Digest

June 2014

A digest of police law, operational policing practice and criminal justice
The Digest is a primarily legal environmental scanning publication intended to capture and consolidate topical and key issues, both current and future, impacting on all areas of policing.

During the production of the Digest, information is included from governmental bodies, criminal justice organisations and research bodies. As such, the Digest should prove an invaluable guide to those responsible for strategic decision making, operational planning and police training.

The College of Policing is also responsible for Authorised Professional Practice (APP). APP is the official and most up-to-date source of policing practice and covers a range of policing activities such as: police use of firearms, treatment of people in custody, investigation of child abuse and management of intelligence. APP is available online at www.app.college.police.uk

The College of Policing aims to provide fair access to learning and development for all. To support this commitment, the Digest is available in alternative formats on request. Please email digest@college.pnn.police.uk or telephone +44 (0)1480 334566.

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Overview

This month's edition of the Digest contains a summary of issues relating to police law, operational policing practice and criminal justice.

There are reports of cases considering:

- the validity of notices given under Section 14 of the Public Order Act 1986 to protestors
- whether the inclusion of certain information in an enhanced criminal record certificate constitutes an interference with rights to respect for private and family life under Article 8 of the European Convention on Human Rights.

We look in detail at:

- the Anti-Social Behaviour, Crime and Policing Act 2014
- the Home affairs committee report on reform of the Police Federation
- Home Office proposed reforms to police stop and search powers
- the latest Crime statistics published by the Office for National Statistics.

We also look at:

- guidance on Intellectual Property Offences published by the Intellectual Property Office
- the Home affairs committee report of its inquiry into terrorism in the UK and abroad

The progress of proposed new legislation through parliament is examined and relevant Statutory Instruments are summarised.
Bills before parliament

Criminal Justice and Courts Bill 2014

This is a Bill to make provision about how offenders are dealt with before and after conviction; to amend the offence of possession of extreme pornographic images; to make provision about the proceedings and powers of courts and tribunals; to make provision about judicial review; and for connected purposes. In particular the Bill provides for:

- sentencing and the release and recall of offenders, the electronic monitoring of offenders released on licence, and the giving of cautions
- adding certain offences, including those of weapons training for terrorist purposes and causing gunpowder or other explosive substances to explode with intent, to the enhanced dangerous offenders sentencing scheme
- the offence in 63 of the Criminal Justice and Immigration Act 2008 to be extended to cover the possession of extreme images that depict rape and non-consensual sexual penetration
- the detention of young offenders, giving cautions and conditional cautions to youths, and referral orders
- a new criminal offence of being unlawfully at large after recall from licence or after recall from home detention curfew
- restrictions on the use of simple cautions for indictable only offences and certain specified either way offences, as well as restricting the repeated use of cautions for persistent offenders
- a new procedure for use in criminal proceedings in the magistrates’ courts in certain circumstances, provision about the recovery of the costs of the criminal courts from offenders, appeals and costs in civil proceedings, and contempt of court and juries
• the introduction of 4 offences (research by jurors, sharing research with other jurors, jurors engaging in other prohibited conduct and disclosing jury’s deliberations), a power for a court to order temporary removal of electronic communications devices from jurors and changes to strict liability contempt by publication including a notice procedure for temporary removal of potentially contemptuous information from public access

• the circumstances in which the High Court and the Upper Tribunal may refuse relief in judicial review proceedings and about funding and costs in relation to such proceedings.

This Government Bill was presented to Parliament on 5 February 2014. The Bill had its second reading debate in the House of Commons on 24 February 2014 and completed its committee stage on 1 April 2014. Commons remaining stages, day one, were considered on 12 May 2014. This Bill will continue its progress in the next session of Parliament. A date for Commons remaining stages, day two, will be announced after the start of the new session.

The new session for 2014-15 begins with the State Opening of Parliament on 4 June 2014.
Statutory Instruments

SI 2014/1106 The Misuse of Drugs Act 1971 (Ketamine etc.) (Amendment) Order 2014

This Order brings certain drugs under the control of the Misuse of Drugs Act 1971 (the Act) and comes into force on 10 June 2014.

Article 3 of this Order brings groups of ‘NBOMe’ compounds, some of which were subject to control under a Temporary Class Drugs Order (SI 2013/1294), under permanent control as Class A drugs under the Act. The Order reclassifies Ketamine as a Class B drug, makes Lisdexamfetamine a Class B drug and brings groups of benzofuran compounds, some of which were subject to control under a Temporary Class Drugs Order (SI 2013/1294), under permanent control as Class B drugs under the Act. Under article 5 Tramadol, Zaleplon and Zopiclone are brought under control as Class C drugs under the Act.


This Order comes into force on 10 June 2014.

Section 7(3) of the Misuse of Drugs Act 1971 requires regulations to be made to allow the use for medical purposes of the drugs which are subject to control under that Act. Section 7(3) does not apply to any drug designated by order under section 7(4) as a drug to which section 7(4) is to apply. This Order amends the Misuse of Drugs (Designation) Order 2001 by inserting groups of ‘NBOMe’ compounds and groups of benzofuran compounds into Part 1 of the Schedule to that Order.

SI 2014/1275 The Misuse of Drugs and Misuse of Drugs (Safe Custody) (Amendment) (England, Wales and Scotland) Regulations 2014

These regulations come into force on 10 June 2014.

These Regulations amend the Misuse of Drugs Regulations 2001 (the 2001 Regulations). Regulation 3 adds groups of ‘NBOMe’ compounds and groups of benzofuran compounds to Schedule 1 to the 2001 Regulations. Regulation 4 adds Lisdexamfetamine to Schedule 2 and regulation 5 adds Tramadol to Schedule 3. Regulation 6 adds Zaleplon and Zopiclone to Schedule 4. The schedule in which a controlled drug is placed primarily affects the extent to which the drug can be lawfully imported, exported, produced, supplied or possessed and dictates the record keeping, labelling and destruction requirements in relation to that drug. Regulation 7 amends The Misuse of Drugs (Safe Custody) Regulations 1973 to insert Tramadol into the list of exempted drugs in Schedule 1 to those Regulations.

This Order comes into force on 9 June 2014.

Section 3 of the Prosecution of Offences Act 1985 sets out the functions of the Director of Public Prosecutions. These include taking over the conduct of all criminal proceedings instituted on behalf of a police force, unless the proceedings are specified in an Order made by the Attorney General under section 3(3). The Prosecution of Offences Act 1985 (Specified Proceedings) Order 1999 (the 1999 Order) specifies certain such proceedings.

Article 2 of this Order amends the 1999 Order by adding a further offence, proceedings for which will be specified proceedings. That offence is the offence of theft, contrary to section 1 of the Theft Act 1968, in the circumstances where it is the prosecutor’s case that the offence constitutes ‘low-value shoplifting’ within the meaning of section 22A of the Magistrates’ Courts Act 1980.

