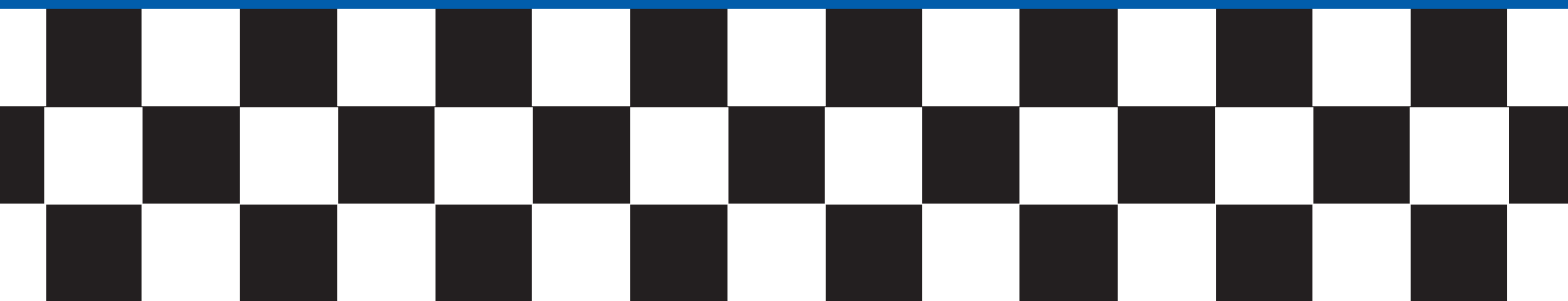


Digest

January 2011

10th Anniversary Edition
2001-2011

A digest of police law, operational policing practice and criminal justice



The NPIA Digest is a journal produced each month by the Legal Services Team of the Chief Executive Officer Directorate. 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 NPIA aims to provide fair access to learning and development for all. To support this commitment, the Digest is available in alternative formats upon request. Please email digest@npia.pnn.police.uk or telephone +44 (0)1480 334733.

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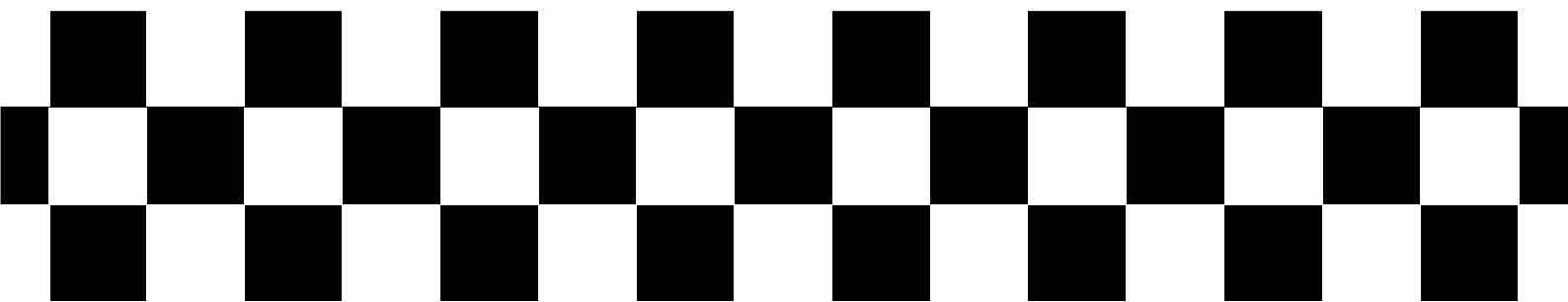
January 2011

Digest

Legal Services

Chief Executive Officer Directorate

www.npia.police.uk/digest



NPIA Digest January 2011

This month's edition of the National Policing Improvement Agency Digest commemorates the tenth year anniversary of the first edition of the Digest.

The Digest, which is produced by the Legal Services Unit of the NPIA, has continued to grow in popularity since it was first published in January 2001. It currently has over 10,000 subscribers spread across 48 countries.

In this special edition of the Digest we take a look at how the Digest has changed during the last ten years. We also look at how the policing and criminal justice field has changed in this period by comparing statistics included in the January 2001 edition with recently published statistics.

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

There are summaries of cases on the Public Bodies Corrupt Practices Act 1889, prisoners being given the right to vote in elections, and the question of whether Members of Parliament can be prosecuted.

We look in detail at the Police Reform and Social Responsibility Bill and the Ministry of Justice Green Paper, 'Breaking the Cycle, Effective Punishment, Rehabilitation and Sentencing of Offenders'.

Statistical bulletins are covered which detail the number of deaths during or following police contact; hate crime figures; women and the criminal justice system; and football-related arrests.

Research reports looking at confidence in policing among 'seldom heard' audiences and the measures announced by the Director of Public Prosecutions to strengthen rape prosecutions are also examined.

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Digest 10th Anniversary Commemoration: 2001-2011

In this section we commemorate the tenth year anniversary of the Digest.

The first edition of the Digest was published in January 2001. This followed an initial pilot in April 2000, under the title of 'Environmental Scanning and legal Update'.

The motivation for setting up the Digest was to provide a regular monthly update to police officers and staff, predominantly in the training environment, of changes to national policy and legislation. The Digest was different from other publications available in the policing environment as it was heavily weighted towards covering legal issues and from the first issue contained sections on legislation, statutory instruments and case law. This motivation for commencing the publication of the Digest continues to influence content choice and editorial decisions today and is a good summary of the Digest's continuing purpose.

The Digest quickly grew in popularity and use so that during its first year of publication there were 1,287 subscribers. It soon became relied upon as a key resource to update national training products, including examination material, probationer training documents and investigators courses. It was also used by staff at the National Police Training regional training centres and by trainers within forces to ensure that delivery and products were kept up to date.

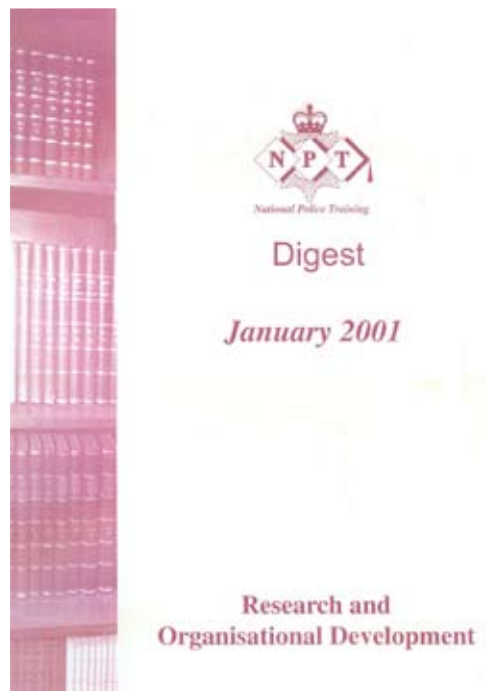
The Digest has continued to grow in popularity and today has 10,957 subscribers spread over 48 countries. It is posted on all 43 police force intranets and a number of university law school library websites now include a link. The Digest publication page is one of the most popular pages on the NPIA internet site.

