

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIME AND COURTS BILL [*LORDS*]

Fifth Sitting

Tuesday 29 January 2013

(Morning)

CONTENTS

CLAUSE 8 agreed to.
SCHEDULE 5 agreed to.
CLAUSES 9 and 10 agreed to.
SCHEDULE 6 agreed to.
CLAUSE 11 agreed to.
SCHEDULE 7 agreed to.
CLAUSES 12 to 14 agreed to.
SCHEDULE 8, as amended, agreed to.
CLAUSE 15 under consideration when the Committee
adjourned till this day at Two o'clock.

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The Committee consisted of the following Members:

Chairs: MARTIN CATON, † NADINE DORRIES

- | | |
|---|--|
| † Barwell, Gavin (<i>Croydon Central</i>) (Con) | † Lopresti, Jack (<i>Filton and Bradley Stoke</i>) (Con) |
| † Browne, Mr Jeremy (<i>Minister of State, Home Department</i>) | † McCabe, Steve (<i>Birmingham, Selly Oak</i>) (Lab) |
| † Burrowes, Mr David (<i>Enfield, Southgate</i>) (Con) | † McDonald, Andy (<i>Middlesbrough</i>) (Lab) |
| † Chapman, Jenny (<i>Darlington</i>) (Lab) | † Paisley, Ian (<i>North Antrim</i>) (DUP) |
| † Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op) | † Rutley, David (<i>Macclesfield</i>) (Con) |
| † Elphicke, Charlie (<i>Dover</i>) (Con) | † Syms, Mr Robert (<i>Poole</i>) (Con) |
| † Goggins, Paul (<i>Wythenshawe and Sale East</i>) (Lab) | † Vara, Mr Shailesh (<i>North West Cambridgeshire</i>) (Con) |
| † Green, Damian (<i>Minister for Policing and Criminal Justice</i>) | † Vaz, Valerie (<i>Walsall South</i>) (Lab) |
| † Hanson, Mr David (<i>Delyn</i>) (Lab) | † Wilson, Phil (<i>Sedgefield</i>) (Lab) |
| † Heald, Oliver (<i>Solicitor-General</i>) | † Wright, Simon (<i>Norwich South</i>) (LD) |
| † Jones, Andrew (<i>Harrogate and Knaresborough</i>) (Con) | Neil Caulfield, John-Paul Flaherty, <i>Committee Clerks</i> |
| | † attended the Committee |

Public Bill Committee

Tuesday 29 January 2013

(Morning)

[NADINE DORRIES *in the Chair*]

Crime and Courts Bill [Lords]

Written evidence to be reported to the House

C&C 05 Ismail Bhamjee

C&C 06 Ministry of Justice

C&C 07 Ministry of Justice supplementary evidence

C&C 08 Ministry of Justice supplementary evidence

C&C 09 Home Office

8.55 am

The Chair: Good morning, everyone. The usual rules apply. Gentlemen, if you wish to remove your jackets, you may.

Clause 8

DIRECTOR GENERAL: CUSTOMS POWERS OF
COMMISSIONERS AND OPERATIONAL POWERS

Question proposed, That the clause stand part of the Bill.

Mr David Hanson (Delyn) (Lab): Good morning, Ms Dorries. I hope that you had a pleasant weekend. It is a great pleasure to be here in Committee today. The Opposition have tabled no amendments to clauses 8 to 15, but we intend to discuss all the clauses to explore the issues and the Government's thinking in what I hope will be a helpful and constructive way. I give notice to the Whip and to the Minister that we do not plan to vote against the clauses, but we want to have at least some discussion. Depending on what the Minister says, we might oppose the clauses, but I doubt that we will.

Clause 8 is about operational powers of the director general and the commissioners. It states that the director general, Keith Bristow, who has already been appointed, "has...the same powers as the Commissioners for Her Majesty's Revenue and Customs would have."

It continues:

"The Secretary of State may"

—that is the key word—

"designate the Director General as a person having one or more of the following—

- (a) the powers and privileges of a constable;
- (b) the powers of an officer of Revenue and Customs;
- (c) the powers of an immigration officer."

Interestingly, the clause confers on the Secretary of State another power:

"The Secretary of State may modify or withdraw a designation of the Director General by giving notice of the modification or withdrawal to the Director General."

Schedule 5 gives effect to the clause and will form part of this debate, but I want to ask the Minister about clause 8 as a whole. In what circumstances may the Secretary of State

"designate the Director General as a person having...the powers and privileges of a constable",

which, self-evidently, Keith Bristow has? The same question applies to:

"the powers of an officer of Revenue and Customs;"

and

"the powers of an immigration officer."

Will the Secretary of State designate the director general as having those powers as a matter of course? It would be helpful to know, because according to the material that we have dealt with to date, the director general, Keith Bristow, will have responsibility for the National Crime Agency as it relates to policing of serious organised crime; Revenue and Customs and the border force; and matters connected with policing and training through the work being amalgamated through the National Policing Improvement Agency. I am genuinely interested in hearing in what circumstances such powers will be vested in the director general and whether it will be a matter of course.

