

SLOUGH BOROUGH COUNCIL

REPORT TO: Neighbourhoods and Community Services Scrutiny Panel

DATE: 15th September 2011

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WARD(S): All.

PART I

FOR COMMENT AND CONSIDERATION

POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

The following information has been provided by Patricia Wooding, the Legislation Manager at Thames Valley Police (Telephone: 01865 846276). Please note the information below is liable to change as the Bill has not completed its progress through Parliament.

1. **Purpose of Report**

To update Scrutiny on the Police Reform and Social Responsibility Bill

2. **Recommendation**

That Members note and comment on the report.

3. **Community Strategy Priorities**

- Being Safe, Feeling Safe
- A Cleaner, Greener place to live, Work and Play

4. **Other Implications**

Financial

- There are no financial implications associated with the report.

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
That Members note the report	No risks	n/a

(a) **Human Rights Act and Other Legal Implications**

There are no Human Rights Act Implications.

Equalities Impact Assessment

Those who are from minority ethnic groups, those with learning and physical disabilities and those with mental health problems are all at a disproportionately greater risk of becoming victims of crime and anti-social behaviour.

(b) Workforce

Nil

5. Supporting Information

5.1 Overview

The Bill covers five distinct policy areas: police accountability and governance; alcohol licensing; the regulation of protests around Parliament Square; misuse of drugs; and the issue of arrest warrants in respect of private prosecutions for universal jurisdiction offences.

The Bill:

- Replaces police authorities with directly elected Police and Crime Commissioners, with the aim of improving police accountability (target date for election of Police and Crime Commissioners is May 2012);
- Amends and supplements the Licensing Act 2003 with the intention of 'rebalancing' it in favour of local authorities, the police and local communities;
- Sets out a new framework for regulating protests around Parliament Square. Relevant sections of the Serious Organised Crime and Police Act 2005 would be repealed and the police would be given new powers to prevent encampments and the use of amplified noise equipment;
- Enables the Home Secretary to temporarily ban drugs for up to a year, and removes the statutory requirement for the Advisory Council on the Misuse of Drugs to include members with experience in specified activities; and
- Introduces a new requirement for private prosecutors to obtain the consent of the Director of Public Prosecutions prior to the issue of an arrest warrant for 'universal jurisdiction' offences such as war crimes or torture. The Government's aim in introducing this change is to prevent the courts being used for political purposes.

Objectives of the Bill include

- Making the police service more accountable to local people
- Setting out measures to tackle alcohol-related crime
- Reducing the risk of social harm caused by 'legal highs'.

5.2 Part 1 of the Bill: The introduction of Police and Crime Commissioners

This will have a major impact on the governance of the Force. Police and Crime Commissioners will:

- Set the force budget (agreeing the local strategic plan and priorities for the force); Play a role in wider questions of community safety; and
- Appoint (and, where necessary, remove) the Chief Constable.
- Have a duty to collaborate and a role in ensuring forces are working to deliver best value for money by meeting local policing priorities and testing the impact of resource allocation on crime.
- Help to ensure that the existing local delivery landscape for crime prevention and community safety is de-cluttered and that Community Safety Partnerships can work

together with Criminal Justice Service partners to deal with force-wide community safety issues, without being pulled in separate directions by differing agendas.

The office of Police and Crime Commissioners (PCC) will have its own legal personality, distinct from that of the person holding it, and it is in this separate capacity that the PCC will own property, employ staff, make contracts and take part in legal proceedings. The assets of a police force will be owned by the PCC in the same way that they are currently owned by the police authority.

Each PCC will be assisted by a support team comprising of at least 2 staff paid for by public funds.

Elections will be held in 2012 and in each subsequent 4 years. Elections will be administered in the same way as local elections.

The procedure for the making of grants is unchanged. In future grants for capital expenditure, in relation to national security, by local authorities and gifts of loans, can be made to PCCs.