To commemorate the tenth year anniversary of the Digest we take a look back in this section at how the Digest has changed over the last ten years. We will also examine how the policing and criminal justice field has changed in this period.

The Changing Digest

The four different front covers of the Digest that have been used over the years are included below. The Digest has been produced by the same legal unit but under the auspices of different agencies and titles, giving an indication of the changes that have been made to the policing landscape between January 2001 and January 2011.

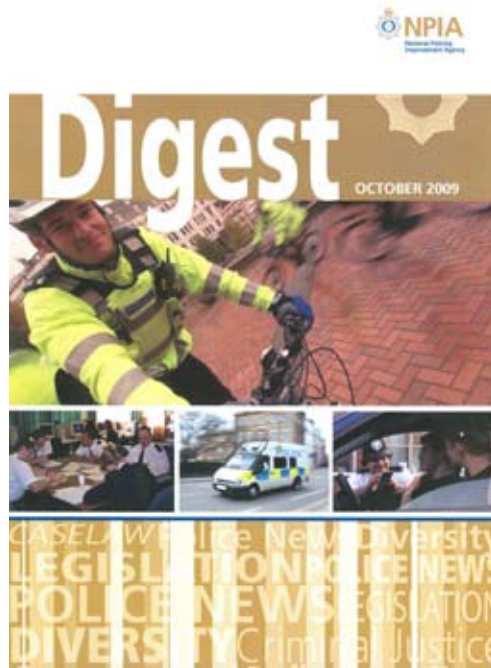
The image below shows the front page from the first edition of the Digest published in January 2001. It was produced by Research and Organisational Development and published by the National Police Training organisation.



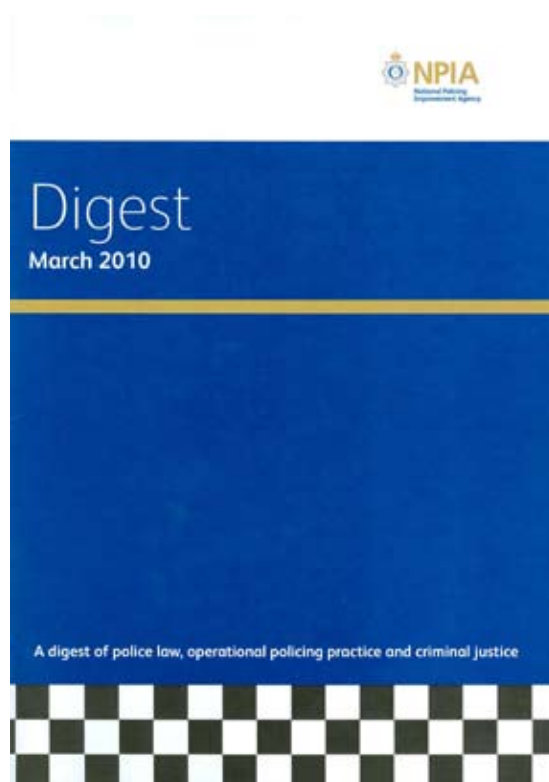
The second cover was used from April 2001 when the Digest continued to be published under the auspices of the National Police Training organisation. It was also used when responsibility for the publication of the Digest was taken over by Centrex. In both cases the document was produced by Research and Organisational Development.



The cover below came into use with the creation of the National Policing Improvement Agency (NPIA) in April 2007. The Legal Services Unit of the NPIA is responsible for the production of the Digest.



The current cover which has been used since March 2010. The Digest continues to be produced by the Legal Services Unit of the National Policing Improvement Agency.



Comparing the Picture: January 2001 and the Present

In this section we take a look at a number of the statistics which were included in the January 2001 Digest. Alongside these statistics we have included the most recently published statistics on the same issues to give a comparison of how things have changed. The statistics which were covered in the January 2001 Digest are in blue text.

Crime Statistics

- ◆ For the 12 month period to September 2000 the total number of offences recorded by the police totalled 5.2 million; and
- ◆ In the 2009/10 financial year there were 4,338,604 offences recorded by the police. This is a decrease of 16.6 per cent.

The Statistics from September 2000 were taken from the bulletin, 'Recorded Crime Statistics England and Wales, 12 Months to September 2000'. The more recent statistics are taken from, 'Home Office Statistical Bulletin, Crime in England and Wales 2009/10, Findings from the British Crime Survey and Police Recorded Crime (Second Edition)'. The 2009/10 bulletin is available at

<http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1210.pdf>

Police Service Strength in England and Wales

- ◆ As at 30 September 2000, the total police service strength was 124,614 full time equivalent officers;
- ◆ There were 143,734 full-time equivalent police officers in the 43 police forces of England and Wales at 31 March 2010. This is an increase of 15.3 per cent from the September 2000 figure;
- ◆ 122,230 officers were available for ordinary duty at 30 September 2000;
- ◆ There were 141,669 police officers available for duty at 31 March 2010. This is an increase of 15.9 per cent from the September 2000 figure;
- ◆ There were 2,856 minority ethnic police officers at 30 September 2000;
- ◆ There were 6,642 minority ethnic officers in the 43 police forces of England and Wales. This is an increase of 133 per cent from the September 2000 figures;
- ◆ There were 13,528 special constables at 30 September 2000; and
- ◆ There were 15,505 special constables at 31 March 2010. This is an increase of 14.6 per cent from September 2000 figure.

The September 2000 statistics were taken from the Home Office Statistical Bulletin, 'Police Service Strength, England and Wales'. The 2010 figures are taken from the most recently published version of that bulletin, which is available at <http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1410.pdf>

Race and the Criminal Justice System

- ◆ In 1999/2000 there were 800 stops and searches recorded by the police, of which 8 per cent were of Black people, 4 per cent were of Asian people, and 1 per cent were of 'Other' non-white origin. Black people were five times more likely to be stopped and searched by the police than White people were;
- ◆ In 2008/09 the police recorded 1,142,763 stops and searches, of which 15 per cent were of Black people, 9 per cent of Asian people, 3 per cent of people of Mixed ethnicity, and 1 per cent were of people from a Chinese or Other background. In 2008/09, there were over seven times more stop and searches of Black people per head of population than of White people;
- ◆ 1.3 million arrests for notifiable offences took place in 1999/2000. Black people were four times more likely to be arrested than White people or Other ethnic groups;
- ◆ There were 1,458,429 arrests in 2008/09. There were three times more arrests of Black people than of White people per 1,000 population.

