

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT FREEDOM OF INFORMATION  
(DESIGNATION AS PUBLIC AUTHORITY AND  
AMENDMENT) ORDER 2018

*Tuesday 30 October 2018*

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**Saturday 3 November 2018**

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**The Committee consisted of the following Members:**

*Chair:* DAVID HANSON

- |   |  |
|---|--|
| † Allan, Lucy ( <i>Telford</i> ) (Con)                                | † Masterton, Paul ( <i>East Renfrewshire</i> ) (Con)                   |
| † Bebb, Guto ( <i>Aberconwy</i> ) (Con)                               | † Maynard, Paul ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Bowie, Andrew ( <i>West Aberdeenshire and Kincardine</i> ) (Con)    | Phillipson, Bridget ( <i>Houghton and Sunderland South</i> ) (Lab)     |
| † Dakin, Nic ( <i>Scunthorpe</i> ) (Lab)                              | † Ross, Douglas ( <i>Moray</i> ) (Con)                                 |
| † Double, Steve ( <i>St Austell and Newquay</i> ) (Con)               | † Siddiq, Tulip ( <i>Hampstead and Kilburn</i> ) (Lab)                 |
| † Haigh, Louise ( <i>Sheffield, Heeley</i> ) (Lab)                    | Smith, Eleanor ( <i>Wolverhampton South West</i> ) (Lab)               |
| † Herbert, Nick ( <i>Arundel and South Downs</i> ) (Con)              | Western, Matt ( <i>Warwick and Leamington</i> ) (Lab)                  |
| † Hurd, Mr Nick ( <i>Minister for Policing and the Fire Service</i> ) | Laura-Jane Tiley, Jeanne Delebarre, <i>Committee Clerks</i>            |
| Johnson, Diana ( <i>Kingston upon Hull North</i> ) (Lab)              |  |
| Malhotra, Seema ( <i>Feltham and Heston</i> ) (Lab/Co-op)             | † <b>attended the Committee</b>  |

# First Delegated Legislation Committee

Tuesday 30 October 2018

[DAVID HANSON *in the Chair*]

## Draft Freedom of Information (Designation as Public Authority and Amendment) Order 2018

2.30 pm

**The Minister for Policing and the Fire Service (Mr Nick Hurd):** I beg to move,

That the Committee has considered the draft Freedom of Information (Designation as Public Authority and Amendment) Order 2018.

It is a great pleasure to serve under your chairmanship, Mr Hanson, I believe for the first time.

The purpose of the draft order is to bring the public functions of the National Police Chiefs Council within the scope of the Freedom of Information Act. That is to ensure continuity in the scope of the Act by extending it to the council in the same way as it included the predecessor organisation, the Association of Chief Police Officers.

As to the detail of the draft order, section 5(1)(a) of the Freedom of Information Act 2000, as amended, enables the Secretary of State to designate any person as a public authority if they appear to the Secretary of State to exercise functions of a public nature. Where a body is designated as a public authority, it is also necessary—under section 7(5) of the Act—to specify each of the body's functions as appear to the Secretary of State to be of a public nature. Only those functions specified in the schedule in relation to article 3 of this order will be subject to the Act.

As with the ACPO, it appears to the Secretary of State that the NPCC exercises functions of a public nature in relation to all its functions. The council provides national police co-ordination and leadership, and brings together police forces throughout the UK, as well as in the armed services and the Crown dependencies. Some of the council's co-ordination and leadership functions are delivered in conjunction with the College of Policing, the professional body that provides the policing skills and knowledge necessary to prevent crime and to protect the public.

The functions set out in the draft order reflect those in clause 7 of the collaboration agreement that established the NPCC. The Secretary of State considers that each of those functions makes a fundamental contribution to the policing of the state in such a way that they are, together and individually, functions of a public nature that are eligible for inclusion in an order made under section 5 of the Freedom of Information Act.

I confirm that the NPCC has been consulted about the functions covered in the draft order. It views its inclusion under the Freedom of Information Act positively and is in agreement with the Secretary of State about the scope of the order. We welcome the constructive way in which the NPCC has engaged with the Home Office in drawing up the order.