SI 2014/1226 The Anti-social Behaviour, Crime and Policing Act 2014 (Commencement No. 3) Order 2014

This Order brings into force section 149 of the Anti-social Behaviour, Crime and Policing Act 2014 on 2 June 2014. Section 149 amends the Crown Prosecution Service Inspectorate Act 2000 to allow for the inspection of the Serious Fraud Office by the Chief Inspector of the Crown Prosecution Service. It also provides the Serious Fraud Office with powers to share information with the Chief Inspector of the Crown Prosecution Service for the purposes of an inspection.

SI 2014 /1237 The Police and Criminal Evidence Act 1984 (Codes of Practice) (Revisions to Codes C and H) Order 2014

This Order brings into force two revised codes of practice under the Police and Criminal Evidence Act 1984, which will supersede the corresponding existing codes of practice. The revised codes will be brought into operation on 2 June 2014.

The purpose of the revisions to Code C is to implement obligations arising out of the EU Directive (2012/13/EU) on the right to information in criminal proceedings. In particular, Code C now requires that every detainee must be given a revised written notice setting out their rights and entitlements whilst they are in custody, which has been updated to reflect the new substantive rights conferred by the Directive.
The revisions to Code H follow the changes which are being made to Code C for this purpose.

The revised codes of practice are available on the Police and Criminal Evidence Act 1984 codes of practice pages of the gov.uk website and can be found at https://www.gov.uk/government/collections/police-and-criminal-evidence-act-1984-pace-current-versions

**SI 2014/1239 The Firearms (Amendment) Rules 2014**

These Rules make a number of amendments to the Firearms Rules 1998 (SI 1998 /1941) and came into force on **20 May 2014**.

**Rules 3 to 7** make changes to the rules relating to referees for applications for firearm certificates and shotgun certificates. Under the new arrangements, referees will no longer have to provide any signed statements, nor will they have to sign in ink on the back of a photograph to confirm that the photograph is a true likeness of the applicant. The purpose behind these changes is to allow for a move towards a fully electronic application process, in order to increase efficiency.

**Rule 8** replaces two existing prescribed forms and one existing prescribed certificate with new prescribed forms and a new prescribed certificate. The purpose of making these changes is to ensure that the forms concerned are sufficiently clear for the user, and to correct some minor errors in the text.

**Rules 9 and 10** make provision to enable chief officers of police to process applications which are made using the old forms that are to be replaced, provided that the application concerned is submitted on or before **20 June 2014**.
New legislation

Anti-Social Behaviour Crime and Policing Act 2014

The Act received Royal Assent on 13 March 2014. The overarching aim of the Act is to provide more effective powers to tackle anti-social behaviour (ASB) and protect victims and communities. Parts 1-6 of the Act deal with Anti-Social Behaviour; Parts 7, 8, 9 and 10 deal with Dangerous Dogs, Firearms, Protection from Sexual Offences and Prohibitions on Forced Marriage; the remainder of the Act addresses policing, extradition, criminal justice and court fees.

The key provisions in the Act are set out below.

Parts 1 to 6: Anti-Social behaviour

Parts 1 to 6 of the Act introduce simpler, more effective powers for tackling anti-social behaviour. This will provide better protection for victims and communities, act as a real deterrent to perpetrators and give victims a say in the way their complaints are dealt with.

The provisions in Parts 1 to 4 replace the existing 19 powers to deal with anti-social behaviour with six faster, more effective ones. In particular, the Act introduces the Injunction to Prevent Nuisance and Annoyance, and the Criminal Behaviour Order, which will replace the ASBO. The aim of the new orders is to stop anti-social behaviour before it escalates and to work with individuals to tackle the root causes of their behaviour.

Part 5 of the Act gives landlords powers to deal swiftly with the most serious anti-social behaviour committed by their tenants and Part 6 will give victims the power to ensure that action is taken to deal with persistent anti-social behaviour through the new community trigger. Victims will also have a greater say in what form of sanction an offender receives out of court through the new community remedy.

The Act will also provide police with a dispersal power which will enable officers to require a person who has committed, or is likely to commit, ASB to leave a specified area and not return for up to 48 hours.

Part 7: Dangerous dogs

Part 7 of the Act strengthens powers to tackle irresponsible dog ownership by amending Section 3 of the Dangerous Dogs Act 1991 (the 1991 Act). The amendment extends to private places the offence of owning or being in charge of a dog that is dangerously out of control in a public place. The purpose of the amendment is to ensure that there is a balance between allowing people to retain their family pet and the need to prioritise public safety.
The Act increases the maximum penalties for aggravated offences under section 3 of the 1991 Act, from two years' imprisonment to 14 years' where the death of person is involved, to 5 years' where a person is injured and to 3 years' for an aggravated attack on an assistance dog. Part 7 also ensures that the courts can take account of the character of the owner of the dog, as well as of the dog, when assessing whether a dog should be destroyed on the grounds that it is a risk to the public.

**Part 8: Firearms**

Part 8 of the Act increases the maximum penalty for the illegal importation/exportation of firearms to life imprisonment and creates a new offence of ‘possession for sale or transfer’ of prohibited firearms.

The Act also includes a clause to correct an anomaly in the arrangements for authorising armed British Transport Police officers, bringing them into line with officers in the territorial forces.

**Part 9: Protection from sexual harm and violence**

Part 9 of the Act reforms the system of civil orders under the Sexual Offences Act 2003 used to protect children and vulnerable adults from sexual harm, making the powers available more flexible and effective.

The Act repeals and replaces the current sexual offences prevention order and the foreign travel order and these are replaced by two new orders: the sexual harm prevention order and the sexual risk order. The grounds on which these orders may be made are wider than those for the current orders, which means that they can be used to manage risk against adults as well as children. The prohibitions contained in the orders are also wider so, for example, foreign travel restrictions can be imposed under either order.

In addition to the police, the National Crime Agency (NCA) will also have the power to apply for the new orders. The Home Secretary will issue statutory guidance in relation to the new orders to the police and the NCA.

These amendments address gaps in the current system and ensure that the police and the NCA have the powers they need to manage those who pose a risk of sexual harm.

It also extends the use of preventative Violent Offender Orders to offenders convicted of murder abroad.

**Part 10: Forced marriage**

Part 10 of the Act tackles forced marriage by making forced marriage a criminal offence and criminalising the breach of a forced marriage protection order.
The offence of forced marriage will be committed where a person:

(a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and

(b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without free and full consent.

A person also commits an offence if he or she:

(a) practices any form of deception with the intention of causing another person to leave the United Kingdom, and

(b) intends the other person to be subject to coercion for the purpose of making him or her enter into a marriage without free and full consent.

The penalties for the new offences in England and Wales will be a fine or imprisonment for a term not exceeding six months, or both, on summary conviction; and imprisonment for a term not exceeding seven years.