5.2.1 The Policing and Crime Commissioner

- Will hold office for four years and can only hold office for a maximum of two terms. The two terms need not be consecutive.
- May delegate the exercise of some of their functions to any person, with certain exceptions, but retains ultimate responsibility for the discharge of a function delegated to another person.
- Must appoint a person to be head of his staff (chief executive) and a person to be responsible for the administration of his financial affairs (chief finance officer), and may appoint other staff.
- Maintain a single fund into which all receipts must be paid, and out of which all expenditure must be met, and must keep accounts for this fund.
- Will be responsible for holding the chief constable of their police force to account for the full range of their responsibilities.
- Will appoint or suspend the chief constable of a police force, or call upon the chief constable to resign or retire – subject to the agreement of the Policing and Crime Panel.
- Must issue a police and crime plan within the financial year in which each ordinary election is held and may issue or vary the plan at any time but the chief constable and police and crime panel must agree to the variation.
- Must produce and publish an annual report in a manner as they see fit.
- Must provide the policing and crime panel with any information they reasonably require to carry out their duties.
- May make contracts with any public or private sector body in relation to the supply of goods and services.
- Will not be members of Community Safety Partnerships.
- Have the power transferred to them to require a Community Safety Partnership to submit a report on any matter relating to the exercise of their functions. The power must be exercised in a reasonable and proportionate manner, and where the relevant policing body is not satisfied that the responsible authorities within a Community Safety Partnerships are performing their functions adequately.
- Does not need to obtain the views of representatives of non-domestic rate-payers. A single provision will be created concerning the duty on Policing and Crime Commissioners to consult the public in relation to precept.

5.2.2 Policing and Crime Panels (PCPs)

Check and balances will be the responsibility of new Policing and Crime Panels (PCPs) which will be made up of councillors and independent representatives - they will scrutinise the decisions commissioners make.

The local authority (if there is only one) or local authorities in a police area will establish the Police and Crime Panel. In a force area with more than one local authority, there will be a joint committee. It will consist of at least 10 members appointed from the local authority or local authorities in the police areas, and 2 co-opted members appointed by the panel itself.

It is expected that some local authority councillors currently serving on the police authority may become members of the new Police and Crime Panel.

Each local authority in the police area will be represented on the police and crime panel by at least one of its members, and the size of the panel will be decided by the number of local authorities in the police area, if greater than 10. Local authority appointments must represent the geography and the political composition of the local authority or local authorities.

A police and crime panel must make its own rules of procedure, including making provision for there to be a chair of the panel. However, certain functions may only be exercised at a meeting of the panel as whole, and not by a sub-committee of the panel. These are the functions of scrutinising the police and crime plan, the annual report, the proposals for expenditure and the appointment of a chief constable.

The role of the Policing and Crime Panel will be to advise and scrutinise the work of the PCC.

The Policing and Crime Panel will:

- Scrutinise the precept that the PCC intends to issue.
- Have the power to veto a proposed precept provided that three quarters of the total membership of the panel agrees. If this power of veto is not exercised, the P&CC must issue the proposed veto, or issue a different precept in accordance with the recommendation made by the P&CP in its report.
- Hold a public meeting after receiving the annual report to question the elected local policing body, and make recommendations on the annual report to the PCC.
- May suspend the relevant police and crime commissioner if it appears to the panel that the commissioner has been charged with an offence which carries a maximum term of imprisonment exceeding two years. The suspension will cease if the charge is dropped, they are acquitted, or they are convicted but not disqualified under section 67. No salary, pension or allowances will be paid during the period of suspension.
- Consider a proposed appointment of a chief constable at a confirmation hearing and make a recommendation as to whether the candidate is to be appointed. It gives the panel a power of veto over a proposed appointment, provided that three quarters of the total membership of the panel agrees.

5.2.3 The Chief Constable

The chief constable (CC) will retain responsibility for the direction and control of the police force, and exercise this power in such a way as is reasonable to assist the relevant P&CC to exercise the commissioner's functions.

The CC will appoint a person to be responsible for the administration of the police force's financial affairs (the police force's chief finance officer), and allows the appointment of other civilian staff as the CC thinks appropriate.

The CC may appoint one or more deputy chief constables after consultation with the P&CC, but does not need to consult to appoint an ACC.