The 1999/2000 figures were taken from the Home Office bulletin 'Statistics on Race and the Criminal Justice System 1999/2000.' The more recent figures are taken from this same bulletin which is now published by the Ministry of Justice: 'Statistics on Race and the Criminal Justice System 2008/09'. The 2008/09 bulletin is available at <http://www.justice.gov.uk/stats-race-and-the-criminal-justice-system-2008-09c1.pdf>

Bills Before Parliament 2010/11 - Progress Report

The following Bills from the 2010/11 session have progressed as follows through the parliamentary process:

- ◆ **Terrorist Asset-Freezing etc. Bill [HL] 2010-11** - The United Kingdom is required by the UN to freeze the assets of persons who commit terrorist acts. The UK legislation that allowed the Treasury to freeze the assets of those suspected of involvement in terrorism was quashed by the UK Supreme Court in January 2010 but reinstated by temporary legislation immediately afterwards. The Terrorist Asset-Freezing (Temporary Provisions) Act 2010 expires on 31 December 2010. This Bill seeks to replace that Act with a permanent legislative framework.

Following consideration of Lords amendments in the Commons the Bill returned to the Lords. Both Houses agreed on the text of the Bill and it received Royal Assent on 16 December. The Bill is now an Act of Parliament.

- ◆ **Identity Documents Bill 2010-11** - The main purpose of this Bill is to abolish identity cards and the National Identity Register; it repeals the Identity Cards Act 2006. There are no provisions for refunding existing cardholders. A small number of provisions in the 2006 Act - unrelated to ID cards - reappear in the Bill. These cover offences relating to the possession and manufacture of false identity documents such as passports and driving licences. The Bill also re-enacts data-sharing provisions in the 2006 Act designed to verify information provided in connection with passport applications. Identification cards for non-EEA nationals are not affected by the provisions.

The Bill has reached the stage known as Ping Pong. During this stage, the Bill travels back and forth between the two Houses, until both Houses agree on the text of the Bill. The Bill returned to the Commons for consideration of Lords amendments on 14 December. Consideration of Commons amendments will take place in the Lords on 21 December.

- ◆ **Police Reform and Social Responsibility Bill 2010-11** - This 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.

Key areas:

- Replaces police authorities with directly elected Police and Crime Commissioners, with the aim of improving police accountability;

- 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.

A more detailed summary of the Police Reform and Social Responsibility Bill is provided in the Parliamentary Issues section of this month's Digest.

The Bill was presented to Parliament on 30 November 2010. On 13 December 2010 the House of Commons debated the main principles of the Bill. The Commons decided that the Bill should be given its Second Reading and sent it to a Public Bill Committee for scrutiny. The Police Reform and Social Responsibility Bill Committee is now accepting written evidence.

The progress of Bills in the 2010/11 parliamentary session can be found at

<http://services.parliament.uk/bills/>

The compatibility of Section 2 of the Prevention of Corruption Act 1916 and the Article 6.2 Presumption of Innocence

R v Webster [2010] EWCA Crim 2819 (Court of Appeal)

This appeal concerned the case of Matthew Webster who had been convicted of 'corruptly' giving a gift of £100 cash to an employee of Cambridgeshire County Council, Stuart Alder. He was convicted under section 1(2) of the Public Bodies Corrupt Practices Act 1889 as read together with section 2 of the Prevention of Corruption Act 1916.

The appellant was the effective owner and managing director of a company, Education All Ltd. About fifty per cent of this company's business came via Cambridgeshire County Council's ICT department. Stuart Alder worked for the County Council and was involved in procuring the services of Education All Ltd. Mr Webster tried to deposit a gift of £100 into Mr Alder's PayPal account but this was declined by Mr Alder. He then tried to give him £100 in cash. Mr Alder reported the matter to his line manager and the police were informed.

Mr Webster appeals against his conviction on the basis that section 2 of the Prevention of Corruption Act 1916 contravened Article 6 of the European Convention of Human Rights. It was submitted that the presumption of innocence set down in Article 6 was violated because section 2 required the appellant to 'prove' that the gift admittedly made was not 'given...corruptly as...[an] inducement or reward'. The material parts of Article 6 read as follows:

'6.1 In the determination of...any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...

6.2 Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.'

There were three issues for the court to consider. The first was whether section 1(2) of the Public Bodies Corrupt Practices Act 1889, read together with section 2 of the Prevention of Corruption Act 1916, interfered with the Article 6.2 presumption of innocence. The effect of the section 2 deeming provision is to re-define the offence of corrupt payments to public servants by providing that in respect of the maker of the gift: it shall be an offence for a person holding or seeking to obtain any contract with a public body to make any gift to a servant of that public body unless the giver proves that the gift was not made corruptly as a reward or inducement. The Court, in the words of Lord Justice Pitchford giving the judgment of the Court, ruled

that this 'reversal of the legal burden has the appearance of violating the terms of Article 6.2.'

The court next considered whether this interference with the Article 6.2 presumption of innocence pursues a legitimate objective and, if so, whether the means of pursuing that objective were necessary, reasonable and proportionate. The Court ruled that this interference was unjustifiable in the context of Article 6.2. Looking at the historical origins of the relevant legislation the Court noted that 'the imposition of the reverse burden was a necessary, reasonable and proportionate response to the circumstances in which it was introduced, that is, to counter a serious and growing problem involving the suspected corruption of public servants in a time of national emergency.' The Court went on, however, to rule that 'the rationale for the reverse burden in section 2 has now largely, if not wholly, disappeared' and that 'by the time of the appellant's trial the imposition upon him of the legal burden of disproving guilt was no longer necessary and the means of imposition was unreasonable and disproportionate.'

The third issue for the Court to consider was whether they should utilise Section 3 of the Human Rights Act 1998 to interpret the legislation in such a way as to make it compliant with Article 6. Section 3(1) of the Human Rights Act 1998 provides that: 'So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.'