The offence of breaching a Forced Marriage Protection Order (FMPO) is modelled on the provisions in Part 4 of the Family Law Act 1996 which makes breach of a non-molestation order an offence. As a result, it provides police with a power of arrest without warrant for breach of a FMPO. This means that the police will always be able to arrest for the breach of a FMPO and there will be no need for the courts to attach a power of arrest, or for the victim to apply to the civil court for an arrest warrant.

The offence of breaching a FMPO will be triable either way. The maximum penalty on conviction on indictment will be five years’ imprisonment, or a fine, or both; and the maximum penalty on summary conviction will be six months’ imprisonment, or a fine, or both.

**Part 11: Policing**

Part 11 of the Act makes a number of policing reforms, in particular it:

- Gives the College of Policing the powers it needs to set standards for the police in England and Wales.

- Extends the powers and remit of the Independent Police Complaints Commission (IPCC) to help it to carry out its functions. This includes providing the IPCC with oversight of private sector contractors who carry out functions for the police and extending the IPCC’s power to obtain data from third parties. The Act also creates a statutory framework to require responses to IPCC recommendations; provides the IPCC with a power to authorise certain activities under the Police and Criminal Evidence Act 1984 and provides that the IPCC may recommend and direct that a force instigates Unsatisfactory Performance Procedures in cases which involve a death or serious injury.
• Replaces the Police Negotiating Board with a new Police Remuneration Review Body to consider and make recommendations on police officers’ pay and conditions.

• Confers on Police and Crime Commissioners (PCCs) responsibility for commissioning victims’ services.

• Enables PCCs to appoint as chief constables candidates if they have been a police officer in an approved overseas force at the approved rank. It also provides that the College of Policing will be responsible for making designations as to which countries, police forces and ranks can be considered. The designation will have to be approved by the Home Secretary.

• Rectifies anomalies in the framework of financial controls on chief officers.

• Ensures that samples (such as blood and hair) may be retained while they may be required as evidence in legal proceedings. The Act outlines safeguards against any other possible use of such samples by stating that once the samples are no longer needed as evidence, etc, they must be destroyed. A sample retained under the Criminal Procedure and Investigations Act 1996 may not be used other than for the purposes of any proceedings for the offence in connection with which it was taken. The amendments made by the Act implement the changes made by the Protection of Freedoms Act 2012 which was to rule out the possibility of further analysis being carried out in future to derive genetic information while avoiding the difficulties described above. The changes made by the Act apply to both samples taken under PACE and those taken under powers in the Terrorism Act 2000.

• Provides the police and Border Force officers with powers to seize invalid travel documents.

• Ensures that the counter-terrorism border security powers contained in Schedules 7 and 8 to the Terrorism Act 2000 strike a better balance between the need to protect public safety and the protection of individual freedoms.

• Provides for the independent inspection of the Serious Fraud Office by Her Majesty’s Crown Prosecution Service Inspectorate.

• Provides a transparent legislative basis for the Disclosure and Barring Service’s fees to be set at a level that takes into account the cost of providing criminal record checks to volunteers for free; and

• Enables chief constables to give police community support officers (PCSOs) additional powers. For example, chief constables will be able to give PCSOs additional powers in respect of issuing fixed penalty notices, seizure, and the power to stop cycles not using lights.
Part 12: Extradition

Part 12 makes provisions to strengthen public confidence in, and the operational effectiveness of, our extradition arrangements by amending the Extradition Act 2003, including by implementing recommendations from Sir Scott Baker’s review and reforming the European Arrest Warrant.

Part 13: Criminal justice and court reform

The measures in Part 13 improve the efficiency and effectiveness of the justice system, while enhancing the provision of services to victims and witnesses by:

- establishing in law a test of ‘clear innocence’ for the purpose of determining eligibility for compensation for miscarriages of justice
- improving the speed and efficiency of the criminal justice system’s response to low-level offending by enabling the police to prosecute uncontested minor offences of shop theft
- extending the scope of the statutory witness protection scheme to cover other vulnerable individuals
- ensuring that offenders sentenced to custody contribute to the costs of supporting victims by removing the power of magistrates’ courts to add additional days to a sentence of imprisonment in lieu of the Victims’ Surcharge; and
- enabling the Lord Chancellor to set certain court and tribunal fees above cost.

Currently, only certain parts of the Act are in force. These include section 147 of, and Schedule 8 (provisions relating to seizure of invalid passports) and section 175 which deals with compensation for miscarriages of justice. Further provisions will come into force throughout the year.

Provisions relating to the following came into force on 13 May 2014:

- community remedies (section 101)
- the response to complaints about anti-social behaviour (sections 104, 105 and Schedule 4)
- dangerous dogs (sections 106 and 107)
- British Transport Police (section 112)
- violent offender orders (section 119)
- College of Policing (sections 123 to 130)
• Chief officers of police and local policing bodies (sections 141 and 142)
• personal samples and DNA profiles (sections 144 to 146)
• port and border controls (section 148 and Schedule 9)
• powers of community support officers (section 152 and Schedule 10)
• the use of amplified noise equipment in the vicinity of the Palace of Westminster (section 153)
• low-value shoplifting (section 176); and
• protection arrangement for persons at risk (section 178).

The provisions on forced marriage (sections 120 and 121) will come into force on 16 June 2014 and the provisions relate to firearms (sections 108 to 111) will come into force on 14 July 2014.

The Act can be found at http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted

For more information on the Act and to view supporting documentation, including detailed fact sheets on the provisions, please see the Act web page on the Government website https://www.gov.uk/government/organisations/home-office/series/anti-social-behaviour-crime-and-police-bill
Case law

Crime

R v Josef Cobraszczyk, Ruth Jarman, Shiela Menon, Ruth Potts and Caroline Lucas

This case was heard in the Brighton Magistrates Court on 17 April 2014 before District Judge Tim Pattinson.

Background

The defendants were charged for their activities whilst taking part in a protest about the process of extraction of shale gas by fragmentation of rock (known as fracking).

All five Defendants faced identical charges which were as follows:

1. On 19 August 2013 at Balcombe in the County of West Sussex took part in a public assembly and knowingly failed to comply with a condition imposed under Section 14 of the Public Order Act 1986, namely to assemble within a designated area so as not to be part of a public assembly across the entrance of the Cuadrilla site.

2. On 19 August 2013 at Balcombe in the County of East Sussex, without lawful authority or excuse, wilfully obstructed the free passage along a highway, namely B2036 London road contrary to Section 137 (1) of the Highways Act 1980.

The Law

Section 14(5) Public Order Act 1986 provides that:

A person who takes part in a public assembly and knowingly fails to comply with a condition imposed under this Section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

All five Defendants pleaded Not Guilty to both charges. There was no dispute that all five Defendants were taking part in a public assembly. What was in dispute is that they ‘knowingly’ failed to comply with a condition imposed.

The judge also considered whether the section 14 notice was valid.
All five Defendants argued that the Section 14 notice was invalid in that:

1. The Police Officer giving the directions contained in the Notice was not authorised to do so.
2. Even if he was authorised to do so, he exercised his discretion wrongly in making a direction in this case and
3. The conditions within the Notice were so vague and unclear as to be meaningless.