Subsection (3) states:

"The Secretary of State may modify or withdraw a designation...by giving notice of the modification or withdrawal to the Director General."

If the director general is to be vested with the powers as a matter of course, in what circumstances does the Minister envisage the Secretary of State giving a power to the NCA director and then exercising the power to "modify or withdraw a designation"?

With these questions, I am trying to discover what powers the Minister anticipates the director general of the NCA will have. Serious responsibilities are vested in the agency and the director general will have oversight of those issues. The heart of the clause is the competence of the director general to oversee, direct and have powers in relation to those fields.

This is an important matter, and I have already asked whether and how it has been dealt with in respect of Keith Bristow. Although the Bill has not yet passed through the Commons, it has had Second Reading in the Lords and has completed its Committee stage. Keith Bristow was appointed more than 12 months ago to be national director of the NCA. What powers have already been vested in him? What assessment have the Secretary of State and the Home Office made of Mr Bristow's powers? This is not a criticism of Keith Bristow. As I said at the first sitting of the Committee, I have a great deal of respect for his work and worked with him during my time fulfilling Government functions. My questions are not about him but about the principle of a future Keith Bristow and the starting point for such a person. Were the tests under clause 8 directed at Keith Bristow on his appointment? What powers does he have as of 29 January regarding these matters? That is an important point and I will welcome the Minister's comments.

Those points also relate to schedule 5, which I think we might deal with in a separate stand part debate, so I may leave my comments on that schedule until then. That would be helpful, as it deals with an advisory committee, but I will just touch on the issue now and we will discuss it more fully in due course. The advisory panel is put in place under paragraph 4(1), which says,

“The Secretary of State must appoint an advisory panel (to enable recommendations to be made as to the operational powers which the Director General should have)”.

The schedule states that an advisory panel must be appointed to advise on whether the director general has the relevant skills for those powers, but it states also that the Secretary of State has the power not to have an advisory panel. We will test that when debate schedule 5. My question in relation to clause 8 is: was an advisory panel put in place when Keith Bristow was appointed? Clause 8 gives power to schedule 5 and we have Keith Bristow in post, so I question the powers, the “may” and whether the Secretary of State acted with or without an advisory panel, as the Bill directs, when appointing Keith Bristow.

The Minister of State, Home Department (Mr Jeremy Browne): Good morning, Ms Dorries and all those on the Committee. It may be helpful if I briefly outline the purpose of clause 8 and the associated schedule 5. I will try to incorporate a response to the points just raised by the right hon. Gentleman.

Clause 8 confers the powers of the commissioners for revenue and customs on the director general and sets out the arrangements for the designation of the wider operational powers on the director general. The director general will be, first and foremost, an officer of the NCA with all the necessary operational powers to take an active part in agency operations. The crime-fighting experience and focus of the director general of the NCA will be crucial in setting the tone for the agency’s work, establishing its crime-fighting credentials and securing its position in the law enforcement landscape.

The arrangement in clause 8 for the three types of operational powers—police powers, customs powers and immigration powers—is distinct from the general administrative powers of the director general to run the agency and his or her operational responsibilities as the head of a crime-fighting agency, which are covered under earlier clauses. The director general will have the overall direction and control of the agency’s operations, even if he or she does not hold operational powers; but the director general will need to hold such operational powers if he or she wants to take an active part in those operations—for example, making arrests alongside NCA officers. Even without the operational powers, the director general will be able to run his organisation,; the question is whether he will have the special powers vested in a police officer, a customs officer or an immigration officer.

In the clause and the linked arrangements in schedule 5, there will be a clear and independent mechanism on the face of the Bill to provide the director general with those important operational powers. The director general will be able to be designated with one or more of the powers of a constable, a customs officer and an immigration officer. Under the provisions in clause 9, it falls to the director general to designate other NCA officers with those same operational powers, but our view is that it would be inappropriate for the director general to designate them to himself. He can designate other people and oversees that process, but who can designate him? Clause 8 provides for the Home Secretary to designate the director general with operational powers.

It is clearly important that the director general is designated with operational powers only if he is adequately trained and fit to exercise such powers. Schedule 5 provides

two routes for assessing the adequacy of the training in operational powers before the Home Secretary can designate them to the director general. Designation will take place either on a binding recommendation of an advisory panel, which would be set up to judge the suitability in a given area for the director general to receive the designation, or according to certain regulations, subject to the affirmative procedure. It may well be that if the director general manifestly has that level of competence, it will not be necessary to convene an advisory panel, but it is necessary to recognise the competence that he or she holds.

Clearly, the judgment on whether the director general is adequately trained is best taken by operational experts and not by the Home Secretary, who authorises the process but does not routinely have the expertise to make the judgments. The reason two processes are set out is to ensure that the provisions are sufficiently flexible to cover a range of scenarios, including when a director general does not have prior training in the operational powers or, conversely, when he or she does have the prior experience in some or all of those powers. We shall consider the details of the arrangements when we debate schedule 5, which is obviously an extension of the current debate.

