) in sub-paragraph (3) for "this paragraph" substitute "sub-paragraph (2) or completing one under sub-paragraph (2A)";

(c) in sub-paragraph (4) after "receipt of the report" insert "(or on its completion by the Director General)";

(d) in sub-paragraph (5) (as inserted by this Act) after "receipt of the report" insert "(or on its completion by the Director General)".

(18) In the italic heading before paragraph 24B (action by the Commission in response to an investigation report under paragraph 24A), for "response" substitute "relation".

(19) In paragraph 28A (recommendations by the Commission)—

(a) in sub-paragraph (1)—

(i) after "received a report" insert "(or otherwise completed one in relation to an investigation carried out under paragraph 19 by the Director General personally)";

(ii) in paragraph (b) for "Commission itself" substitute "or on behalf of the Director General";

(iii) in paragraph (c) after "24A(2)" insert "or (2A)";

(b) in sub-paragraph (4)(a) after "receipt" insert "or completion".

(20) In paragraph 28B (response to recommendation), in sub-paragraph (12) (as inserted by this Act) after "received a report on" insert "(or otherwise completed one on in relation to an investigation carried out under paragraph 19 by the Director General personally)".

56 (1) Schedule 3 is further amended as follows (but these amendments apply only if this Schedule comes into force before the coming into force of Schedule 4 to this Act).

(2) In paragraph 19B (assessment of seriousness of conduct under investigation), in sub-paragraph (1) after "investigating" insert "or, in the case of an investigation by a designated person under paragraph 19, the Director General,".

(3) In paragraph 20A (accelerated procedure in special cases)—

(a) in sub-paragraph (1)—

(i) for "his" substitute "an";

(ii) after "conduct matter" insert "or, in the case of an investigation by a designated person under paragraph 19, the Director General,";

(iii) for "he" substitute "the person investigating".

(b) in sub-paragraph (3) for "his belief" substitute "the belief referred to in sub-paragraph (1)".

(4) In paragraph 23 (action by the Commission in response to an investigation report), in sub-paragraph (6) after "receipt of the report" insert "(or on its completion by the Director General)".

57 (1) Schedule 3A (whistle-blowing investigations: procedure) (as inserted by this Act) is amended as follows.

(2) For "Commission", in each place, substitute "Director General".

(3) In paragraph 1(1) omit "itself".

(4) In paragraph 4(2)—

(a) for "it", where it occurs in the first place, substitute "the Director General";

(b) for "its" substitute "the".

Part 3

Other Minor and consequential amendments

Superannuation Act 1972 (c. 11)

58 In Schedule 1 to the Superannuation Act 1972—

(a) in the list of entries under the heading "Royal Commissions and other Commissions", omit the entry relating to the Independent Police Complaints Commission;

(b) in the list of entries under the heading "Other Bodies", insert at the appropriate place—

"The Office for Police Conduct.";

(c) in the list of entries under the heading "Offices", omit the entries relating to—

(i) the Chairman of the Independent Police Complaints Commission;

(ii) the Commissioners of the Independent Police Complaints Commission;

(iii) the Deputy Chairman of the Independent Police Complaints Commission.

House of Commons Disqualification Act 1975 (c. 24)

59 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), omit the entry relating to the Independent Police Complaints Commission and insert at the appropriate place—

"The Office for Police Conduct."

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

60 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), omit the entry relating to the Independent Police Complaints Commission and insert at the appropriate place—

"The Office for Police Conduct.".

Police Pensions Act 1976 (c. 35)

61 In section 11 of the Police Pensions Act 1976 (interpretation), in subsection (2A)(ba) for "Independent Police Complaints Commission" substitute "Office for Police Conduct".

Ministry of Defence Police Act 1987 (c. 4)

62 In section 4 of the Ministry of Defence Police Act 1987 (representation etc at disciplinary proceedings), in subsection (5)(a) for "Independent Police Complaints Commission" substitute "Office for Police Conduct".

Aviation, Maritime and Security Act 1990 (c. 31)

63 In section 22 of the Aviation, Maritime and Security Act 1990 (power to require harbour authorities to promote searches in harbour areas), in subsection (4)(b)(i) for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct".