Section 14 (2) of the Public Order Act 1986 defines the ‘senior police officer’ entitled to make the directions as being:

a. In relation to an assembly being held, the most senior in rank of the police officers present at the scene
b. In relation to an assembly intended to be held, the chief officer of police.

The Judgment

The Judge found all five defendants Not Guilty of the section 14 charge. He also found that on the facts the Notice was invalid as the police officer giving the Notice was not the authorised officer.

All five defendants were also found Not Guilty on the obstruction of the Highway charge.

This summary is produced with kind permission of CrimeLine from information contained in the full judgment of District Judge Tim Pattinson which can be found at http://www.crimeline.info/case/r-v-caroline-lucas-and-others
General police duties

The Queen (on the application of ‘P’) -v- Chief Constable of Thames Valley Police [2014] EWHC 1436 (Admin)

This case was heard in the High Court of Justice (Queen's Bench Division) by Mr Justice Foskett.

This was a judicial review application of the chief constable’s decision to include certain information about the claimant (P) in an enhanced criminal record certificate (ECRC) and to refuse to amend or remove the information when requested to do so.

The court considered whether the inclusion of this information on the ECRC constituted a disproportionate interference with P’s rights to respect for private and family life under Article 8 of the European Convention on Human Rights (ECHR) and if the information in the ECRC had an arguably unreliable basis which effectively ended the claimant’s prospects of obtaining work in the caring community. P’s claim for judicial review was upheld.

The Facts

P had been employed through a recruitment agency at a residential community drugs stabilisation and structured treatment centre (the centre). After several shifts he was asked not to return because of an allegation of sexual assault made against him by one of the female residents (A). He was arrested and interviewed under caution but denied the allegation vigorously, and was later told by the police that no further action would be taken against him.

During the police interview he had also been asked about certain comments he was alleged to have addressed to A and to others which had sexual connotations. It was these alleged remarks that were recorded on his ECRC about which his complaint in these proceedings was founded. There was no suggestion that any of the comments he was alleged to have made amounted to a criminal offence.

A few months later, when he applied for a job through another recruitment agency in the care field, he was informed that the enhanced disclosure from the Criminal Records Bureau had not been satisfactory and so he was not engaged. The ECRC gave some details of the alleged assault. P was subsequently offered another job through the same recruitment agency, conditional on the receipt of a satisfactory ECRC. P engaged solicitors who wrote to the chief constable asking for the adverse entry on the ECRC to be removed.
Two months later a second ECRC was issued. The decision about its content was made by a senior officer deputised by the chief constable to deal with such matters. The details of the alleged sexual assault had been removed, however these had been replaced with details of the sexual comments that P had allegedly made. The ECRC stated that the centre’s manager had received information that P had made inappropriate and sexual comments to service users, and had therefore declined to continue P’s employment at the centre.

P’s solicitors took issue with this second certificate, and correspondence ensued over the next few months with the Thames Valley Police legal department. The senior officer who decided on the information to be included in the second ECRC noted that whilst P had asserted the information was untrue, the incidents had been witnessed (although there was some doubt over the reliability of the witness’s accounts), and had formed the basis of the discontinuance of P’s employment at the centre.

Another senior officer had been asked to consider the matter afresh, but that officer confirmed his agreement with the first senior officer’s conclusion that the disclosure was appropriate and proportionate.

P argued that the chief constable’s decisions both to include that information in the second ECRC and to refuse to amend or remove it when requested to do so constituted a disproportionate interference with his rights under Article 8 of the ECHR, and breached his common law right to fairness.

The Judgment

The application was granted. The relevant issue was whether it was fair and proportionate for the ECRC to give the information it did. There was little doubt that the ECRC would amount to a ‘killer blow’ to P’s prospects of obtaining work in the caring community. That fact had to be weighed in the balance when determining any risks to which P’s working in the caring community might give rise, bearing in mind the question of the reliability of the evidence supporting the information that might influence a potential employer from engaging him.

The principles in the case of R. (on the application of L) v Commissioner of Police of the Metropolis [2009] UKSC 3, [2010] 1 A.C. 410 were followed. This involved consideration of the essential gravity of the allegations, and the reliability of the information available.

Mr Justice Foskett held ‘The use of the words do not amount to criminal offences and no physical contact took place between the user of the words and any of those to whom they were allegedly addressed. Taken at their highest, the words are vulgar and explicit. However, they were not used to children and, looking at the matter realistically, it would be surprising if those at the residential centre had not heard or used words of a similar nature before…I find it difficult to believe that any harm was done by the use of the words highlighted if the words were indeed used’.
In addition to this, the judge said that there had to be some residual doubts as to the reliability of the information upon which the content of the ECRC was based.

The initial allegation of sexual assault by A resulted in no further action by the police; as remarked on in paragraph 25 of the judgement ‘A was undoubtedly regarded as a potentially unreliable historian of the alleged sexual assault for the purposes of any prosecution’. The allegation of sexual assault was not corroborated by anyone else. Regarding the alleged sexual comments, none of the service users who supposedly heard these comments were prepared to give a statement to the police and none was interviewed by the police. There had been some discussion between A and the potential witnesses before they told the manager about the comments.

Although the senior officer only included information in the ECRC that could be corroborated by others, all of the other residents involved were themselves known to the police, and there was no evidence of any critical analysis of the veracity of each of the others by the senior officer.

The judge also said that P had no opportunity to rebut the allegations and his denials had not been included in the ECRC even though it appeared that that was originally intended. The employment that P was seeking through the agency would have involved working with young adults with autism. The judge said that whatever view might be taken of the use of comments such as those alleged to have been used amongst adults who were probably used to such language, there were no obvious grounds for believing that P would use any such words amongst children or young adults with autistic difficulties.

The judge concluded that the inclusion of the relevant matters, which were hardly at the most serious end of the relevant spectrum, and which had a disputed and arguably unreliable basis, represented a disproportionate interference with P’s Article 8 rights when judged by reference to the ‘killer blow’ effect that they would have on his future employment prospects.

Accordingly, the application for judicial review was granted and it was ordered that the ECRC should no longer refer to any of the relevant matters.

The full case report can be found at [http://www.bailii.org/ew/cases/EWHC/Admin/2014/1436.html](http://www.bailii.org/ew/cases/EWHC/Admin/2014/1436.html)
Policing practice

Crime

Circular 004/2014: Powers to search for and seize invalid travel documents

This circular advises on the invalid travel document search and seizure provisions in Schedule 8 to the Anti-Social Behaviour, Crime and Policing Act 2014 which came into force on 14 March 2014.

Schedule 8 to the Anti-Social Behaviour, Crime and Policing Act (the Act) provides new powers for police officers and Border Force officers (ie immigration officers and/or designated customs officials) to search for and seize invalid travel documents. These documents include passports cancelled on public interest grounds under the Royal Prerogative. The Home Secretary has the discretion to refuse or withdraw a British passport on public interest grounds under the Royal Prerogative.