The director general will also be conferred with the powers of the commissioners for revenue and customs. That is an important development and one that addresses a gap in the arrangements for the Serious Organised Crime Agency: for example, SOCA officers could use customs officers’ powers to seize goods, vehicles or vessels used in smuggling, but were then unable to make decisions relating to the subsequent return, sale or destruction of seized items because they did not possess the relevant powers, as those are conferred under statute on the commissioners for revenue and customs. By providing the powers of the commissioners to the director general, that gap will be filled. In recognition of the extensive powers of the commissioners of revenue and customs, the clause allows the director general to exercise those powers only for customs matters; he or she will not be able to use those powers for revenue matters, which will remain the preserve of HM Revenue and Customs. The commissioners have extensive functions and powers and it is right and proper that tax and revenue matters remain the preserve and responsibility of HMRC.

The right hon. Gentleman made a couple of specific points about the provision that the Home Secretary “may” designate powers. We expect that she will designate the powers to the director general, subject to the provisos that I just outlined. We accept that the withdrawal of those powers is very unlikely. I suppose one could conceive of the nature of the knowledge required to fulfil the task evolving over time and the director general not updating his knowledge, so that having previously been deemed fit to exercise the powers, he may not be deemed fit to fulfil them any longer unless he updates his knowledge. However, the main purpose of the ability to withdraw designation is to make the treatment consistent with that of other NCA officers. The director general has the power to modify the conditions of other employees of the NCA and, in extremis, to withdraw the designation of their powers, so it was thought fit that a parallel power should be vested in the Home Secretary.

Regarding Keith Bristow himself, we have not yet agreed clause 8 and schedule 5 and I would not want the

[Mr Jeremy Browne]

Government ever to be accused of being insufficiently respectful of the Committee or of Parliament more generally, but with his background as chief constable of Warwickshire police, Keith Bristow ticks the box emphatically in terms of having the necessary qualifications to exercise the powers as a police officer. He does not have any powers as the director general of the NCA because those are subject to the Bill, so the further powers that the Home Secretary may confer on him, subject to the advisory group's recommendation, will follow in due course, once the creation of the NCA has been agreed by Parliament and fully constituted.

Mr Hanson: I am grateful to the Minister for his explanation. I do not want to be churlish, but the Bill has not gone through all its stages in Parliament—not even clause 1, which states:

“A National Crime Agency, consisting of the NCA officers, is to be formed.”

Mr Keith Bristow was appointed as the director general of the National Crime Agency, which is yet to be formed, more than 12 months ago. I was asking the Minister, effectively, what consideration under clause 8 has been given to Keith Bristow's competences on the other issues? Self evidently, as a chief constable, he has “the powers and privileges of a constable”,

but he was appointed 12 months ago, before the Bill has received Royal Assent. What consideration was given to the designation of

“the powers of an officer of Revenue and Customs”

and

“the powers of an immigration officer”?

I would like to know whether, for example, the Secretary of State has considered appointing the advisory panel for which schedule 5 provides in respect of Keith Bristow. Again, this is not a criticism of Mr Bristow; I just want to know what consideration was given, because the Minister's test that clause 8 is not yet law does not stand: clause 1 is not yet law, yet Mr Bristow has been appointed. He has walked away from being the chief constable of Warwickshire and is now the director general of the NCA, yet neither clause 8 nor clause 1 have taken effect. Will the Minister give some indication of where we are with the process and the proposed director general?

Mr Browne: The right hon. Gentleman is correct that some preliminary work has taken place; it would be difficult to constitute the NCA in a matter of weeks from a standing start. Of course, SOCA still exists—in fact, I had a meeting with the leading officers in SOCA just a day or two ago to talk about their ongoing operations and activities. We are waiting until Parliament has granted its full approval—assuming that it does—for the NCA before we are in “all systems go” mode and can put every single arrangement in place.

I do not know whether it is appropriate to talk about Keith Bristow. The powers in the Bill will last beyond the appointment of any specific individual, although Mr Bristow's background is clearly in the powers of a constable, rather than the customs or immigration powers. His successor may have a background, and therefore greater expertise, in a different field, and not necessarily

have a background in the powers of a constable. The director general will oversee the work of the NCA and its operational leadership, regardless of whether he or she has designated powers in all three of those areas. He or she might feel it is helpful to have those powers and the Home Secretary might agree with that assessment, so it might be a good idea for the director general to acquire additional skills and training and for an advisory panel to judge whether the director general has reached a satisfactory level of attainment, but the decision on that arrangement will be based on the competence, knowledge and background of the individual concerned.

I do not want the Committee to get the impression that the NCA under the leadership of Keith Bristow will be able to operate only in certain fields because his background is in one area and not in another. He will still be able to manage and run the organisation for which he will be responsible.

9.15 am

Mr Hanson: I accept that, and I understand that procedure. However, the clause gives the Government the power to designate the three competences of the director general. My simple question is—I am not sure whether the Minister has answered this—will it be normal practice for those powers to be designated to the director general? If that is the case, will those powers be designated to the current holder of the post, Mr Keith Bristow? Will it be it normal practice for the Government to seek a candidate, if Mr Bristow leaves in two, three, four, five, six or seven years' time, and designate those powers to them? I am interested in the scope of the post, rather than the individual post holder.