The chief officer of police of a police force must keep under consideration the ways in which the collaboration functions could be exercised by the chief officer and by one or more other persons to improve the efficiency or effectiveness of that police force, and one or more other police forces. If the chief officer considers that there is a particular way in which the collaboration functions could be so exercised by the chief officer and by one or more other particular persons, the chief officer must notify those other persons of the proposed collaboration.

A chief officer can make a collaboration designation, by which a civilian employee designated as having powers by the chief officer of another force, could exercise those powers in the collaboration area.

Protocol: A draft protocol sets out the proper roles of Police and Crime Commissioners (PCC) and Chief Constables, and aims to make clear that the operational independence of the police will be safeguarded.

It sets out the PCC's legal duty to maintain an efficient and effective police force, and to provide the local link between the police and the public. The intention is that they will work to translate

the legitimate desires and aspirations of the public into action on the part of the Chief Constable to cut crime and antisocial behaviour.

It also sets out responsibilities for areas other than the police force, such as the delivery of community safety through bringing together Community Safety Partnerships, and entering into collaboration agreements with other PCCs and forces to deliver better value for money and enhanced policing capabilities.

In addition, the draft protocol also sets out the powers and functions of the Police and Crime Panel (PCP), which will scrutinise the decisions of the PCC. It states that, where the PCP seeks to scrutinise the PCC on an operational matter, the Chief Constable may also need to appear before the panel to offer factual accounts and clarity regarding the actions and decisions of police officers and staff.

The draft protocol underlines the commitment to limiting the role of the Home Office in day-to-day policing matters, while restating the powers retained by the Home Secretary for use as a last resort in defined circumstances. These powers allow the Home Secretary to direct the PCC and Chief Constable to take action if they are failing to carry out their functions.

Partnership working: In preparation for the changes, efficient and effective partnership and commissioning arrangements should be in place and the scope for any clarification, simplification or rationalization considered.

Current partnership priorities should be considered and the potential involvement and interests of the PCC.

The **Secretary of State** may,

- By regulations, make provision about the conduct of PCCs.
- Set a minimum budget for a PCC.
- Issue strategic priorities with a document setting out national threats and the national policing capabilities to counter them.
- Require HMIC to inspect a particular force by giving a local policing authority the power to request an inspection of their police force, for which the inspectors may levy a charge.
- Specify, by order, policing functions which must be exercised by means of one or more collaboration agreements. The intention is to require police forces to collaborate in relation to matters of regional or national importance such as counter-terrorism and combating serious organised crime.
- Give directions to failing police forces and PCCs.
- Continue to collect and publish information relating to the policing of an area directly from a chief officer of police. This may include statistical or other information relating to policing, crime and disorder.
- Make regulations as to police equipment so that regulations can make provision for arrangements by which equipment must or may be procured.

The Secretary of State **will not**:

- Have power to set performance targets for police strategic priorities, require police authorities to issue reports and determine codes of practice for police authorities.
- Have power to direct a police and crime commissioner to suspend or remove a chief constable.

HMIC will:

- No longer report to the Secretary of State, they will report for the benefit of the public at large.
- Include in their annual report an assessment of the efficiency and effectiveness of policing in England and Wales for the year in which the report is prepared.
- Arrange publication of any report that they prepare under section 54 of the Police Act 1996, but exclude from publication information that may be against the interest of national security or jeopardise the safety of any person, but such information must be disclosed to the Secretary of State.
- Send a copy of the report to the PCC, the chief officer and the P&CP

- Lay before Parliament, publish and distribute the inspection framework and programme. Inspections must not impose an undue burden on police forces, and should address policing issues of national importance.
- Have new rights of access to police information and premises for the inspectors of constabulary and their staff, based on those of the Independent Police Complaints Commission.