Police Act 1996 (c. 16)

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

(2) In the following provisions, for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct"—

(a) section 50(3A)(a) (regulation of police forces) (as inserted by this Act);

(b) section 51(2B)(a) (regulations for special constables) (as inserted by this Act);

(c) section 87(1) (guidance concerning disciplinary proceedings etc) (as amended by this Act).

(3) In the following provisions, for "Independent Police Complaints Commission" substitute "Office for Police Conduct"—

(a) section 84(5) (representation etc at disciplinary and other proceedings);

(b) section 88C(5)(d) (effect of inclusion in police barred list) (as inserted by this Act);

(c) section 88K(3)(d) (effect of inclusion in police advisory list) (as inserted by this Act).

(4) In section 54(2D) (appointment and functions of inspectors of constabulary)—

(a) in paragraph (a)—

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

(ii) for "that Commission" substitute "the Director General";

(b) in paragraph (b)—

(i) for "that Commission", in both places, substitute "the Director General";

(ii) for "its" substitute "his or her".

Freedom of Information Act 2000 (c. 36)

65 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) omit the entry relating to the Independent Police Complaints Commission and insert at the appropriate place—

"The Office for Police Conduct".

Fire and Rescue Services Act 2004 (c. 21)

66 In section 4I of the Fire and Rescue Services Act 2004 (as inserted by this Act), in subsection (5)(b) for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct".

Commissioners for Revenue and Customs Act 2005 (c. 11)

67 (1) The Commissions for Revenue and Customs Act 2005 is amended as follows.

(2) In section 18 (confidentiality), in subsection (2)(g)—

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

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

(3) In section 28 (complaints and misconduct: England and Wales)—

(a) in subsection (1), for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct ("the Director General")";

(b) in subsection (2)—

(i) for "Independent Police Complaints Commission", in both places, substitute "Director General";

(ii) for "its" substitute "the Director General's";

(c) in subsection (3) for "Independent Police Complaints Commission" substitute "Director General";

(d) in subsection (4) for "Independent Police Complaints Commission", in both places, substitute "Director General".

(4) In section 29 (confidentiality etc), in subsection (3)—

(a) in the words before paragraph (a), for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct";

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

(c) in paragraph (a), for "Commission" substitute "Director General";

(d) in paragraph (b), for "Commission" substitute Director General".

Police and Justice Act 2006 (c. 48)

68 (1) In section 41 of the Police and Justice Act 2006 (immigration and asylum enforcement functions and customs functions: complaints and misconduct)—

(a) in subsection (1) for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct ("the Director General")";

(b) in subsection (2A) for "Independent Police Complaints Commission" substitute "Director General";

(c) in subsection (3) for "Independent Police Complaints Commission" substitute "Director General";

(d) in subsection (4)(b), for "Independent Police Complaints Commission" substitute "Director General";

(e) in subsection (5) for "Independent Police Complaints Commission" substitute "Director General";

(f) in subsection (6) for "Independent Police Complaints Commission", in both places, substitute "Director General.

(2) In the heading before that section for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct"

Local Democracy, Economic Development and Construction Act 2009 (c. 20)

69 In section 107EE of the Local Democracy, Economic Development and Construction Act 2009 (section 107EA orders: complaints and conduct matters etc) (as inserted by this Act), in subsection (5)(b) for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct".

Coroners and Justice Act 2009 (c. 25)

70 In section 47 of the Coroners and Justice Act 2009 (meaning of "interested person")—

(a) in subsection (2)(k) for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct";

(b) in subsection (5) for "Independent Police Complaints Commission" substitute "Director General of the Office for Police Conduct".

Equality Act 2010 (c. 15)

71 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general), under the heading "Police" omit the entry relating to the Independent Police Complaints Commission and insert at the appropriate place—

"The Office for Police Conduct".

Police Reform and Social Responsibility Act 2011 (c. 13)

72 (1) The Police Reform and Social Responsibility Act 2011 is amended as follows.