The provisions in Schedule 8 provide new statutory powers at ports and ‘in-country’ to prevent people from travelling to or from the United Kingdom on invalid documentation. They also provide an express statutory power to search for and seize passports cancelled under the Royal Prerogative.

Operation of these new powers will be restricted for the first two months (from 14 March to 13 May 2014) to cases where passports have been cancelled on public interest grounds under the Royal Prerogative. Thereafter, the powers may be used to search for and seize invalid travel documents in all cases specified in the Schedule.

The key aspects of the invalid travel document provisions in Schedule 8 are summarised in the circular and should be read in conjunction with the full Schedule 8 text which can be found on the Parliament website at http://www.parliament.uk/

Stop and search: Comprehensive package of reform for police stop and search powers

In a statement to Parliament made on 30 April 2014 the Home Secretary, Theresa May, announced proposed reforms to police stop and search powers. This statement follows on from a HMIC Inspection of police forces use of stop and search powers and a public consultation launched last year.

A summary of the responses to the consultation seeking views from members of the public, particularly young people and people from minority ethnic communities has also been published.

The consultation, which generated more than 5,000 responses, found that those on the receiving end of stop and search had very different attitudes to those who were not.

While 76% of people aged between 55 and 74 thought stop and search powers were effective, only 38% of people aged between 18 and 24 agreed. While 66% of white people thought stop and search powers were effective, only 38% of black people agreed.

The Home Secretary said that the findings of the HMIC inspection were deeply concerning. The inspectorate reported that 27% of the stop and search records they examined did not contain reasonable grounds to search people, even though many of these records had been endorsed by supervising officers. If the HMIC sample is accurate, that means more than a quarter of the one million or so stops carried out under the Police and Criminal Evidence Act last year could have been illegal.

According to official figures, persons from a black or minority ethnic background are up to seven times more likely to be stopped and searched by the police than persons who are white, and only about ten per cent of stops result in an arrest. Since February 2012, the Metropolitan Police have reduced their overall use of stop and search by 20%. They have reduced no-suspicion stop and search by 90%. In the same period, stabbings have fallen by a third and shootings by forty per cent. Complaints against the police have gone down and the arrest ratio has improved.

The Home Secretary announced that she intended to revise the Police and Criminal Evidence Act Code of Practice A to make clear what constitutes ‘reasonable grounds for suspicion’ – the legal basis upon which police officers carry out the vast majority of stops.

The revised code will emphasise that where officers are not using their powers properly they will be subject to formal performance or disciplinary proceedings.
HMIC’s study into the use of stop and search revealed that more than half the police forces in the country are ignoring the requirement set out in the Police and Criminal Evidence Act Code of Practice A to make arrangements for public scrutiny of stop-and-search records. The Home Secretary has written to all chief constables and police and crime commissioners to tell them to adhere to the code and that if they do not do so, the government will bring forward legislation to make this a statutory requirement.

The Home Secretary has also commissioned Alex Marshall, the chief executive of the College of Policing, to review the national training of stop and search with a view to developing robust professional standards for officers on probation, existing officers, supervisors and police leaders.

In response to the announcement, Chief Constable Alex Marshall, said:

The British policing model relies on the consent of the communities that we serve and maintaining their trust in police officers to use our powers – including stop and search – fairly and with respect. Today’s announcement from the Home Secretary will see the College of Policing review all training provided to police officers at every level in the service to ensure that they are equipped with the right knowledge and skills to conduct effective stop and search.

The review will seek to reduce any unconscious bias in officers’ decision making around stop and search, which is also a key part of the College’s Code of Ethics recently sent to police forces.

The College will work closely with the national policing lead for stop and search, Deputy Commissioner Craig Mackey, the Home Office, chief constables and police and crime commissioners to ensure that the right training and systems are in place. The College will also introduce an assessment of officers’ fitness to use stop and search powers.

In the summer, the Home Office and the College of Policing will launch a new ‘Best Use of Stop and Search’ scheme. Forces participating in the scheme will record the outcome of stops in more detail to show the link, or the lack of a link, between the object of the search and its outcome. The scheme will also require forces to record a broader range of outcomes, such as penalty notices for disorder and cautions.

The scheme will require no-suspicion stop and search to be limited to when it is ‘necessary to prevent incidents involving serious violence’ rather than just ‘expedient’ to do so. The level of authorisation will be raised to a chief officer and that officer must reasonably believe that violence ‘will’ take place rather than ‘may’, as things stand now. This will bring no-suspicion stop
and search more into line with the stop and search powers under Section 47A of the Terrorism Act 2000. The scheme will also require forces to limit the application of no-suspicion stop and search to fifteen hours and require them to communicate with local communities in advance and afterwards, so residents can be kept informed of the purpose and success of the operation.

The reforms announced are a comprehensive package of reform designed to contribute to a significant reduction in the overall use of stop and search. The Home Secretary indicated that if stop and search does not become more targeted and if stop-to-arrest ratios do not improve considerably, the government would bring forward primary legislation to make it happen.


**Revised Draft Code of Practice Published: Schedule 7 Terrorism Act 2000**

The Home Office has issued a Revised draft Code of Practice in relation to Schedule 7 to the Terrorism Act 2000 and is currently analysing feedback from a recent consultation on the draft Code. Schedule 7 allows an examining officer to stop and question and, when necessary, detain and search, individuals travelling through ports, airports, international rail stations or the border area to determine whether that person appears to be someone who is or has been concerned in the commission, preparation or instigation of acts of terrorism. The Home Office has had to revise the Code to ensure they reflect the changes introduced in the Anti-social Behaviour, Crime and Policing Act 2014.

The draft revised Code can be accessed at https://www.gov.uk/government/consultations/schedule-7-code-of-practice
Police

Police Federation Conference 2014

The Home Secretary, Teresa May, made an uncompromising speech to the Police Federation Conference in Bournemouth.

Teresa May withdrew government funding from the Federation and warned that if they fail to modernise and accept all the recommendations from the Normington Review, the legislation that created the Federation in 1919 would be amended to enforce change.

The Home Secretary listed some of the high profile cases that have damaged the reputation of the police in recent times and referred to the recent HMIC reports into the use of stop and search powers and the police response to domestic violence. The College of Policing was mentioned by the Home Secretary as a positive change and specific reference was made to the College of Policing Code of Ethics.

The Federation passed a motion calling for reform and said they accepted the principles of the reforms set out in the independent review of the Federation by Sir David Normington.

The Federation also elected Steve White as the new chairman. Mr White, formerly the vice-chairman of the Police Federation, which represents 126,000 rank and file officers, said:

This has been an historic week. We have been given a clear mandate to progress the reforms needed to better represent the hard working police officers throughout England and Wales. We are all committed to the work needed to implement change to the Police Federation. This is not the end of the road; it is the start of the journey.

