

CHAPTER 8

The police

Organisation of police forces; and The role of the Secretary of State pp 268-270

Replace material beneath these main headings with the following:

The Police Act 1996 (PA 1996), ss 1, 2, 3 and 4 provide that England and Wales are divided into police areas. These police areas are those listed in Sch 1, together with the City of London police area and the Metropolitan Police District. A police force, with a police authority, must be maintained for every area listed in Sch 1, and for the Metropolitan Police District. Changes to police areas, including a reduction or increase in the number of them, are relatively simple matters, requiring no more than an order of the Secretary of State. He does not, however, have the power to alter the City of London police area nor to abolish the Metropolitan Police District. The Police and Justice Act 2006, (P&JA 2006) Sch 2 provides that the Secretary of State may make regulations concerning the membership of provincial police authorities. Such regulations must provide that an authority will consist of relevant council members and other persons including at least one lay justice. The regulations will specify the number of each of these two categories of member, but will ensure that the majority of members are members of a relevant council. Schedule 2A makes similar provisions in relation to the Metropolitan Police.

PA 1996, s 6, as amended by the P&JA 2006, Sch 2 requires every police authority to secure the maintenance of an efficient and effective police force for its area and hold the chief officer of police to account for the exercise of his functions and those of persons under his direction.

In discharging its functions, a police authority must have regard to:

- (a) strategic priorities determined by the Secretary of State under s 37A of the Act (strategic priorities for police authorities) ;
- (b) any objectives determined by the authority under s 6ZB of the Act (plans by police authorities);
- (c) any performance targets established by the authority, whether in compliance with a direction under s 38 (setting of performance targets) or otherwise; and
- (d) any policing plan issued by the authority by virtue of s 6ZB of the Act A policing plan must be issued annually and set out the authority's objectives for the policing of its area during the following year, and the proposed arrangements for such policing for the following three years. Those objectives must be consistent with any strategic priorities determined by the Secretary of State under s 37A.

P & JA 2006 added a s 6ZA which empowers the Secretary of State to confer particular functions on a police authority:

- (a) to monitor the performance of a police force for its area in relation to its compliance with duties imposed by the Human Rights Act 1998 or any other enactment, or in carrying out any policing plan issued under s 6ZB;
- (b) to secure co-operation with other police forces whenever necessary or expedient; and
- (c) to promote diversity within that force and within the authority.

In addition, s 6ZC empowers the Secretary of State to require police authorities to issue reports concerning the policing of their areas.

P&JA 2006, inserted a new s 37A into the PA 1996 which empowers the Secretary of State to determine the strategic priorities of all police authorities, after consultation the Association of Police Authorities and the Association of Chief Police Officers. P&JA 2006 also inserted into PA 1996 a provision that the Secretary of State may direct police authorities to establish a level of performance in relation to the strategic priorities; to take specified measures to remedy any defect or prevent a failure to meet objectives. When directing specified measures, he may require and action plan. The Secretary of State is given similar powers to make directions to police authorities.

PA 1996, s 8A, added by the Serious Organised Crime and Police Act 2005 (SOCPA 2005), places a duty on police authorities to produce a summary of information on local policing matters for members of the public as soon as possible after the end of each financial year. Section 3 empowers the Secretary of State to specify by order matters which must be included in such a summary. The Secretary of State has specified;

- (a) a statement of the police authority's priorities for the year;
- (b) an assessment of the extent to which the police force met the priorities set for the previous year; and
- (c) an assessment as to the extent to which a police force has met the strategic policing priorities (if any) set by the Secretary of State.

The Metropolitan and City of London Police Forces are under the direction and control of their respective Commissioner.

Police forces for the areas listed in PA 1996, Sch 1 are under the direction and control of the chief constable appointed under PA 1996, s 11. PA 1996, ss 11, 11A and 12 permit a police authority to appoint chief constables, deputy chief constables and assistant chief constables subject to the approval of the Secretary of State and to call upon any of these officers to retire in the interests of efficiency or effectiveness. Appointments to the posts of chief constable and deputy chief constable have to be for a fixed term of a maximum of five years, which may be extended for a maximum of three years, and subsequently for a maximum of one year at a time, with the consent of the Secretary of State. **PA Act, s 11A was amended by the P&JA 2006** so as to make provision for the appointment of more than one deputy chief constable, with the approval of the Secretary of State.