On this question the Court ruled that: 'Parliament intended that section 3 Human Rights Act 1998 should be used in circumstances such as the present to render the legislation compliant with Article 6.2.' The effect of reading down section 2 of the Prevention of Corruption Act 1916 would be to 'place a burden upon the defendant to raise in the evidence an issue whether a gift was corruptly made within the meaning of section 1 of the 1889 Act.' But '[t]he ultimate legal burden of proving to the criminal standard that the gift was corruptly made would rest upon the prosecution.'

Following this, the Court concluded that if section 2 had been read down in this manner and the jury been so directed there was a real possibility that the jury's verdict would have been not guilty instead of guilty. The verdict of guilty was therefore ruled unsafe and the appeal allowed.

This full judgment is available at <http://www.bailii.org/ew/cases/EWCA/Crim/2010/2819.html>

Parliamentary Privilege and the Possibility of Prosecuting Members of Parliament

R v Chaytor and others [2010] UKSC 52 (Supreme Court)

This case concerned three Members of Parliament, Mr Chaytor, Mr Morley, and Mr Devine who had been committed for trial at the Crown Court on charges of false accounting contrary to section 17(1)(b) of the Theft Act 1968. The charges relate to claims in respect of parliamentary expenses and are alleged to have been committed when each defendant was a serving member of the House of Commons. Each claimed that criminal proceedings could not be brought against him because it would infringe parliamentary privilege.

This claim to privilege has two bases. The first is article 9 of the Bill of Rights 1689 ('article 9'). This provides: 'That the freedom of speech and debates or proceedings in Parlyament ought not to be impeached or questioned in any Court or Place out of Parlyament.' The defendants further rely on privilege that has its origin before 1689 and which is wider than, and embraces, article 9. This has customarily been described as the 'exclusive cognisance of Parliament.'

Dealing firstly with the article 9 argument, the Supreme Court considered previous jurisdiction on this issue. The Court ruled that to determine whether expense claims fell within 'parliamentary proceedings' and were therefore protected by article 9 it was 'necessary to consider the nature of that connection and whether, if such actions do not enjoy privilege, this is likely to impact adversely on the core or essential business of Parliament.' Applying this test, Lord Phillips said: 'the submission of claim forms for allowances and expenses does not qualify for the protection of privilege. Scrutiny of claims by the courts will have no adverse impact on the core or essential business of Parliament, it will not inhibit debate or freedom of speech. Indeed it will not inhibit any of the varied activities in which Members of Parliament indulge that bear in one way or another on their parliamentary duties. The only thing that it will inhibit is the making of dishonest claims.'

The Court next considered Parliamentary views on the reach and meaning of article 9. The Court ruled, in the words of Lord Phillips again, that: 'None of these expressions of Parliamentary views lends support to the suggestion that submitting claims for allowances and expenses constitutes proceedings in Parliament for the purposes of article 9. On the contrary they all suggest, either expressly or by implication, that the submission of such claims falls outside the protection of that article.'

The Court also noted that there are good reasons of policy for giving article 9 a narrow ambit that restricts it to freedom

for Parliament to conduct its legislative business without interference from the Crown or the courts as the protection of article 9 is absolute. This means that where it does apply it prevents those injured by civil wrongdoing from obtaining redress and prevents the prosecution of Members of Parliament for conduct which is criminal.

Lord Phillips therefore concluded that 'precedent, views of Parliament and policy all point in the same direction.' The submission of expense claims is an activity which is an incident of the administration of Parliament; it is not part of the 'proceedings' in Parliament. Saunders J, sitting in the Crown Court, and the Court of Appeal, were therefore 'right to reject the defendants' reliance on article 9.'

Having disposed of the article 9 argument, the Court moved on to consider the claim based on the 'exclusive cognisance of Parliament.' This phrase refers to the right of each House of Parliament to manage its own affairs without interference from the other House or from outside Parliament.

Looking at the concept of 'exclusive cognisance' in the context of this case, Lord Phillips noted that: 'Parliament has never challenged, in general, the application of criminal law within the precincts of Parliament and has accepted that the mere fact that a crime has been committed within these precincts is no bar to the jurisdiction of the criminal courts.' He went on to give examples of where Parliament has permitted the police to carry out investigations with a view to prosecution within the precincts of Parliament. In relation to the expenses claims at issue in this case, he noted that although Parliament had 'asserted a disciplinary jurisdiction over claims that have been made for allowances and expenses', it had not 'asserted exclusive cognisance' in respect of such claims. On the contrary in fact, Parliament excluded from its disciplinary review any expense claims that were under investigation by the police.

Lord Phillips therefore concluded that 'neither article 9 nor the exclusive cognisance of the House of Commons poses any bar to the jurisdiction of the Crown Court to try these defendants'. The appeals were therefore dismissed.

The full judgment is available at <http://www.bailii.org/uk/cases/UKSC/2010/52.html>

Article 3 of the First Protocol to the European Convention of Human Rights and Prisoners Voting Rights

Greens and M.T. v The United Kingdom (Applications nos. 60041/08 and 60054/08) (European Court of Human Rights)

In this case the two applicants, Mr Robert Greens and M.T., who were both serving prison sentences, alleged a violation of Article 3 of Protocol No. 1 to the European Convention of Human Rights. This article reads: 'The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.' This alleged breach of Article 3 of Protocol No. 1 related to the refusal of the relevant Electoral Registration Officer to enrol them on the electoral register for domestic elections and elections to the European Parliament.

The Electoral Registration Officer refused to register them to vote in line with sections 3 of the Representation of the People Act 1983, as amended, and section 8 of the European Parliamentary Elections Act 2002. Section 3(1) provides that 'A convicted person during the time that he is detained in a penal institution in pursuance of his sentence ... is legally incapable of voting at any parliamentary or local election.' Section 8 of the European Parliamentary Elections Act 2002 provides that a person is entitled to vote at an election to the European Parliament if he is he is entitled to vote as an elector at a parliamentary election.

The applicants argued that their names ought to have been added to the electoral register following the European Court of Human Rights ruling in *Hirst v United Kingdom* (2006) 42 E.H.R.R. 41. In that case the Court ruled against the blanket restriction on all convicted prisoners from voting. It concluded that: 'Such a general, automatic and indiscriminate restriction on a vitally important Convention right must be seen as falling outside any acceptable margin of appreciation, however wide that margin might be, and as being incompatible with Article 3 of Protocol No. 1.'

Looking at the application before the Court following the consideration of the *Hirst* judgment, the Court noted that: '[t]he legislation in question, namely section 3 of the 1983 Act, has not been amended since *Hirst*.' This was sufficient basis for the Court to conclude that 'there has been a violation of Article 3 of Protocol No. 1 to the Convention in both cases.'