Mr Browne: That is a good point. The Government will certainly not only consider a candidate to be director general if he or she has already ticked all three boxes—immigration, customs and constable powers. The advisory committee will advise the Home Secretary whether the director general has attained a level of knowledge that warrants him or her being vested with those powers. We envisage that the director general will be able to run the organisation perfectly well without having powers in all three areas.

However, it is unlikely that a candidate will become director general if they have no background in any of those three areas. I imagine that directors general will seek to acquire knowledge to be given powers in those areas, although it is not necessary for them to possess that level of knowledge and those powers formally to run the organisation and the operations. They can take a keen interest in the fields of the NCA's activity without having formal powers granted upon them in the same way that you or I, Ms Dorries, can take a keen interest in police operational matters without having the formal powers of a constable vested upon us. Just as the director general will wish senior NCA employees to have a broad understanding of the formal powers across the organisation in order to equip them to do their jobs to an even higher standard, the Home Secretary and the director general will wish to reach that extensive level of attainment.

Paul Goggins (Wythenshawe and Sale East) (Lab): I am very much looking forward to the debate on schedule 5

because the Minister raises some very interesting questions. I put this simple question to him: would it not be better for the Home Secretary to know for sure that the director general has the necessary competences before she appoints him, rather than waiting until after she has appointed him to convene the panel to then be advised on whether he has the competences?

Mr Browne: I hesitate because I cannot immediately think of an individual—although I defer to the two previous Home Office Ministers on the Opposition Benches—who has designated powers as a customs officer, an immigration officer and a police officer. They tend to be different strands of career development, and people will have accumulated knowledge and expertise in the particular strand that they have chosen earlier in their career. To say in advance, when looking to appoint a future director general, that only someone who has accumulated expertise in all three fields would be deemed to be suitable even to put themselves forward would almost certainly limit the field of applicants too greatly.

As I have said, the director general will still be able to oversee the NCA's operations. Members of the Committee were alarmed that a director general who does not have designated powers in, for example, the field of immigration would have his hands tied in overseeing the immigration function of the NCA. I can put their minds at rest—they should not be alarmed on that score. The director general will take a close interest in all matters regarding the NCA, but he will not be able to exercise the functions of a designated immigration officer if he or she chooses to get their hands dirty on the front line, unless the Home Secretary, following the advice of the advisory panel, has deemed him or her fit to do so.

I would imagine that, in order to extend his or her knowledge, that might be an area in which they could be interested to acquire additional skills and insights, but it will not be a requirement. Clause 8 and schedule 5 lay out the process by which that would happen.

Mr Hanson: We will explore these matters in slightly more detail in schedule 5 to see exactly where the Minister is coming from regarding the powers. I am happy to let clause 8 stand part of the Bill.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Schedule 5

POLICE, CUSTOMS AND IMMIGRATION POWERS

Question proposed, That this schedule be the Fifth schedule to the Bill.

Mr Hanson: Schedule 5 will set the parameters of the designation of the director general's powers under clause 8. In line with the initial comments made by my right hon. Friend the Member for Wythenshawe and Sale East, I want to test how the designation will work in practice.

Does the Minister intend to convene an advisory panel for the proposed and current post holder, Mr Keith Bristow? Will Mr Bristow exercise all three competences or not?—*[Interruption.]* I think the Minister is saying that that is not a matter for the Committee. I am sorry, but we are discussing schedule 5, which states:

“The Secretary of State must appoint an advisory panel”.

I want to know whether an advisory panel has been appointed to consider the competences and whether the current post holder intends to exercise all three competences.

Mr Browne: The right hon. Gentleman rightly heard me say that, in my view—although obviously such matters are decided by you, Ms Dorries—the matter is not one for the Committee. Mr Bristow could decide to resign from his post this afternoon—I do not envisage that he will—and we do not need to have a long conversation about which particular skills and attributes he personally has. What we are doing is putting legislation in place that will be suitable for a director general, whoever that is in the future.

Mr Hanson: The point is that we have a post holder in post, for whom I have great respect. The discussion is not about the post holder, but I am interested in whether the processes in schedule 5 are, have been or will be used in relation to the current post holder. It is perfectly legitimate to ask whether the post holder, who is a chief constable, is planning to take on board the other competences under clause 8—the powers of a Revenue and Customs officer and of an immigration officer.

Schedule 5 will give the Secretary of State the power to appoint an advisory panel to see whether the current post holder wishes to take on those two powers. I am just inquiring whether the current post holder is intending to apply to have the two designated roles. Is the Secretary of State or the Minister going to appoint an advisory panel?

Paragraph 4(3) of schedule 5 gives details on what the advisory panel should be. I am interested to test that in relation to the current post holder and to future post holders, if designations are proposed.

Schedule 5 at the moment says:

“An advisory panel is to consist of—

(a) a person to chair the panel, who must not be a civil servant;”.