Under PA 1996 s 12A, a deputy chief constable (or where there is more than one the senior) may exercise any or all of the powers and duties of the chief constable during any absence, incapacity or suspension from duty of the chief constable, or during any

vacancy in the office of chief constable, or at any other time with the chief constable's consent. A police authority may designate a particular assistant chief constable to exercise any or all of the chief constable's powers if both the chief constable and his deputy (or deputies) are absent, incapable or suspended or both their posts are vacant. That person may only act in that capacity for a period exceeding three months with the consent of the Secretary of State.

Each police authority must keep a 'police fund' into which all receipts will be paid and from which all expenditure will be met. The Secretary of State, for each financial year, makes a grant from central funds to police authorities and to the Receiver for the Metropolitan Police District. The remainder of the finance will be met from the council taxes of the local authorities within the police area. Civilian employees within a police force, although employed by a police authority, are under the direction and control of the chief constable.

Appointments and promotions to any rank below that of assistant chief constable are made by the chief constable. Those ranks are chief superintendent, superintendent, chief inspector, inspector, sergeant and constable.

The role of the Secretary of State

Although the courts have ruled that chief constables must carry out their duties independently, so that there may be no suggestion of direct government control in relation to law enforcement, the Police Act 1996, as amended by the P&JA 2006, empowers the Secretary of State to play an increasing part in determining strategic priorities for the policing of the areas of all police authorities. However, the determination of such strategies falls just short of direct interference in matters relating to law enforcement, in that it does not place restrictions upon those persons who may be investigated or prosecuted., Provision is made for consultation with people representing police authorities and chief officers (ie ACPO).

The Secretary of State is also empowered to issue codes of practice relating to the discharge of their functions by chief officers of police.

The Crime and Disorder Act 1998 additionally makes provision for crime and disorder reduction partnerships in a police area involving councils, chief officers, police authorities, fire authorities and primary care trusts (and health authorities in Wales), giving the Secretary of State power to make an order merging two or more partnership areas. An order may require the reduction of crimes and forms of disorder described within it.

In addition, Part I of the Police Reform Act 2002 extended the Police Act 1996 so as to empower the Secretary of State to require inspectors of constabulary, in addition to carrying out their normal annual inspections of forces, to carry out a specific inspection of a police force or the Serious Organised Crime Agency. Where such an inspection leads to a conclusion that the force, or a part of it, is not efficient or effective, or will cease to be so unless remedial action is taken, the Secretary of State may direct the relevant authority to take such remedial measures as are specified in the direction. Alternatively, he may require the authority to submit an action plan

setting out its proposed remedial measures for the Secretary of State's approval. Such action must be reported to Parliament. Reasons for his conclusion must be given to both the police authority and the chief officer. The PRA 2002 also extended the provisions of the PA 1996 to permit the making of regulations requiring police forces in England and Wales to adopt particular procedures or practices. Before making such regulations, the Secretary of State must, after consultation, seek advice from the chief inspector of constabulary and the National Policing Improvement Agency. Similar provisions are made in respect of the Serious Organised Crime Agency. The Act also extended the powers of the Secretary of State and police authorities to require the retirement of chief officers in the interests of efficiency and effectiveness so far as to allow for such an officer to be required to resign on such grounds. It also gives the Secretary of State power to call for the suspension of an officer above the rank of superintendent.

P&JA 2006 amended the PA 1996 by inserting a Sch 4A which permits an inspector of constabulary to delegate any of his functions (to such extent as he may determine) to another public authority. A 'public authority' includes any person certain of whose functions are functions of a public nature. The inspectors of constabulary may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of their duties.

*Delete heading - **Central Police Training and Development Authority** p 272 text following it down to end of second paragraph on p 273 and substitute:*

The National Policing Improvement Agency

The Police and Justice Act 2006, s 1 established a National Policing Improvement Agency (the Agency) as a body corporate and Sch 1 sets out its powers and responsibilities. The Act abolished Centrex (the Police Training and Development Authority) and PITO (the Police Information and Technology Organisation). The functions previously performed by those organisations have become a part of the responsibilities of the Agency.