Following this determination, the Court went on to state that: 'It is a cause for regret and concern that in the five years

which have passed since the judgment of the Grand Chamber in Hirst, no amending measures have been brought forward by the Government.’ The Court was of the view ‘that the lengthy delay to date has demonstrated the need for a timetable for the introduction of proposals to amend the electoral law to be imposed.’ The Court specified that the United Kingdom ‘must introduce legislative proposals to amend section 3 of the 1983 Act and, if appropriate, section 8 of the 2002 Act, within six months of the date on which the present judgment becomes final, with a view to the enactment of an electoral law to achieve compliance with the Court’s judgment in Hirst according to any time-scale determined by the Committee of Ministers’.

The full judgment is available at
<http://www.bailii.org/eu/cases/ECHR/2010/1826.html>

SI 2826/2010 The Police Authority (Amendment No. 2) Regulations 2010

In force **18 December 2010**. These Regulations amend the Police Authority Regulations 2008 (SI 2008/630) to widen the circumstances in which a police authority need not advertise for new independent members. Under the 2008 Regulations there is no requirement to advertise if a selection panel decides to nominate candidates who have previously applied, there are at least twice as many candidates as appointments to be made, and the vacancy occurs less than four years after an advertisement was last published. These Regulations increase that maximum period from four to five years.

SI 2988/2010 The Policing and Crime Act 2009 (Commencement No. 7) Order 2010

This Order commences Part 4 of, and Schedule 5 to, the Policing and Crime Act 2009 ("the Act") on **31 January 2011**. This means that all the provisions relating to injunctions to prevent gang-related violence in the Act will come into force on that day.

SI 2989/2010 The Crime and Security Act 2010 (Commencement No. 1) Order 2010

This Order brings section 37 and section 38 of the Crime and Security Act 2010 into force on **31 January 2011**. Section 37 amends section 42 (see Part 4) of the Policing and Crime Act 2009 and section 38 amends Schedule 5 to that Act. Both section 42 and schedule 5 to the Policing and Crime Act 2009 are also being brought into force on 31 January 2011 (see above SI 2988/2010).

SI 3005/2010 The Criminal Justice Act 2003 (Commencement No. 25) Order 2010

This Order brings into force on **1 January 2011** the provisions in sections 29 and 30 of the Criminal Justice Act 2003 so as to allow:

- ◆ A police force, or a person authorised by a police force to institute criminal proceedings, to institute criminal proceedings by issuing a written charge and requisition in a magistrates' court sitting in Gloucestershire and Essex; and
- ◆ The Vehicle and Operator Services Agency (an executive agency of the Department of Transport) to institute criminal proceedings by issuing a written charge and requisition.

The Criminal Justice Act 2003 (Commencement Order No. 16) Order 2007 (SI 2007/1999), the Criminal Justice Act 2003 (Commencement Order No. 21) Order 2008 (SI 2008/1424) and Criminal Justice Act 2003 (Commencement Order No. 23) Order 2009 (SI 2009/2879) commenced the same provisions in the 2003 Act in relation to other specified proceedings.

Deaths During or Following Police Contact Statistics Published

This report presents figures on deaths during or following police contact which occurred between 1 April 2009 and 31 March 2010. The report provides a definitive set of figures for England and Wales.

The key figures:

- ◆ In 2009/10 there were 86 deaths during or following police contact;
- ◆ 29 deaths were road traffic fatalities. This category includes deaths of motorists, cyclists or pedestrians arising from police pursuits, police vehicles responding to emergency calls and other police traffic-related activity;
- ◆ 2 deaths were fatal police shootings. This includes fatalities where a police officer fires the fatal shots;
- ◆ 17 were deaths in or following police custody. This includes deaths of persons who have been arrested or otherwise detained by the police and includes deaths which occur whilst a person is being arrested or taken into detention; and
- ◆ 38 were other deaths following police contact. This category includes deaths where a link can be established between the police contact and the death, and which did not involve arrest or other detention.

The full statistical bulletin, 'Deaths during or following police contact: statistics for England and Wales 2009/10' is available at http://www.ipcc.gov.uk/deaths_report_2009-10_v5.pdf

Hate Crime Data Published

Statistics on the number of 'hate crimes' reported and recorded across England, Wales and Northern Ireland has been published for the first time.

The data relates to 'recordable crimes' under Home Office recording rules and indicates those offences that have been perceived as hate crimes by the victim or any other person. Crimes were recorded from 1 January to 31 December 2009 in all police forces in England, Wales and Northern Ireland. Forces have been collating data for the five strands of hate crime since 1 April 2008.

The figures show that in 2009 the police service recorded 52,028 crimes where the victim, or any other person, perceived a criminal offence to be motivated by hostility on the grounds of either race, religious belief, sexual orientation, disability or because a person is transgender.

This 52,028 figure breaks down into:

- ◆ Race - 43,426;
- ◆ Religion/Faith - 2,083;
- ◆ Sexual Orientation - 4,805;
- ◆ Transgender - 312; and
- ◆ Disability - 1,402.

The full bulletin is available at
http://www.acpo.police.uk/asp/policies/Data/084a_Recorded_Hate_Crime_-_January_to_December_2009.pdf

Statistics on Football-Related Arrests and Banning Orders Published

The Home Office has published statistics detailing the number of football related arrests and banning orders issued during the season 2009-10.

- ◆ The total number of people arrested in connection with all international and domestic football matches involving teams from England and Wales was 3,391. This represents a decrease of 10 per cent or 395 arrests from the 2008-09 season;
- ◆ The total number of arrests represents less than 0.01 per cent of all spectators (total attendance in excess of 39 million at regulated football matches during 2009-10 season);

- ◆ An average of 1.05 arrests were made per match;
- ◆ There were no arrests at 70 per cent of all matches;
- ◆ Two arrests or less were made at 85 per cent of matches; and
- ◆ The number of football banning orders increased slightly to 3,248 on 19 November 2010 from 3,180 on 10 November 2009. This represents 1,025 new banning orders imposed during the period.

The full statistics are available at
<http://www.homeoffice.gov.uk/publications/crime/football-arrests-banning-orders/fbo-2009-10?view=Binary>

Confidence in Policing Among 'Seldom Heard' Audiences

This study into confidence in the police amongst certain 'seldom heard' communities was commissioned by the Association of Police Authorities together with six Local Police Authorities. The study, which was conducted by Ipsos MORI, looked at how police forces can better understand, and subsequently better meet the needs of, specific 'seldom heard' communities. Such communities included: gypsies and travellers, sex workers, young black men, people with mental health conditions, people with learning disabilities, people with physical disabilities, and Polish people and Brazilian/Portuguese people.