Okay, they must not be a civil servant. Will the Minister indicate what competences the potential chair of a panel might have, given the chair will judge the competences of an immigration officer, Revenue and Customs officer and/or a constable? Will the Minister tell us the type of person he envisages would chair the panel, if not a civil servant?

Secondly, the advisory panel is to consist of

“(b) an appropriate number of other members (the “expert members”) who, when taken together, have appropriate knowledge of the following matters—

(i) the training of constables in England and Wales...

(ii) the training of officers of Revenue and Customs...

(iii) the training of immigration officers;

(iv) the training of NCA officers.”

My question is: what type of competences are required of the chair of the panel? What is an appropriate number? What type of skill and knowledge are those people expected to have in relation to the competences? Those are important matters.

“(4) The expert members of the advisory panel must—

(a) consider the...adequacy of the Director General's training, and

(b) give the panel's chair such information in respect of their consideration of that question as the chair may require.

[Mr Hanson]

(5) The panel's chair must then—

(a) consider the information given by the expert members,

(b) decide the question of the adequacy of the Director General's training."

Those are important points. I am testing schedule 5 because that is what is before us. Does Mr Keith Bristow intend to apply for the two competences that he does not have? If he does, does the Minister or the Secretary of State intend to exercise the powers under schedule 5? If so, what type of person should be chair of that advisory panel? How many people will be members of that panel and with what competences? This proposal would give tremendous power to the Secretary of State and I want to test how that would be exercised.

Steve McCabe (Birmingham, Selly Oak) (Lab): Presumably the point that my right hon. Friend is trying to tease out is whether the chair and members of the panel will be competent in the areas of expertise they are to judge. Could this be a back-door route for the Home Secretary to import foreign law and order experts into our system, bringing in people who have no competence in our system but might be law enforcement officers in other jurisdictions?

Mr Hanson: That is an interesting point to which the House of Commons will return later. I know my hon. Friend takes a keen interest on the Home Affairs Committee.

I make these points, Ms Dorries, because on page 68 of the Bill there is the heading "No advisory panel", under which it says:

"5(1) The Secretary of State may, by regulations, make provision about the circumstances in which the Director General may be designated as a person having operational powers otherwise than on recommendations made in accordance with paragraph 4."

So, under schedule 5, the Secretary of State has the power to appoint an advisory panel but also the power not to. I am testing the Minister on his view regarding the current post holder, who is a chief constable, and whether he intends to designate those other two powers. If so, has the process already been followed, and if not, will it be followed? If that designation is required, will there be a panel or not? What is the principle involved? Unless the Secretary of State finds somebody who happens to be an immigration officer, a customs officer and a chief constable, what are the circumstances where no advisory panel will be brought forward?

It may seem tedious to go through these issues, but this proposal would give powers to a Secretary of State to determine these matters now and in future. All I am seeking is to tease out the Government's thinking, so that when future Members of the House test a Minister on the exercise of these powers, they will have an idea of Parliament's intention when giving those powers to the Secretary of State. This is the right moment to ask why there should be an advisory panel, who would be on it, when, where and how, and also to ask in what circumstances one would not be convened. Does the Minister have a view on where we are with the current post holder, Mr Keith Bristow?

9.30 am

Paul Goggins: I do not think my right hon. Friend is raising tedious questions, but important ones. The purpose of the panel is to decide whether the director general is adequately trained. Would it not be better to make the assessment prior to the appointment of the director general, rather than waiting until the director general has been appointed?

Mr Hanson: In the interests of speed, Ms Dorries, I did not mention two other points that I wish to mention. My right hon. Friend has given me a chance to do so. Paragraph (6) refers to

"adequate training in respect of that power",

and paragraph 9 defines adequate training as

"training that is adequate to enable that power to be properly exercised".

What does that mean? And "appropriate" training means "appropriate in the Secretary of State's view".

So we need to test those issues, too.

Paul Goggins: I am pleased that my right hon. Friend has had a further opportunity to raise more questions for the Minister, who I am sure will answer them.

I have no doubt about the competence and experience of Keith Bristow. In common with my right hon. Friend, I do not question Keith Bristow's seniority, experience and ability to do the job. However, the questions are important. We need to know whether a panel will be convened in relation to the current post holder once the Bill is enacted. It is an important question for the longer term. We would not expect to convene a panel after the appointment of the chief executive of an NHS hospital trust to see whether they had had adequate training, and we would not convene a panel after a head teacher had been appointed to see whether they had the adequate competences and experience to be the head teacher. It would surely be better to do that in advance. If there are areas in which the post holder does not have competence, what then happens? Is he sent off for more training? Is the authority delegated to another official? We need to know the answer to such important questions.

I accept that no one person can have every competence to the nth degree, but what is the consequence if a judgment is made that a post holder does not have the experience and training in one area? What is the implication of that? Is he sent off for more training or is the authority delegated to somebody else?