5.3 Part 2 of the Bill Licensing Provisions

5.3.1 Amendments of the Licensing Act 2003

The amendments will support licensing authorities to take action locally, within a revised licensing framework giving local authorities greater control over alcohol licensing. Local authorities and the police will have stronger powers to refuse or remove alcohol licenses, and to shut down premises repeatedly selling alcohol to children, increasing the fine for those persistently selling alcohol to children. Licensing authorities will have powers to introduce a late night levy, allowing councils to charge more for a late night license to pay for extra policing. The system of temporary event notices will be improved, early morning restriction orders extended; and opportunities for local residents or representative groups to be involved in licensing decisions increased

5.3.2 Responsible authorities

Licensing authorities, Primary Care Trusts and Local Health Boards will become ‘responsible authorities’, gaining the power to intervene in licensing applications and to take action against existing premises licences where there are problems. This will give power to NHS trusts to oppose applications for new alcohol licenses where public health could be put at risk.

5.3.3 Temporary Events

The ‘light touch’ regime for ‘temporary events’ will be modified so as to allow councils environmental health departments to intervene if events would disrupt or endanger the local community.

The loophole which previously allowed premises to avoid existing controls by using temporary event notices will be closed – licensing authorities will be able to insist that existing licensing controls remain in place, and that the local community is properly protected.

Councils will also be given more flexible powers to allow temporary events to go ahead, rather than having to adhere to the current rigid rules which have led to the cancellation of events, despite their potential benefit to the local community.

The new powers will enable councils to protect local communities from noisy, disruptive or dangerous events, whilst adopting a more flexible approach to the vast majority of temporary events. Environmental Health will be able to object as well as the police.

The maximum period for a temporary event will be extended to seven days.

The provisions reduce the evidential burden on licensing authorities and the police when making decisions under the Licensing Act 2003

Risk: The extension of temporary events to seven days’ duration, an increase from the current three day limit per event, could result in more contentious, costly disputes between operators, the police, councils and the local community.

5.3.4 Suspension of licences where fees not paid

Licensing authorities will gain a crucial new power to suspend licences where annual fees are not paid. This will help councils to recover money owing and to tackle the minority of businesses who do not comply.

The burden on councils to produce, consult on and publish a licensing policy statement every three years will be replaced with a system by which councils can update policies whenever necessary.

5.3.5 Early Morning Restriction orders

The extension of “Early Morning Restriction Orders” will be applicable between 24:00 and 06:00 (previously 03:00 to 06:00).

5.3.6 Underage Sales

Fines for underage sales will be doubled from £10,000 to £20,000 for persistent offenders strengthening the clampdown on those persistently selling alcohol to children.

5.3.7 Below cost sales not included in the Bill

The government had previously promised to implement a ban on below cost sales and this was widely expected to be included in the Bill, but the Home Office confirmed it had not been taken forward.

The definition of below-cost and implementation is being considered and the Government remains committed to banning low cost sales and will do this via a different legislative route (source: Government’s response to the recent Home Office consultation on rebalancing the Licensing Act 2003).

5.3.8 Late Night Levy

Councils will be able to require late night operators who supply alcohol between midnight and 6am to pay a levy in addition to their existing licence fees. The levy would be payable to licensing authorities, who would then deduct their administrative costs and could then use up to 30% of the levy income in providing extra measures to reduce or prevent crime and disorder. The remaining 70% of levy income must be paid to the police to pay for the extra policing.

The Home Office has produced a set of fact sheets which provide detailed and factual information on the main alcohol proposals currently being taken forward which include:

- applicants to give [greater consideration to the local area](#) when making their licence application
- extending [early morning restriction orders](#) (EMROs)
- [flexible closing times](#)
- [late night levy](#)
- [making health bodies responsible authorities](#)
- [making relevant licensing authorities responsible authorities](#)
- [persistent sales of alcohol to children](#)
- [police representations](#)
- [reducing the burden of proof](#)
- [suspending licences due to the non-payment of fees](#)
- [temporary event notices \(TENs\)](#)
- [removing the vicinity test for interested parties](#)
- [cumulative impact policies](#)

6. Comments of Other Committees

Nil

7. Conclusion

The Commons and the Lords will consider and agree amendments to the Bill and settle any points of contention in September but could be as late as October –timeframes for implementation are tight given the Government’s commitment to have the first elections for PCCs in May 2012.