The study found that overall perceptions of the police appeared to be driven by whether the participants thought they had been treated fairly or not. Many among the groups examined thought they had not been treated fairly. Certain groups felt that they were 'picked' on by the police including sex workers, gypsies and travellers and young black men.

Perceptions of the police were also driven by whether people felt that their local police were effective or ineffective. On the whole, the seldom heard groups interviewed tended towards viewing the police as ineffective. Some of the immigrant audiences felt that the police were ineffective as they compared them to much more aggressive and punitive policing in their home countries.

A key finding across the majority of the seldom heard groups was that people felt their circumstances, culture or needs had been misunderstood. In many cases participants expected to be misunderstood, and therefore treated unfairly. When this was the case people were particularly sensitive to the way the police treated them. If people felt they had been fairly treated they were pleasantly surprised and it resulted in particularly positive impressions.

The report makes a number of recommendations which if addressed could help drive confidence in the police among those seldom heard and the wider public:

- ◆ Improving customer care - the idea of a standard service that is offered to all regardless of background is a message which should be constantly reinforced to police officers and frontline staff;
- ◆ Efforts should be made to widen community engagement to ensure it incorporates these harder to reach audiences; and
- ◆ Better and more targeted communication is needed - local myths and rumours around an incident could be dispelled for example if full explanations are given to the wider community.

The full report, 'Confidence in Policing Among "Seldom Heard" Audiences

A National Report for the Association of Police Authorities' is available at

<http://www.apa.police.uk/publications>

and directly at

[http://www.apa.police.uk/admin/uploads/attachment/APA_National_Report-_Confidence_in_Policing_\(Ipsos_MORI\)-APA%20National%20Report%20Confidence%20in%20Policing%20Nov%202010%20Final.pdf](http://www.apa.police.uk/admin/uploads/attachment/APA_National_Report-_Confidence_in_Policing_(Ipsos_MORI)-APA%20National%20Report%20Confidence%20in%20Policing%20Nov%202010%20Final.pdf)

Tackling Violence against Women and Girls

The government has published their strategic vision on tackling violence against women and girls. The cross-government vision and long term priorities for tackling such violence will be followed by a full plan of action next spring.

Statistics highlighted in the report which motivate the need for this strategy include the fact that there were over 1 million female victims of domestic abuse in England and Wales in the last year. Over 300,000 women are sexually assaulted and 60,000 women are raped each year. Overall in the United Kingdom, more than one in four women will experience domestic abuse in their lifetime.

The ultimate aim set out in the strategic vision is for a society in which no woman or girl has to live in fear of violence. To achieve this vision, society needs to:

- ◆ Prevent such violence from happening by challenging the attitudes and behaviours which foster it and intervening early where possible to prevent it;
- ◆ Provide adequate levels of support where violence does occur;
- ◆ Work in partnership to obtain the best outcome for victims and their families; and
- ◆ Take action to reduce the risk to women and girls who are victims of these crimes and ensure that perpetrators are brought to justice.

Under the fourth heading, relating to risk reduction and justice outcomes, the strategic paper commits the government to a range of actions:

- ◆ Domestic Violence Protection Orders will be piloted in Wiltshire, West Mercia and Manchester for 12 months from June 2011. These Orders, which were introduced by the Crime and Security Act 2010, enable the police to apply for an order to exclude a perpetrator of domestic violence from the family home for up to 28 days;
- ◆ Implement section 9 of the Domestic Violence, Crime and Victims Act 2004 in spring 2011. This will bring into law a requirement on local areas to hold a multi-agency review following a case of adult domestic homicide;
- ◆ Monitor relevant legislative provisions, such as those covering offences of harassment, and the use of restraining and non-molestation orders to ensure they are working effectively;

- ◆ Work closely with the Association of Chief Police Officers (ACPO) and the Crown Prosecution Service (CPS) to ensure that effective practice in relation to stalking is shared between all police forces and CPS regional areas; and
- ◆ Take steps to validate how violence against women and girls prosecutions are conducted to help ensure that all victims who report this form of violence are treated with dignity and respect.

The strategic vision, entitled, 'Call to End Violence against Women and Girls', is available at <http://www.homeoffice.gov.uk/publications/crime/call-end-violence-women-girls/vawg-paper?view=Binary>

Measures Announced to Strengthen Rape Prosecutions

The Director of Public Prosecutions (DPP), Keir Starmer QC, has announced a number of changes intended to instil greater quality and consistency into the processes by which crimes of rape are prosecuted.

The changes to drive up quality include:

- ◆ Any prosecutor across England and Wales who considers charging a person who has retracted an allegation of rape with an offence of perverting the course of justice will now need the DPP's approval before they can proceed;
- ◆ There will be a consultation process conducted in 2011 to seek the views of interested parties about the factors the Crown Prosecution Service (CPS) should consider before prosecuting people for perverting the course of justice in connection with rape cases. This will inform new guidance for prosecutors;
- ◆ Reinforcing the merits-based approach to rape prosecutions by dealing effectively with myths and stereotypes; so that cases are judged entirely on the merits of the evidence;
- ◆ Introducing Violence against Women assurance measures from 1 January 2011 which will require all CPS areas to monitor their handling of violence against women cases. Where necessary remedial action will be taken to ensure a consistent national approach; and
- ◆ Improving the quality of communications with victims.

Further information is available at http://www.cps.gov.uk/news/press_releases/146-10/

Community Safety Partnerships and Information Sharing

This report presents the key findings from a questionnaire study designed to explore the extent and nature of information sharing arrangements used by Community Safety Partnerships (CSPs) across England and Wales to prevent and reduce violence and other types of crime.

Information sharing between a range of local agencies can help develop a more detailed understanding of the nature and extent of local violence. The data can be used strategically, operationally and at case level.

Information can be categorised as either 'personalised information' or 'anonymised information'. The key findings on the sharing of 'personalised information', which involves any information or data that can identify a living person, include:

- ◆ The vast majority of CSPs who responded reported having arrangements to share personalised information about individual victims or offenders; and
- ◆ These arrangements were, on average, reported to be working well or very well and the data shared was seen to be being used effectively.