I want to ask about the panel itself. As my right hon. Friend has said, we need to know more about who is likely to be the chair of the panel. The only criterion at the moment is that they must not be a civil servant, so that includes the majority of the population. We need to know a little more about the type of person that the Secretary of State has in mind. My right hon. Friend made various observations and raised questions about the other people who might form the panel. What would happen if the panel members formed a view about the competence and experience of the post holder that was not accepted by the chair of the panel? According to schedule 5, all the power ultimately rests with the chair and the panel members are simply there to advise. Presumably, the chair can take the advice or not. So what

would happen if there was a substantial difference of opinion between members of the panel and the chair?

Will the report of the panel members be published and made available, or will it be kept private? I am concerned. My hon. Friend the Member for Birmingham, Selly Oak alluded to bringing in law enforcement officers from other jurisdictions. As I commented the other day, the Home Secretary seemed to be dead set against that until recently, when she was reported to have had a major change of mind. She is now prepared to think about bringing in senior police officers from the United States and other places.

What if the Home Secretary was hellbent on appointing a certain director general, who had come outwith our jurisdiction and who did not have experience of the policing system in the United Kingdom? She then appoints the chair of a panel that she hand-picks, because she knows that the chair will agree with her. The panel members are then assembled and they take a completely different view and make a clear recommendation to the chair, who completely ignores their expertise and makes his recommendation to the Home Secretary, which she was anticipating, anyway. That would be complete nonsense. We need to know whether the panel members' report will be published and what ultimate authority they will have in making a recommendation to the Secretary of State. Schedule 5 looks at first sight like an innocent little schedule, but as we begin to think about not just this but future appointments, many questions arise.

Mr Browne: I am grateful for the opportunity to demonstrate to the Committee that schedule 5 is indeed an innocent little schedule. People need not be unduly alarmed when considering giving it their approval this morning.

The right hon. Member for Delyn asked about the powers that Keith Bristow possesses. Of course, in terms of the matters we are discussing, the NCA, under his leadership, cannot assume the full functions until the Committee, the House and Parliament have given their approval to the whole process. Were the Committee to decide, against my recommendation, to reject schedule 5, the ability of the director general to satisfy an advisory panel would obviously be compromised, because there would be no provision for such a panel. Until the Bill receives Royal Assent, we are not in a position to go ahead in the way that we envisage, which is precisely why we are seeking Parliament's approval right now.

Let me go back. The conversation was about the practical questions of how the advisory panel will work. It is worth reminding the Committee that the Home Secretary will judge whether the director general warrants the particular special powers in the three fields of constable powers, customs powers and immigration powers. We have made it that way because otherwise the director general, who is responsible for the NCA staff, would be making that judgment about himself. We thought that the Committee would be more satisfied if he was not put in the invidious position of making a judgment about his own competences, so that judgment is made by the Home Secretary.

Of course, the current Home Secretary is demonstrating on a daily basis particular competence in her office, but we cannot be certain that that will always be the case. We do not know whether a future Home Secretary will

have particular knowledge or insight into the particular requirements that an individual needs in order to become a designated constable, customs officer or immigration officer. So, to ensure that the Home Secretary can make an informed decision about the director general, schedule 5 contains the provision for an advisory panel of people with the relevant expertise.

The advisory panel is not a permanent sitting committee. It is not a group of people who are remunerated on a year-in, year-out basis and turn up for monthly meetings. It is a small group of people—the number depends on the precise nature of what they are trying to ascertain and what is necessary to make the judgment—brought together to ensure that the Home Secretary has the knowledge required to make the decision. Let us say, for example, that the director general is seeking the powers that go with being an immigration officer. One would envisage that the advisory group would be people with particular expertise in the requirements necessary to become a designated immigration officer. They would not have particular expertise in customs issues, because that is not the matter at hand. They would look at what requirements the director general was able to fulfil and make the recommendation to the Home Secretary on that basis. That is how it would work.

Mr Hanson: I am genuinely not trying to be difficult on this; I am just trying to find out from the Minister whether, in the case of the current post holder Keith Bristow, for example, he intends to convene a panel in relation to potential designation. If the answer is yes, the question has to be whether he is willing, as my right hon. Friend the Member for Wythenshawe and Sale East said, to publish the names of the people on that panel, their competences and any comments about those issues. Those are matters for scrutiny. If I were to table a parliamentary question at some point and ask who the members of the advisory panel were, would the Ministers say, "Yes, they were people A, B, C, D and E?" I simply want to get that transparency so that we understand the matter.

Mr Browne: Of course, the Home Secretary will be the person who makes the decision whether the director general should be given operational powers in a particular field, and she takes advice the whole time. In fact, Governments are not always as transparent as we are being now in describing it as an advisory panel. Perhaps even as we are meeting now, the Home Secretary may be in the Home Office taking advice from a group of people who have expertise in a particular field to enable her to undertake her duties better informed by expert insights. An advisory panel will be constituted to fulfil that role.

The right hon. Member for Wythenshawe and Sale East asked why all of this will not be done prior to an appointment. The point I was trying to make earlier was that because the NCA will be a wide-reaching body that will be seeking to fight serious and organised crime across the board, it is very unlikely that the director general will have such operational powers as part of their CV on the blocks and waiting to go when they apply for the post. It is likely that they will be drawn from a particular field or area of expertise. He or she will still be able to run the show and make operational decisions, but if he or she wants to exercise operational

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powers in a particular area, he or she will have to demonstrate competence to do so.