(2) In section 65 (disqualification from election or holding office as police and crime commissioner: police grounds), for "Independent Police Complaints Commission" substitute "Office for Police Conduct".

(3) In Schedule 7 (regulations about complaints and conduct matters), for "Independent Police Complaints Commission", in each place, substitute "Director General of the Office for Police Conduct."—*(Mike Penning.)*

This new Schedule contains amendments to the Police Reform Act 2002 and other enactments in connection with the re-naming of the Independent Police Complaints Commission as the Office for Police Conduct and the creation of the new position of Director General.

Brought up, read the First and Second time, and added to the Bill.

Clauses 108 and 109 ordered to stand part of the Bill.

Clause 110

EXTENT

Amendments made: 149, in clause 110, page 109, line 23, leave out "paragraph" and insert "paragraphs 15E and".

This amendment and amendment 150 provide for the consequential amendment to the Freedom of Information Act 2000 in amendment 108 to extend to the whole of the United Kingdom, reflecting the geographical extent of that Act.

Amendment 150, in clause 110, page 109, line 23, leave out "that paragraph" and insert "those paragraphs".

See the explanatory statement for amendment 149.

Amendment 216, in clause 110, page 109, line 24, at end insert—

"() section (*Combined authority mayors: exercise of fire and rescue functions*)(11);".

This amendment provides for the amendment to Schedule 1 to the Public Service Pensions Act 2013 in NC22 to extend to the whole of the United Kingdom, reflecting the geographical extent of that provision.

Amendment 154, in clause 110, page 109, line 28, at end insert—

"( ) section 22(8), so far as relating to paragraphs 1 to 5 of Schedule *(Disciplinary proceedings: former members of MoD Police, British Transport Police and Civil Nuclear Constabulary)*, and those paragraphs;".

This amendment is consequential on NS1.

Amendment 217, in clause 110, page 109, line 28, at end insert—

"( ) section (*References to England and Wales in connection with IPCC functions*)(2) and (3);".

This amendment is consequential on NC23.

Amendment 218, in clause 110, page 109, line 39, after "sections" insert "62(2) to (5),".

This amendment, together with amendment 219, provides expressly for the procedure relating to the exercise of the regulation-making power in clause 62(3)(f) to form part of the law of the United Kingdom. The regulation-making power may be used to add to the list of persons who are law enforcement officers for the purposes of Chapter 4 of Part 4 and who may therefore exercise the maritime enforcement powers in hot pursuit by virtue of clause 64 (which also extends to the United Kingdom).

Amendment 219, in clause 110, page 109, line 39, leave out from "73" to end of line 40.

Please see the explanatory statement to amendment 218.

Amendment 220, in clause 110, page 109, line 40, at end insert—

"( ) sections (*Application of maritime enforcement powers in connection with Scottish offences: general*)(2) to (7), (*Exercise of maritime enforcement powers in hot pursuit in connection with Scottish offences*) to

(*Maritime enforcement powers in connection with Scottish offences: other supplementary provision*) and (*Maritime enforcement powers in connection with Scottish offences: interpretation*);".

This amendment, together with amendment 224, set out the extent of NC29 to NC39.

Amendment 151, in clause 110, page 110, line 3, leave out "and 13" and insert ", 12E to 12G, 12L, 12N, 12AE, 12AH, 12AL to 12AS, 14A to 14D, 15D and 17C".

This amendment provides for certain of the consequential amendments in amendments 106 to 109 to extend to England and Wales and Scotland, reflecting the geographical extent of the Acts they amend.

Amendment 221, in clause 110, page 110, line 5, at end insert—

"() section (*Combined authority mayors: exercise of fire and rescue functions*)(5) and (8);".

This amendment provides for the amendments to section 26 of the Fire Services Act 1947 and section 34 of the Fire and Rescue Services Act 2004 in NC22 to extend to Great Britain, reflecting the geographical extent of those provisions.

Amendment 152, in clause 110, page 110, line 7, leave out "and 104" and insert ", 104 and 114".

This amendment provides for the consequential amendment to the Equality Act 2010 in paragraph 114 of Schedule 2 to extend to England and Wales and Scotland, reflecting the geographical extent of that Act.