'Anonymised information' is information through which no living individual can be identified. The key findings:

- ◆ CSPs reported sharing anonymised data with a wide range of agencies, both statutory and voluntary;
- ◆ CSPs used anonymised data for a range of purposes including at a strategic level and to inform actions to tackle specific offence types; and
- ◆ Emergency Department (ED) data sharing is an established model of anonymised information sharing used to tackle violent crime. The number of CSPs sharing ED data appears to have increased in recent years;
- ◆ There was room for development in ED sharing. Less than half of the CSPs who responded reported receiving data monthly or more frequently and less than half reported receiving all three types of information included in the Department of Health's recommended minimum data set.

The report, entitled, 'Information sharing aimed at reducing violent crime: A survey of Community Safety Partnerships' is available at

<http://rds.homeoffice.gov.uk/rds/pdfs10/horr45c.pdf>

Statistics on Women and the Criminal Justice System Published

The Ministry Of Justice has published their annual statistical bulletin on the representation of women as suspects, offenders and victims within the criminal justice system and as employees and practitioners within criminal justice agencies. This report provides information about how women and men in England and Wales were represented in the Criminal Justice System both in 2009, and in each of the last five years.

The data presented in the report suggests that there continues to be differences in the experiences of men and women. Key findings include:

- ◆ The British Crime Survey 2009/10 showed that men were at greater risk of personal crime and violence than women. Women were at higher risk of theft from the person and intimate violence;
- ◆ In 2009 a higher proportion of female defendants received fines than males (77 per cent compared with 63 per cent), but lower proportions of female defendants received community sentences (10 per cent compared with 16 per cent), suspended sentences (2 per cent compared with 4 per cent), and immediate custody (3 per cent and 9 per cent respectively);
- ◆ Newly received women in prison were serving proportionately shorter custodial sentences than men in 2009. Almost half (48 per cent) of newly received men in prison were serving sentences lasting longer than six months compared to two-fifths (38 per cent) of newly received women; and
- ◆ Men and women's behaviour in prison differed. In 2009, the rate of punishment in prison establishments was higher for women (150 adjudications per 100 prisoners) than for men (124 adjudications per 100 prisoners). More than one in three female prisoners (37 per cent) self-harmed compared with fewer than one in ten males (7 per cent). As in previous years, men accounted for the majority of self-inflicted deaths in custody (57 of the total of 60 recorded in 2009).

The most recent mid-year population estimates for 2009 show that, of the total 48,417,349 population of England and Wales aged over ten years, women comprised 51 per cent and men 49 per cent.

The full bulletin is available at <http://www.justice.gov.uk/statistics-women-cjs-2010.pdf>

Sentencing Green Paper Published

The Ministry of Justice has published a green paper, entitled, 'Breaking the Cycle, Effective Punishment, Rehabilitation and Sentencing of Offenders'. It sets out plans for fundamental changes to the criminal justice system. The aim of the proposed changes is to bring about improved public safety through more effective punishments that reduce the prospect of criminals reoffending.

The paper details the problems with the current system and what has gone wrong. It notes that recent reform has been dominated by increases in the prison population rather than tackling reoffending. The prison population has, for example, almost doubled since 1993. Many prisoners are locked up for a short time with little attempt at rehabilitation and recent figures show that nearly 50 per cent of offenders released from prison reoffended within a year. The National Audit Office has estimated that the social and economic costs of reoffending by those released from short sentences alone are between £7-10 billion a year.

The paper also suggests that punishments have not placed enough emphasis on making reparation to victims and that the current sentencing framework is overly complex, expensive and time consuming to interpret and administer. The framework is also difficult for the public to understand.

The central objective of the proposed new approach is to make the public safer by breaking the cycle of crime. The green paper sets out how the government proposes to achieve this, based on four principles:

- ◆ Protecting the public;
- ◆ Punishing and rehabilitating offenders;
- ◆ Transparency and accountability; and
- ◆ Decentralisation.

A number of specific changes are proposed in each of the green paper's chapters. These are now summarised.

Chapter 1. Punishment and Payback

The paper proposes to move the sentencing framework towards a more appropriate level of punishment and payback by:

- ◆ Introducing 'working prisons' where prisoners are obliged to work a full working week;
- ◆ Greater use of tough curfews and electronic tagging;
- ◆ Making Community Payback increasingly intensive and immediate;

- ◆ Creating a duty on sentencers to consider making a compensation order in any case where there is a direct victim; and
- ◆ Implementing the Prisoners' Earnings Act so that prisoners are required to pay towards the cost of services for victims.

Chapter 2: Rehabilitating offenders to reduce crime

Proposals made to help rehabilitate offenders so as to help reduce crime include:

- ◆ Probation, police and other local services taking an integrated approach to managing offenders;
- ◆ Getting drug dependent offenders off drugs by introducing new drug recovery wings and testing options for intensive treatment in the community;
- ◆ Learning the lessons from the approach to managing women offenders and applying them more broadly;
- ◆ Making offenders eligible for entry onto the Work Programme to improve their chances of getting into honest employment; and
- ◆ Working with the Department of Health and the Home Office to pilot and roll out liaison and diversion services for mentally ill offenders.

Chapter 3: Payment by results

This chapter details how the government intends to move towards an approach where providers are increasingly paid by their results at reducing offending:

- ◆ Establishing at least six new payment by results projects covering a significant proportion of the offender population;
- ◆ Reducing direct central control so that frontline professionals have the freedom to innovate in the way they work with offenders; and
- ◆ Publishing a comprehensive competition strategy for prison and probation services in June 2011.

Chapter 4: Sentencing Reform

This chapter sets out the proposals to reform adult sentencing so that:

- ◆ The sentencing framework is simplified and elements of the law that constrain judicial discretion are reduced;
- ◆ Serious and dangerous offenders are managed effectively and their risk is reduced through appropriate use of prison and through the Multi-Agency Public Protection Arrangements;

- ◆ There is an effective response to knife crime so that any adult who commits a crime using a knife can expect to be sent to prison, and serious offenders can expect a long sentence. For juveniles, imprisonment will also be appropriate for serious offences;
- ◆ Indeterminate Sentences for Public Protection (IPP) are reserved for the most serious offenders, and the release test applied by the Parole Board is reformed to strike a better balance. This will focus indefinite punishment on those who most clearly pose a very serious risk of future harm;
- ◆ Community orders are changed to give providers more discretion to supervise offenders and secure the best reduction in reoffending; and
- ◆ The use of financial penalties is encouraged and their collection improved to increase the amount of financial payback from offenders.