We are talking about particular powers, such as those of a constable—that would not apply to Keith Bristow, because his background means that he already has those operational powers. One can take a view about a police operation without having the formal operational powers of a chief constable, but if a director general wants to have the formal powers of arrest or detention that a chief constable has, they will need to demonstrate the right level of attainment and knowledge to exercise those powers. I do not want the Committee to get the impression that the director general will be hamstrung without those powers. It is just that he or she may be keen to have at their disposal the three sets of powers in question.

I was asked about the Home Secretary having the power to appoint, and the power not to appoint, an advisory group. That is precisely because, taking Keith Bristow as an example, we want the Home Secretary to have the power not to appoint an advisory group to advise her on whether he is suitable to have constable powers, because we all know that he is. She does not feel it is necessary to constitute a group to tell her something that she already knows. The Bill therefore makes provision for a decision to be made where the right way to proceed is obvious to everybody concerned. Where the Home Secretary feels that she needs additional insights provided by a limited group of advisers brought together specifically for that narrow purpose and then disbanded again afterwards, the Bill provides the power for that group to be brought together more openly and transparently than if she just decided to take the guidance of advisers and experts, as she does on daily in any case.

Mr Hanson: I am grateful to the Minister. I will not test him further on this matter. I simply wanted to put a few items on the record, and it has been helpful to have discussion of them. Ultimately, we are legislating, and although he said that the Home Secretary might at this very moment be receiving advice from individuals in the Home Office, that is not in schedule 5, which the matter that we are discussing is. However, I am happy to give the schedule a fair wind. In slower time, I will read what the Minister has said in response to our questions.

Question put and agreed to.

Schedule 5 accordingly agreed to.

Clause 9

Operational powers of other NCA officers

Question proposed, That the clause stand part of the Bill.

9.45 am

Mr Hanson: I have a couple of questions. The clause gives the director general the power to designate officers of the NCA

“As a person having one or more of the following...the powers and privileges of a constable...the powers of an officer of Revenue and Customs”—

and—

“the powers of an immigration officer.”

In most cases, those designations will be straightforward. People will receive competences based on their particular role and history. I want to test the Minister on the meaning of subsection (2), which states that the officer must be

“capable of effectively exercising those powers”

and

“has received adequate training in respected of the exercise of those powers.”

I am clear what a constable’s powers and training are, but, for clarity, I ask the Minister indicate what the basic requirements for being a constable, a Revenue and Customs officer and an immigration officer are. The phrase “adequate training” is very broad; it is not definitive.

Before I agree to the clause, I want to understand the Minister’s perception of the meaning of the following phrases:

“capable of effectively exercising those powers”,

“adequate training”

and

“a suitable person to exercise those powers”.

That would help to clarify the clause.

My second question relates to schedule 5. We may debate this issue separately, but I will touch on it now. Schedule 5 sets out how those roles may be exercised not only in England and Wales, but in the devolved Administrations of Northern Ireland and Scotland. I would welcome the Minister’s comments—I know we have already agreed to schedule 5, but this links to the powers in the clause—on the relationship between Scotland and Northern Ireland, and how the operational powers of constables, Revenue and Customs officers and immigration officers will marry in with the devolved responsibilities.

Paul Goggins: I think the Committee is beginning to understand a little better the importance of schedule 5 as it will apply to the clause, which deals with the operational powers of other NCA officers. Clearly, the Home Secretary needs to assess the level of competence that the director general has in each individual area, because he has the important power to designate other officers with particular powers—the powers of a constable, a Revenue and Customs officer, and an immigration officer. Obviously, the Home Secretary will not want to give the director general powers if they do not have adequate training or competence, because they will have the responsibility of designating particular officers with similar powers and competences, and there would be no consistency.

I turn to subsection (2). What will happen if the director general is deemed by the advisory panel not to have a particular set of competences and not to be adequately trained in a particular area? He will have to judge whether particular NCA officers have received adequate training in respect of the exercise of their powers. I return to the question that the Minister did not answer, although I knew there would be other opportunities for him to do so. If the panel makes an assessment that a director general does not have expertise and adequate training in a particular area, what happens?

Is he required to undertake further training? Does he have to gain that competence himself so that he can exercise his power to designate officers with the powers of a constable, a Customs and Revenue officer and an immigration officer? Or does he have to delegate that task to somebody else—one of his deputies—who has expertise in the area in which his expertise and training is lacking? It is important to know whether he has to be trained further, or whether he has to designate an assistant or a deputy to carry out those functions on his behalf.

Mr Browne: There are two essential points. One is about the nature of the powers, and the other is about how the decisions will be made, which is the point just raised by the right hon. Gentleman.

Regarding the nature of the powers, I hoped that I had addressed it—perhaps a little bit in passing—when I was speaking to clause 8. I gave the example that SOCA officers can use customs officers' powers to seize goods, vehicles and vessels used in smuggling, but they are unable to make decisions regarding the subsequent return, sale or destruction of the seized items, because those powers are conferred by statute to the commissioners for revenue and customs, and SOCA officers do not have the powers of customs officers. The operational powers vested in SOCA are incomplete, and we are seeking to address that incompleteness by making it possible for NCA officers to have the full range of constable, custom and immigration powers to fight serious and organised crime across the board.