The Home Secretary’s speech can be found at https://www.gov.uk/government/speeches/home-secretarys-police-federation-2014-speech

Further information about the Federation Conference 2014 can be found at http://www.polfed.org/default.aspx
Home Office Circular 005/2014: Police pensions

This Circular publishes information about Police Pensions including the end of the 30+PLUS arrangement; implementation of Marriage (Same Sex Couples) Act 2013; and the new contract awarded for police medical appeal boards. The Police Pensions (Amendment) Regulations 2014 (2014/381) came into effect on 13 March 2014 and gave effect to the Marriage (Same Sex Couples) Act 2013 (the Act) for the police pension scheme.

The Act provides for the law of England and Wales to apply to marriages of same sex couples as it applies to marriages of opposite sex couples.

The 30+PLUS arrangement ended on 31 March 2013. The government has decided not to commission a further arrangement at this time. As such the framework for the arrangement is withdrawn. All officers already engaged on the arrangement will remain unaffected but the arrangement is not available to new applicants. Attached at Annex B to the circular is a copy of the formal notification sent to the Police Negotiating Board announcing this decision.

Following completion of a comprehensive procurement process Health Management Limited (HML) has been selected to administer and provide Police Medical Appeal Boards effective from 21 March 2014. HML will also continue to provide and administer boards in Scotland. Further details can be found at https://www.gov.uk/government/publications/circular-0052014-police-pensions

Home Office Circular 006/2014: Amendments to the determinations under Police Regulations 2003

This circular publishes amendments to determinations made under the Police Regulations 2003, to implement recommendations from Part 2 of the Winsor Review and other outstanding Police Negotiating Board (PNB) agreements. The effective date of these changes is 1 April 2014 unless otherwise stated.

The Secretary of State has agreed to implement PNB agreements in relation to: the 2013/14 pay award; revised pay scales for constables, sergeants, superintending ranks and assistant chief constables; and arrangements for the resumption of incremental progression on 1 April 2014.

In addition, Greater Manchester Police have drawn up a useful guidance document on the assimilation procedure for the new constables’ pay scale in order to help officers understand what the changes mean for them – this is also attached to the circular as a separate document.

Further information can be found in the circular at https://www.gov.uk/government/publications/circular-0062014-amendments-to-the-determinations-under-police-regulations-2003
Training and development

Guidance on Intellectual Property Offences

The Intellectual Property Office has published a list of offences and penalties that relate to counterfeiting and piracy.

Intellectual property crime is dealt with in four key pieces of legislation: the Trade Marks Act 1994, the Copyright, Designs and Patents Act 1988, the Video Recordings Act 2010 and the Fraud Act 2006. The offences are:

**Trade Marks Act 1994**
- unauthorised use of a trade mark (section 92).

**Copyright, Designs and Patents Act 1988**
- criminal liability for making or dealing with infringing articles etc (section 107)
- criminal liability for making, dealing with or using illicit recordings (section 198)
- devices and services designed to circumvent technological measures (section 296ZB)
- offence of fraudulently receiving programmes (section 297)
- unauthorised decoders (section 297A).

**Video Recordings Act 2010**
- supplying video recording of unclassified work (section 9)
- possession of video recording of unclassified work for purposes of supply (section 10)
- supplying of video recording of classified work for purposes of supply (section 11)
- supply of video recording not complying with requirements as to labels (section 13)
- supply of video recording containing false indication as to classification (section 14).

**Fraud Act 2006**
- fraud by false representation (section 2)
- possession of any article(s) for use in the course of or in connection with any fraud (section 6)
- making or supplying articles for use in fraud (section 7)

Full details of the offences and penalties can be found at [https://www.gov.uk/government/publications/intellectual-property-offences](https://www.gov.uk/government/publications/intellectual-property-offences)
Department for Transport public consultation on Traffic Signs Regulations and General Directions 2015

On 1 May 2014, the Department for Transport (DfT) launched an open consultation on the revised Traffic Signs Regulations and General Directions (TSRGD) 2015. The consultation period will run until 12 June 2014.

The traffic signs policy review began in September 2008 and culminated in the policy paper ‘Signing the way’ that set out a policy framework which retained national consistency for traffic signing, while allowing flexibility to meet local needs.

The DfT has been focusing on preparing a revised TSRGD 2015 which will incorporate the regulatory and presentational improvements for signage recommended in ‘Signing the way’. These revisions will provide greater flexibility and cut costs for local authorities and make a significant contribution to red tape challenge.

The consultation is seeking views on the proposed changes to the TSRGD. The consultation document highlights the major changes proposed and specific issues which the DfT is seeking feedback.

The DfT have published a number of supporting documents that should be read alongside the consultation document. This will enable the changes to be set in context, and explain in more detail how they have been developed.

This consultation is focused only on the draft Schedules as provided and not the regulations and directions.

The closing date for responses is 12 June 2014.


Criminal justice system

Statistical bulletin: Crime in England and Wales, Year Ending December 2013

The Office of National statistics (ONS) have published the latest crime statistics. This quarterly release presents the most recent crime statistics from two different sources: the Crime Survey for England and Wales (CSEW; previously known as the British Crime Survey), and police recorded crime. It also draws on data from other sources to provide a more comprehensive picture of crime and disorder, including incidents of anti-social behaviour recorded by the police and other transgressions of the law that are dealt with by the courts but are not covered in the recorded crime collection.

Statistics based on police recorded crime data have been assessed against the Code of Practice for Official Statistics and found not to meet the required standard for designation as National Statistics. The full assessment report can be found on the UK Statistics Authority website. Data from the Crime Survey for England and Wales (CSEW) continue to be badged as National Statistics.

Alongside this release, the Office for National Statistics (ONS) have published a response to the UK Statistics Authority’s assessment of crime statistics, including progress on implementing the requirements set out by the Authority.

Key Points

- Latest figures from the Crime Survey for England and Wales estimate there were 7.5 million crimes against households and resident adults in the previous twelve months, based on interviews with a nationally representative sample in the year ending December 2013. This was down 15% compared with the previous year’s survey, and is the lowest estimate since the survey began in 1981.

- The reduction of crime measured by the CSEW was driven by decreases in a range of offence groups, including: other household theft (down 25%); violence (down 22%); and vandalism (down 15%).

- The CSEW also estimated there were 762,000 crimes experienced by children aged 10 to 15 resident in the household in the year ending December 2013. This was down 13% compared with the year ending December 2012 (877,000), although this was not a statistically significant decrease.

- The police recorded 3.7 million offences in the year ending December 2013, a decrease of 2% compared with the previous year.
There were decreases across most of the main categories of police recorded crime. However, there were signs of increasing upward pressures in some offence types in the police recorded crime data; for example, shoplifting continued to increase (by 6% in the year ending December 2013). Continuing falls in high volume crimes such as other types of theft offences and criminal damage mean that overall levels of crime have also fallen.

There was also a 1% increase in violence against the person offences recorded by the police but this is thought to reflect improvements in recording and possibly a rise in public reporting.