Amendment 153, in clause 110, page 110, line 7, at end insert—

"( ) section22(8), so far as relating to paragraphs 6 to 14 of Schedule (*Disciplinary proceedings: former members of MoD Police, British Transport Police and Civil Nuclear Constabulary*), and those paragraphs;".

This amendment is consequential on the new Schedule NS1.

Amendment 222, in clause 110, page 110, line 7, at end insert—

"() section (*Office for Police Conduct*)(9), so far as relating to paragraphs 61 and 71 of Schedule (*Office for Police Conduct*), and those paragraphs;".

This amendment provides for specified amendments in Part 3 of NS2 to have the same extent as the provisions amended.

Amendment 223, in clause 110, page 110, line 15, at end insert—

'( ) Section (*Office for Police Conduct*)(9), so far as relating to paragraphs 58, 59, 60, 62, 63, 65, 67 and 68 of Schedule (*Office for Police Conduct*), and those paragraphs, extend to England and Wales, Scotland and Northern Ireland.".

This amendment provides for specified amendments in Part 3 of NS2 to have the same extent as the provisions amended.

Amendment 226, in clause 110, page 110, line 17, after "paragraphs," insert

"and sections (Offence of breach of pre-charge bail conditions relating to travel) and (Offence of breach of pre-charge bail conditions relating to travel: interpretation)".

This amendment provides for NC41 and NC42 to extend to England and Wales and Northern Ireland.

Amendment 224, in clause 110, page 110, line 19, leave out "extends" and insert

"and (*Application of maritime enforcement powers in connection with Scottish offences: general*)(1) and (8), (*Restriction on exercise of maritime enforcement powers in connection with Scottish offences*) and (*Maritime enforcement powers in connection with Scottish offences: obstruction etc*) extend".—*(Mike Penning.)*

Please see the explanatory statement for amendment 220.

Clause 110, as amended, ordered to stand part of the Bill.

Clause 111

COMMENCEMENT

Amendment made: 225, in clause 111, page 110, line 41, at end insert—

'( ) Before making regulations appointing a day for the coming into force of any provision of sections (*Application of maritime enforcement powers in connection with Scottish offences: general*) to (*Maritime enforcement powers in connection with Scottish offences: interpretation*) the Secretary of State must consult the Scottish Ministers.". —*(Mike Penning.)*

This amendment provides that the Secretary of State must consult the Scottish Ministers before bringing NC29 to NC39 into force.

Clause 111, as amended, ordered to stand part of the Bill.

Clause 112 ordered to stand part of the Bill.

Mike Penning: On a point of order, Mr Howarth. As is customary as we come to the conclusion of the Committee stage, we as joint Ministers will put some votes of thanks together, particularly to you, Mr Howarth, and to your co-chair, Mr Nuttall. Both of you have been very pragmatic in expediting the Bill.

I also pay tribute to my hon. Friend the Under-Secretary. She is the new crime Minister, having taken over crime responsibilities from myself, when I took on something called fire.

I turn to the Opposition Front Bench, and I hope that this goes on the record. I think that this is the way that Bills should be scrutinised: agree on what we agree on, disagree on what we disagree on and talk sensibly inside and outside the Committee. We will never agree on everything but we can see that a rather large Bill has gone through Committee stage in probably record time, but with scrutiny in the areas of disagreement. I think that that is right. I pay tribute to the Opposition Front-Bench spokespeople.

My own Whip, my hon. Friend the Member for Dover, has expedited these discussions brilliantly, together with his opposite number, the hon. Member for Manchester, Withington: the Whips Office has done expertly. We have to say that, don't we?

My Parliamentary Private Secretary, my hon. Friend the Member for Calder Valley is missing—it is outrageous—so I have a trainee PPS, my hon. Friend the Member for Lewes, who has been doing absolutely brilliantly. I do not think she managed to pass me anything at all, which is very good.