In addition to designating the NPCC, this draft instrument removes the designation of ACPO. That is a question of legislative tidying up, because ACPO has been liquidated and no longer exists. This amendment will update the statute book to reflect that. The liquidators of ACPO were consulted, as required, and are content.

I recognise that the draft order has taken some time to get to this stage. I made a statement on 6 November last year that the Government would introduce an order to ensure continuity in transparency following the winding up of ACPO and the taking on of its functions by the NPCC. As I have mentioned, there has been a statutory consultation with the new body to ensure that all necessary functions were covered by this order as appropriate.

I should make it clear that the NPCC ensured against any retraction in transparency during the transition period, when taking over the functions of ACPO. The council publishes large amounts of information proactively and responded to information requests voluntarily during the short period that it was not formally covered by the Freedom of Information Act. I am sure the Committee agrees that that is highly commendable.

The draft order builds on the solid foundations of the order that brought ACPO under the Freedom of Information Act by providing a legally enforceable right to request information of the NPCC. I hope that hon. Members on both sides of the Committee agree that the order is an important step to maintaining transparency, and that they welcome the new rights of access to information that it will bring.

2.34 pm

**Louise Haigh (Sheffield, Heeley) (Lab):** It is a great pleasure to serve under your chairmanship, Mr Hanson.

The previous Labour Government introduced the Freedom of Information Act, and the Opposition wholeheartedly support the draft order. As the Minister suggested, he responded to my parliamentary question back in September, so Labour has been calling for the measure for some time, as has the NPCC. As he rightly said, the NPCC has been behaving as if it were already covered by the Act, which we agree is thoroughly commendable.

I want to push the Minister on his point about the information that the NPCC publishes proactively and question the extent to which the Home Office can require information to be published or the NPCC to respond. For example, in the past 18 months or so, the NPCC has been collating and publishing information on acid attacks. I believe there is a commitment to continue publishing such information. Was that at the request of the Home Office? Is the NPCC obligated under any statutory instrument to publish such information at the request of the Government?

The NPCC has published statistics on Operation Hydrant, which is the investigation into historical child sex abuse, but the statistics it is publishing are headline stats on the number of individuals involved. How often is the NPCC required to report on that? What elements should it be reporting on? For example, should it be reporting on the progress or length of the investigations?

The NPCC also reports on automatic number plate recognition and its functions. Is that a Home Office request, too, under proactive publication? Given the reasons it publishes on ANPR—the invasion of people's

individual privacy—would it not be beneficial for it to report on facial recognition and the implications for privacy and security? It is being used by police forces across the country, particularly the Met and South Wales.

Finally, will the Minister confirm that the extension of the Freedom of Information Act covers correspondence between the NPCC and the Government? For instance, does it cover the letter that the NPCC reportedly sent to the Treasury last Tuesday, threatening legal action on the basis of the Government's proposed pension changes? I would be grateful for that clarification, and we wholeheartedly support the order.

2.37 pm

**Mr Hurd:** I thank the hon. Lady for her support and her constructive approach. It has taken too long to get to this point. While I think we can all agree on that, I hope we all also agree that the NPCC is now formally bound into the Freedom of Information Act. It is a particular pleasure to see the chair of the NPCC gracing us with her presence today. She missed the recognition

from all parts of the Committee of the extremely constructive and commendable way in which the council has behaved in this interim period.

There is no statutory obligation to publish statistics. I am not aware of any specific requests from the Home Office, but I will check and reply to the hon. Lady. As I pointed out, the NPCC already voluntarily behaves as if it is covered by the Freedom of Information Act. Since 2012, ACPO and the NPCC have, on average, received 250 to 300 requests a year. If the legislation is passed, it will take effect almost immediately. The NPCC will then be covered by existing legislation.

What is available to the public to request is as per the rules. The hon. Lady can be congratulated on her cheeky and opportunistic attempt to bring up the issue of police funding and pensions, but there is no need for the public to request that under the Freedom of Information Act because they can simply read about it in the newspaper.

*Question put and agreed to.*

2.39 pm

*Committee rose.*