The Agency's tasks are to identify, develop and promulgate good policing practice; to provide police forces with expert operational advice and assistance; to identify and assess opportunities for, and threats to, police forces in England and Wales.; to share policing issues with international partners; and to provide support to police forces in connection with the provision of information technology, procurement and training services (such services may be provided by the Agency or by contracted providers).

The Agency may do anything which it considers to be appropriate to achieve its objectives and may take over the functions of the Police National Computer, previously carried out by PITO. It must produce an annual plan setting out how it intends to exercise its powers during the coming year. The plan must state any priorities determine for the coming year by the Agency; and the financial resources expected to be available within that year.

The Chairman, Chief Executive, and members will be appointed by the Secretary of State. Serving police officers may be seconded to the staff of the Agency and will

retain their status as constables. Where a serving police officer is appointed to the post of chief executive, he will hold the rank of chief constable.

P & JA 2006 inserts the following two provisions into the Police Reform Act 2002. Section 16A places a duty on the Agency to comply with the requirements of an investigation by the Independent Police Complaints Commission (IPCC) and to provide staff for the purposes of an investigation. Section 26B requires the IPCC to enter into agreements with the Agency as to how the IPCC will operate in relation to the Agency's staff, but the IPCC does not have jurisdiction in respect of direction and control of Agency staff.

Jurisdiction of constables p 273

PA 1996, s 30 was amended by the Police and Justice Act 2006, Sch 2 to the effect that the powers of a special constable apply throughout England and Wales and the adjacent United Kingdom waters.

A community support officer p 274

The following material should be added at the end of this section:

The P&JA 2006, s 7 amended s 38 and added a s 38A to the PRA 2002. The amendment to s 38 has the effect that a person designated as a community support officer is to have the standard powers and duties of a CSO in addition to any additional powers conferred on him by designation. Section 38A allows the Secretary of State by order to confer powers and duties set out in Sch 4, Pt 1, upon all CSOs. Powers and duties so conferred are to be known as the standard powers and duties of a CSO. Provision is made to permit designation by means of both such an order and by designation in order to provide protection for CSOs in the event of an order relating to standard powers being revoked or varied. In addition, PRA 2002, Sch 4 is amended to provide that, where a designation so authorises, a CSO will during a period specified in the direction, have the powers of a constable under the Crime and Disorder Act 1998 to remove truants to designated premises or to the school from which the truant is absent.

Community safety accreditation schemes p 276

Insert the following text as a final para under this heading.

P&JA 2006, s 15 added a s 41A to PRA 2002 It provides that of weights and measures inspectors (trading standards officers) may be accredited by a chief officer of police. An accredited trading standards officer will be able to issue fixed penalty notices. He may be accredited to exercise such powers as the chief officer of police specifies from a list contained in a new Sch 5A to PRA 2002. The powers may only

be exercised by such an accredited person in the exercise of his duties as a trading standards officer. P&JA 2006, s 16 added a s 41B to PRA 2002 which authorises the Secretary of State to apply these provisions related to trading standards officers to persons of a description specified by order.

National Policing Improvement Agency

References to the Police Information and Technology Unit throughout the chapter should be replaced by references to the National Policing Improvement Agency

Incompatible business interest p 312

The Police Regulations 2003, as amended, require that a member of a police force must notify the chief officer in writing of any business interests of himself or of a relative included in his family (including a civil partner or cohabitee), unless that interest has previously been disclosed. However, in the case of a business interest held by a relative, the duty to notify arises only in cases where the officer is of the opinion that the interest could interfere with the discharge of his duties.

On receipt of a notification, the chief officer must decide whether or not that business interest is compatible with the member's duties as a police officer. In making his decision, a chief officer must have regard to whether as a result of the interest, the officer's conduct fails, or would fail to meet the appropriate standard set out in the statutory Code of Conduct. There is a right of appeal to the police authority against the decision of the chief officer. Where it appears to a police authority that the officer has adduced substantive reasons why he or a relative included in his family should be permitted to have the business interest and those reasons have not been considered by the chief officer, or that in reaching his determination the chief officer failed to apply fair procedures, it may remit the matter back to the chief officer for re-determination [SI 2006/3449].

National Policing Improvement Agency

References to the Police Information and Technology Unit throughout the chapter should be replaced by references to the National Policing Improvement Agency.