The number of sexual offences recorded by the police increased by 17%. This continues the pattern seen in recent quarterly releases and comes in the wake of the publicity surrounding the Savile case and allegations against other celebrities which are thought to have led to a greater number of victims coming forward to report sexual offences to the police.

In the year ending December 2013, 207,252 fraud offences were recorded by the police and Action Fraud based on reports from members of the public. This represents a volume increase of 25% compared with the previous year. This rise should be seen in the context of a move towards improved recording of fraud following a move to centralised recording by the police. In addition, there were 309,880 reports of fraud to the National Fraud Intelligence Bureau from industry bodies.


**Hate Crime Action Plan: Challenge it, Report it, Stop it**

The Hate Crime Action Plan progress report has been published setting out the progress made in the past two years. Achievements documented in the report include: better education of secondary school pupils, improved recording by police and work with major internet service providers in the UK and the USA to reduce the harm caused by hate material on the internet.

The action plan, published in March 2012, brings together the activities of government departments (who work with local agencies, voluntary organisations and the independent advisory group) to meet three main objectives:

- preventing hate crime happening by challenging the attitudes and behaviours that foster hatred, and encouraging early intervention to reduce the risk of incidents escalating
• increasing the reporting of hate crime that occurs by building victims’ confidence to come forward and seek justice, and working with partners at national and local level to ensure the right support is available when they do

• working with the agencies that make up the criminal justice system to improve the operational response to hate crime

• a more effective end-to-end process, with agencies identifying hate crimes early, managing cases jointly and dealing with offenders robustly.

The government agreed to review ‘Challenge it, Report it, Stop it’ to assess progress and to ensure new and emerging issues are being addressed.

The May 2014 progress report provides both an overview of achievements and case study examples, which demonstrate how work is being carried out locally. It also highlights areas that have evolved since the plan’s launch, and what is being done to deal with those issues.

The hate crime action plan progress report can be found at https://www.gov.uk/government/publications/hate-crime-action-plan-challenge-it-report-it-stop-it
Parliamentary issues

Home Affairs Committee publishes report on Counter-terrorism

The Home affairs committee has reported following its inquiry into terrorism in the UK and abroad. The threat from terrorism has dramatically changed since 2001. According to the report, there are more Al Qa’ida inspired terrorist groups today than in 2001, spread across a wider geography, with a more diverse and evolving set of capabilities. A common feature among these terrorist groups is that the UK features as a primary target. A full threat assessment is included as an annex to this report.

The committee took evidence on a wide range of issues, focusing primarily on three elements of the terms of reference for this inquiry:

- whether the UK has sufficient capability to detect, investigate and disrupt terrorist threats
- the effectiveness of the Government in working with foreign Governments and Multi-lateral organisations to counter terrorist threats at home and abroad
- whether the UK effectively supports allies in building capacity to investigate and prosecute terrorists based overseas.

The Committee concluded that:

Foreign fighters

- the Government’s response must encompass dissuading and preventing those who wish to go to fight from going; helping countries who are key to intercepting those entering Syria; and ensuring those who return do not present a danger to the UK
- there should be engagement with Communities through peer led schemes to prevent radicalisation, such as the Abdullah X programme
- the Committee recommends that the Government implement a programme, similar to Channel, for everyone returning to Britain where there is evidence that they have fought in Syria.
UK response to the terrorist threat

- There should be increased oversight of the vital power to withdraw passports. The power to make individuals stateless ought not to be employed while the individual is in the UK.

- The responsibility for counter-terrorism policing should be moved from the Metropolitan Police to the NCA.

- All police forces should ensure that local shopping centres have received the British Council of Shopping Centres guidance and put in place and tested a Response Plan.

Oversight of the security and intelligence agencies

- the Committee raised concern over the weak nature of the oversight system which has an impact upon the credibility of the agencies accountability, and to the credibility of Parliament itself

- the Commissioners who scrutinise the intelligence services should be full time and properly resourced

- the scrutiny of the work of the security and intelligence agencies should be not the exclusive preserve of the Intelligence and Security Committee

- the Commons membership of the Intelligence and Security Committee should be elected

- the Chair, who should always be a member of the Commons, ought to be subject to election of the whole House and should always be a member of the largest opposition party.

International Emergency Terrorist Platform and Capacity Building

- the UK should lead in the establishment of an international terrorism platform, using existing resources and knowledge at Interpol, which will allow nations access to advice, intelligence and expertise in dealing with terrorist threats

- overseas Development Aid money could be used to increase resource for capacity building abroad.

The full report of the Home Affairs Committee – Seventeenth Report Counter-terrorism can be found at [http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/231/23102.htm](http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/231/23102.htm)
Home Affairs Committee – eighteenth report Reform of the Police Federation

The Home affairs committee has published its report following an inquiry into reform of the Police Federation in which it has made a number of recommendations for reform.

In particular the committee noted that the Police Federation is a statutory body created by parliament, and its membership, whom it does not currently serve as well as it could, do not join voluntarily but become members automatically on taking up the office of constable. The committee said it would be best for the Federation to reform from within, with the support of its members, on the basis of the recommendations in the Normington report.

Conclusions of the Committee

- The committee welcomed the independent review of the police federation which was initiated by the outgoing chair of the Federation, Steve Williams.
- Reports of systematic bullying within the senior echelons of the police federation were ‘shocking’. It appeared that standards of behaviour within the Federation had consistently fallen well short of those the public, as well as their fellow officers, are entitled to expect from police officers.
- The ‘plebgate’ incident did the Federation no credit at all and it must think much more carefully in the future about the nature of its public campaigning and its public relations advice.
- The case for reform of the Police Federation has been powerfully made. The Normington report presents a sensible, balanced and proportionate package of reform which, if implemented, will help the organisation to move forward, to restore its damaged reputation, and to re-focus on the core business of representing the interests of its members.

Recommendations

- The Federation, at national and local level, is holding some £70 million of its members’ money, a level of reserves which is far in excess of the Federation’s operating costs. Therefore, the committee recommended that the money held by the national rank committees and the joint central committee be returned to members at the earliest possible opportunity. This should be returned as a subscription rebate, subscriptions to be frozen for next year and further reductions in future years. The Federation should retain only a prudent level of reserves in relation to its outgoings. If the central committees were to reduce their reserves by around 50%, this would add up to a rebate of nearly £120 per member.
• The Federation should be fully open with its members and the public about all its sources of revenue. All accounts of money held and controlled by the Police Federation and its branches should be published on their websites by **18 May 2014** so that members can have a full understanding of the Federation’s financial position. This should be immediately followed by a letter to each member of the Federation enclosing a copy of all accounts, information on the freezing of subscriptions and reductions in future years, and their returned subscription.

• All accounts held by the Federation, including ‘no. 2’ accounts, should be audited and audit certificates published alongside the accounts online.