The Bill managers have done brilliantly well. If I have the list right, the Home Office, the Ministry of Justice, the Treasury, the Department for Transport, the Department of Health, the Department for Communities and Local Government, the devolved Assemblies and Administrations, and the Wales Office, the Scotland Office and the Northern Ireland Office—I have probably missed one or two off—have all been part of a very large but very important Bill, and been part of the process. Legislation will obviously come forward through the Bill based on that.

Hansard, who hate me, because I never pass any notes to them—thank you very much indeed. The Doorkeepers have also done brilliantly well. Can I particularly thank the people who I give the hardest time to: the lawyers in the Home Office?

Jack Dromey: Further to that point of order, Mr Howarth. First, in terms of the team behind the Bill, can I thank the Clerks and all those who have worked with us throughout the Committee stage, for their professional support at all hours of the day and night, as we discovered on one particular occasion? Secondly, like the Police Minister—

Mike Penning: Policing and Fire Minister.

Jack Dromey: Like the Policing and Fire Minister, I thank all those who have supervised our proceedings, including the Doorkeepers and *Hansard*, all of whom play a very important role.

I want to come straight to the heart of one thing that the Policing and Fire Minister said. The Bill has been professionally debated, with substantial common ground. Where there has not been common ground, we have disagreed not for the sake of it but in order to focus on areas in need of further probing and areas of disagreement. On the former, I welcome some of the commitments given to next-stage dialogue on issues relating to children and mental health. We will take advantage of the offers made. On the latter, there are areas of disagreement, particularly in relation to fire and volunteers. There are also areas where we hope the Government will go further in the next stages, such as pre-trial bail. All these things have been properly rehearsed, recorded and debated in the Committee.

Finally, I thank all Committee members. The debate has been conducted in a good-humoured way throughout. I also particularly thank my fellow shadow Minister, my hon. Friend the Member for West Ham, for her prodigious efforts throughout the Bill's passage. We look forward to Report.

The Chair: On behalf of all those who must remain silent, I thank Committee members for the tributes that they have paid to everybody involved, including the Doorkeepers, *Hansard*, the Clerks and those who serve the Ministers. On behalf of my co-Chair and myself, I thank the Front Benchers and every individual Committee member. You would be amazed how often the Chair gets it wrong. Thank you for not noticing. It has been a good-humoured Committee, as has already been observed. Co-operation with the Chair has been excellent. On behalf of my co-Chair and myself, I thank each and every Committee member for that co-operation and good humour.

Bill, as amended, to be reported.

5.12 pm

Committee rose.

Written evidence reported to the House

PCB 11 Mental Health Alliance

PCB 12 Mind

PCB 13 Home Office further submission

PCB 14 Local Government Association

PCB 15 Countryside Alliance

PCB 16 The Law Society

PCB 17 Police Superintendents Association of England and Wales

PCB 18 Chief Constable Mark Polin, Chair of the Chief Police Officers Staff Association

PCB 19 Immigration Law Practitioners Association

PCB 20 Home Office further submission

PCB 21 Ian Durrant

PCB 22 Richard Cartwright, Kevin Cartwright and James Cartwright-Ross

PCB 23 Royal College of Nursing

PCB 24 Great War Society

PCB 25 Independent Police Complaints Commission (IPCC) further submission

PCB 26 Mind further submission

PCB 26A Mind further submission: attachment of survey responses

PCB 27 International Justice Mission UK

PCB 28 Ian Strawbridge

PCB 29 Matthew Gunning

PCB 30 British Shooting Sports Council

PCB 31 Assistant Chief Constable Dave Orford, National Policing Lead on Firearms

PCB 32 Historical Breechloading Smallarms Association

PCB 33 Helston Forensics

PCB 34 National Police Chiefs Council

PCB 35 Edward Hallett

PCB 36 Deactivated Weapons Association

PCB 37 Mark Fleet

PCB 38 Association of Convenience Stores

PCB 39 The Tommy Teaches Ltd

PCB 40 Professor Anthea Hucklesby

PCB 41 Glen Mallen

PCB 42 Office of the Police and Crime Commissioners for Humberside

PCB 43 Youth Justice Board for England and Wales

PCB 44 Matthew Gunning further submission