Chapter 5: Youth Justice

This chapter sets out how the government intends to tackle offending by young people:

- ◆ Preventing more young people from offending and diverting them from entering into a life of crime, including by simplifying out-of-court disposals;
- ◆ Protecting the public and ensuring that more is done to make young offenders pay back to their victims and communities;
- ◆ Ensuring the effective use of sentencing for young offenders;
- ◆ Incentivising local partners to reduce youth offending and re-offending using payment by results models; and
- ◆ Developing more effective governance by abolishing the Youth Justice Board and increasing freedoms and flexibilities for local areas.

Chapter 6: Working with Communities to reduce crime

In this chapter detail is given of how closer working with communities might help reduce crime levels:

- ◆ Strengthening the role of the police in turning offenders away from a life of crime and preparing for the election of the new Police and Crime Commissioners in May 2012;
- ◆ Ensuring that courts become more efficient and effective and play a greater role in tackling offenders and reducing crime;
- ◆ Testing the effectiveness of Neighbourhood Justice Panels;

- ◆ Increasing freedoms and flexibilities for local areas; and
- ◆ Giving communities better information about how justice is delivered, making services more transparent and accountable to the public.

The consultation exercise on the proposals made in the Green Paper runs until 4 March 2011. It is intended that the responses will be analysed and a response published setting out plans in May 2011, with legislation then being introduced as soon as Parliamentary time allows.

The full green paper is available at <http://www.justice.gov.uk/consultations/docs/breaking-the-cycle.pdf>

Police Reform and Social Responsibility Bill

The Police Reform and Social Responsibility Bill was introduced into the House of Commons on 30 November 2010. The key parts of this bill are examined here:

Part 1: Police Reform

This part contains provisions to abolish police authorities and to replace them with directly elected Police and Crime Commissioners (PCCs) for each police force outside London (clause 1). In London the Mayor's Office of Policing and Crime will have the same powers as a Police and Crime Commissioner (clause 3).

Subsections (5) to (7) of clause 1 (see subsections (5) to (7) of clause 3 in relation to London) set out the core functions of PCCs. These are: to secure the maintenance of an efficient and effective police force, and to hold the chief constable to account for the exercise of his functions.

Clause 5 requires a PCC to issue and publish a police and crime plan within the financial year in which he is elected (see clause 6 in relation to London). Clause 8 requires the PCC, the chief constable, the Mayor's Office for Policing and Crime and the Commissioner of Police of the Metropolis to have regard to the content of the applicable police and crime plan in exercising their functions.

Clause 38 provides for the PCC to appoint or suspend the chief constable of a police force. The PCC may also call upon the chief constable to resign or retire and, if so, the chief constable must resign or retire. Clause 48 allows the Mayor's Office for Policing and Crime to suspend a senior metropolitan police officer from duty and to call upon a senior metropolitan police officer to resign or retire. The Mayor's Office for Policing and Crime may only do so with the approval of the secretary of state.

The first elections of PCCs will be held in 2012 (clause 50). Elections will then be held in each subsequent fourth year (clause 50). PCCs can only hold office for a maximum of two terms (clause 65).

Part 1 also contains provisions for establishing Police and Crime Panels for each police area (see clause 28 and in relation to London clause 32). The role of the Police and Crime Panel will be to advise and scrutinise the work of the PCC.

Part 2: Licensing

This part contains provisions to amend the Licensing Act 2003 to give licensing authorities, the police, local authorities, and communities a greater say in licensing decisions.

Licensing authorities will be given greater powers to remove or refuse licences. Communities will be given greater powers to make representations in relation to licensing decisions or to call for a review of licensed premises.

There is provision for doubling the maximum fine for premises which persistently sell alcohol to those under 18 (Clause 118 increases the maximum fine from £10,000 to £20,000) and increasing the period of suspensions which can be imposed on such premises (clause 118 increases the closure notice period from a maximum of 48 hours to a period of between 48 hours and 336 hours).

The evidential burden on licensing authorities and the police when making decisions under the Licensing Act 2003 will be reduced.

Part 2 will bolster the ability of licensing authorities to enforce payment of unpaid fees by enabling them to suspend a premises licence or club premises certificate for non-payment of an annual fee (see clause 120).

Part 2 also makes provision to enable licensing authorities to introduce a levy in their areas which will be payable by premises which supply alcohol as a part of the late night economy. Licensing authorities will be able to impose the levy on such premises for a period of any duration between midnight and 6am. At least 70 per cent of the funds generated by the levy will be paid to the PCC and it is intended to also pay such funds to bodies which operate measures to address the effect of alcohol related crime and disorder (see generally, clauses 124 - 138).

Part 3: Parliament Square Garden and Surrounding Area

Part 3 contains a new legal framework for Parliament Square which aims to prevent encampments and other disruptive activity. The provisions confer power on constables and authorised officers to prohibit persons from engaging in certain activities in a specified area of Parliament Square (clause 141). Such activities include: the unauthorised operation of any amplified noise equipment and the erection and keeping of tents or other structures designed to facilitate sleeping or staying in a place for any period.

Part 3 (see clause 139) also repeals existing provisions governing protests in the vicinity of Parliament set out in sections 132-138 of the Serious Organised Crime and Police Act 2005. The 2005 Act made it an offence to organise or take part in a demonstration in the designated area around Parliament without the authorisation of the Metropolitan Police or use a loudspeaker in the designated area. One of the effects of repeal is that section 14 of the Public Order Act 1986 (powers to

impose conditions on assemblies) will once again apply to static demonstrations held in the area around Parliament, thereby bringing the policing of protests back in line with the policing of protests in the rest of the country.

Part 4: Miscellaneous

Clause 149 and schedule 16 amends the Misuse of Drugs Act 1971 by introducing a new power for the Secretary of State to temporarily control a substance for up to one year by statutory instrument.

Clause 150 will have the effect of amending the constitution of the Advisory Council on the Misuse of Drugs by removing the statutory requirement on the Secretary of State to appoint members with experience in specified activities. This will allow for greater flexibility in the membership of the Advisory Council on the Misuse of Drugs.

Clause 151 gives effect to a commitment of the Justice Secretary announced in a Written Ministerial Statement on 22 July 2010 that the Government intended to bring forward a legislative amendment to require the consent of the Director of Public Prosecutions (DPP) before an arrest warrant can be issued on the application of a private prosecutor. This will apply to offences in respect of which the United Kingdom has asserted universal jurisdiction.

The text of the Bill is available at
<http://www.publications.parliament.uk/pa/cm201011/cmbills/116/11116.pdf>

Notes



NPIA

National Policing
Improvement Agency

Legal Services
Chief Executive Officer Directorate
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