• The Federation leadership should bring the revised core purpose before the annual conference in May this year or, if this is not practical, to call a special conference for this purpose no later than the end of July.

• The Federation should seek to hold a full election for the post of national chair as soon as possible after the 2014 conference, if necessary at a special conference in July 2014.

• The fact that police federation headquarters had no national database of members and therefore no way of communicating directly with its membership was ‘astonishing’. The committee recommended this be remedied in the near future and, the federation should ensure that all members send in their contact details in order to receive correspondence.

• It will be important to move quickly with implementing these reforms. The Normington report has recommended that many of the changes should be introduced in the most expeditious way possible, whether by executive action or by decisions of the conference or joint central committee.

• It will be necessary for some of these changes to be incorporated into statute. The committee recommended that, following the Annual Conference in May 2014, the Home Office work closely with the Police Federation to establish what changes to statute will be required to embed the new reforms. The committee said the government should find time for parliament to consider the necessary legislation during the 2014-15 session.

• The Federation should agree to the changes as set out in the Normington report of its own accord. However, if that reform is not taken forward, the Home Secretary should compel the organisation to do so through the introduction of a new statutory framework.

A summary of **key recommendations from the Normington Report** is set out in the appendix to the report.

The full report of the Home affairs committee – eighteenth report Reform of the Police Federation can be found at [http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/1163/116302.htm](http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/1163/116302.htm)
Home Affairs Committee Report Police and Crime Commissioners: progress to date

This Home Affairs Committee report, published on 30 April 2014, examined the work of Police and Crime Commissioners (PCCs) during their first 18 months in office. It considered their effectiveness in engaging the public and developing collaborative ways of working. The committee also looked at the relationships PCCs have developed with their chief constables, including commissioners’ power to hire and fire, which has attracted significant controversy. The report also contains recommendations to strengthen the role of police and crime panels so that they are better able to scrutinise the work of PCCs.

Recommendations

The committee made a number of recommendations and observations including:

- For the next elections, there should be a transition period for new commissioners of one month between election and taking office. This would allow time for the Association of PCCs, College of Policing, Local Government Association, and others to provide intensive training for newly elected commissioners. The training should include instruction in respect of their duties under the 2011 Act, the Police (Conduct) Regulations 2012, and other relevant employment law would form a useful aspect of that training period. The Home Office, HMIC, CPOSa, and the Association of PCCs should work together to develop a third party mediation process that commissioners and chief constables can refer to when their relationship breaks down. Training on this process should also be included in the induction period for new commissioners.

- There should be a national register of commissioners’ disclosable interests. The committee has produced the latest version of the register which is annexed to the report.

- Forces should exploit the full benefits of collaboration more effectively. The committee recommended that, for forces delivering less than 10 per cent of their business through collaboration, commissioners and chief constables should prioritise work in this area, seeking advice from those forces that have already demonstrated success. The committee will also continue to highlight examples of good practice in collaborative working in the future.

- The committee supported the alliances between Warwickshire and West Mercia, and Surrey and Sussex, the former of which has achieved the majority of their required savings over the current spending period through collaboration. Where such alliances prove successful and are supported by the public, there is a case for facilitating the full merger of forces under a single police and crime commissioner and chief constable.
• Some commissioners are still failing to meet their transparency requirements. This information is vital in allowing voters to assess the effectiveness of their PCCs. The committee recommended that the Home Office and the Association of Policing and Crime Chief Executives continue to pursue this matter with the relevant PCC offices. Furthermore, it recommended that commissioners begin to publish a register of meetings held with external stakeholders.

• The Association of PCCs should begin collating and publishing all statutory information on its website, and carry out comparative analysis where appropriate. In so doing, it should also highlight those PCC offices that are not meeting their requirements. The Home Office or HMIC should also publish a comparative analysis of the range of ways in which commissioners have approached the 2014 Stage 2 transfer of staff and assets.

• The employment of assistants and deputies must be transparent and instil public confidence. The committee recommended that at the 2016 elections, candidates for commissioner should be able to name their intended deputies so that they are elected on the same ticket. In cases where a commissioner subsequently seeks to appoint a deputy post-election, the Home Office should set out a clear process for the conduct of their selection. The police and crime panel should also have the power to veto the appointment.

• The appointment of posts aside from deputy commissioner should be subject to an open and transparent recruitment process similar to that for entry to the Civil Service or local government, with that process approved by the chief executive of the office of the PCC.

• Where crime targets have been set it is vital that PCCs ensure such targets operate as intended and do not act as incentives for the gaming of crime statistics in the future. Commissioners should review urgently the auditing arrangements they have in place. It will be the responsibility of chief constables to ensure this does not translate into pressure on forces to under or misreport crime.

• HMIC should evaluate the approach taken after PCCs take over responsibility for commissioning victims services in October 2014 so as to inform decision-making by PCCs in the second tranche.

• The committee concluded that it was too early to say whether the introduction of police and crime commissioners had been a success. However, one clear message from the evidence was that PCCs have provided greater clarity of leadership for policing within their areas, and are increasingly recognised by the public as accountable for the strategic direction of their police force.
• Commissioners have developed a range of informal and formal approaches to holding their chief constables to account, both in private and in public, for the delivery of policing. The relationship between both parties has to balance an open and constructive approach with robust challenge where necessary. Commissioners must continue to guard against the inherent risks of the new governance model by ensuring decision-making is as transparent as possible, and avoid any temptation to interfere in the operational independence of chief constables in accordance with the Policing Protocol. Commissioners and chief constables should regard the Policing Protocol as the foundation on which their relationship is based, and training on it should form part of the induction period proposed for PCCs.

• The removal of a chief constable should follow due process and the process could be improved to promote greater public confidence. The committee recommended that the Home Office bring forward proposals to amend the powers of commissioners to suspend or remove chief constables under Section 38(2) and 38(3) of the Police Reform and Social Responsibility Act 2011 by stipulating the grounds on which they may do so. The Home Office should also provide guidance to commissioners on the use of their powers in both respects. In the case of a suspension there should also be a clear system of safeguards similar to those which guide suspension in respect of conduct.

• Police and crime panels should inquire and report into the circumstances whenever a chief constable’s service is brought to an end (or a contract not renewed) irrespective of whether the Schedule 8 scrutiny process is formally engaged.

• Effective scrutiny by police and crime panels relies on creating a constructive working relationship with the commissioner in which the panel acts as a ‘critical friend’. However, many panels have to date struggled to understand their powers and define their role. The Home Office should provide fuller guidance to panels on their role and remit, and how it relates to commissioners. We also recommend that the Local Government Association consider further ways to develop the sharing of best practice between panels.

• To allow panels to conduct more proactive scrutiny, the Home Office and Local Government Association undertake research to estimate the actual cost of support for panels to date to determine a more realistic level of funding. The committee also recommended that to provide long-term certainty, in the future, such funding should come from the police precept.

The full report of the Home affairs committee – sixteenth report Police and Crime Commissioners can be found at http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/757/75702.htm
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