Regarding the director general's decision making, I suppose that the parallel is this: as far as I am aware, the Home Secretary does not herself have designated operational powers as a constable, customs officer or immigration officer. However she will make a judgment about whether the director general is fit to exercise those powers based on the wise and expert advice offered to her. Keith Bristow, or whoever his successors may be, will be able to make a judgment, based on the expert advice he receives, on whether an NCA officer is suitable to exercise the powers.

We imagine that the director general would wish to acquire the designated operational powers in each of the three fields. However, were he not to have operational powers in a given field, he would still be able to take an overview of the organisation in a way that allowed it to function perfectly satisfactorily. He would, with advice, be able to make the right judgments about whether someone should be delegated with the powers or authority.

Ultimately, a decision has to be made. We are talking about a broader organisation, the head of which is unlikely to have expertise in every field for which that organisation is responsible. Unless we have a series of niche organisations that are not properly linked to each other, that will inevitably be the case. We expect the director general to offer leadership across the board, while recognising that the person is likely to have greater accumulated expertise in one field than another. We will try to ensure that officers across the NCA have designated powers in each of the three broad fields of activity, so that there can be, as much as possible, a seamless operation to tackle serious and organised crime.

Paul Goggins: I remain somewhat puzzled. The Minister makes the perfectly valid claim, with which I agree, that we could not expect even the most experienced director general of the NCA to have competence in every area. He has just asserted that point, and I accept it.

The Minister says that if the post holder has experience in one particular field—policing, for example, as the current post holder does—he may not have experience in immigration or Revenue and Customs, but the Minister says that he will be sufficiently experienced and will know how to do it anyway. What is the point of having the panel?

Mr Browne: I do not think that the provision is as novel as the right hon. Gentleman says it is. Lots of big organisations have a person who has particular expertise in one field of that organisation's activities but who draws on insights and expert advice to better inform them about areas of the organisation's activities with which they themselves have not personally been associated for the past 30 years. Therefore, the advisory panel informs the Home Secretary, and the director general will be informed internally about the appropriate powers to confer because he or she runs the organisation. I hesitate to use commercial parallels, but a chief executive of a supermarket chain would not be expected to have accumulated expertise in each field of the operation. However, obviously that person would want to run the organisation as a whole and would draw on the expert advice and insights of those who had particular accumulated expertise in areas that he did not.

Paul Goggins: I do not disagree with a word that the Minister has just said. Good leaders will lead. They will use the experience that they have in their particular field and apply that across the board even into areas for which they do not have specific personal responsibilities. I understand that. I expect the director general who has experience of policing to be able to apply his knowledge and expertise to those other areas operationally as well as strategically.

What is the point of the panel? It will not advise the Home Secretary before the appointment. It will advise the right hon. Lady after the appointment about the competences, expertise and training of the post holder, but the Minister said that, in any event, the post holder will be sufficiently experienced and will know from his own experience how to apply himself and his expertise to those areas where he does not have particular skills and expertise. I ask the hon. Gentleman for the third time: what will happen if there were a particular area, perhaps immigration, in which the director general did not have expertise? Will he make the decisions? Will he designate NCA officers to such areas or will he designate one of his deputies?

Mr Browne: The parallel I was making was that, as far as I am aware, the Home Secretary does not have the expertise of a designated operational immigration officer, but she will decide whether it is appropriate for the director general to be designated with those powers, and she will make that decision based on expert advice. The director general will also be able to make decisions based on expert advice about whether people are fit to exercise operational powers, but just as the Home Secretary does not necessarily have designated operational powers

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in respect of every matter for which the Home Office is responsible but can still offer leadership and direction to the organisation, the director general will do the same. I do not envisage such issues being as problematic as members of the Committee fear. If the expert group does not think that the director general has the necessary level of aptitude or skills to be given the designated powers, it is able to recommend that he or she seeks some additional training, insight or experience to meet such criteria.

I want to make the distinction clear. The director general is responsible for achieving the operational objectives of the NCA, following the strategy laid out by the Home Secretary. That does not necessarily require the director general to be given the formal powers at the point when someone's door is broken down and the arrest is made. In fact, I imagine—unless the director general is a particularly hands-on leader—that he or she would not routinely be in those situations, but perhaps a step or two back from the front line of seizing drugs on the other side of the world or stopping illegal immigrants coming through a United Kingdom port.

The director general can take a view about how we can try to make sure that proper controls are in place in respect of illegal immigration without exercising the formal operational powers of an immigration officer, as we might see being exercised in Dover, for example, or at Heathrow airport. If the director general wishes, perhaps feeling that it enriches him as a person and a leader, to acquire those formal operational powers, in the way that Keith Bristow does in the field of a constable, he could be a constable out on the beat in my constituency with the same operational powers as any other police officer. If he wants to acquire those additional front-line powers in respect of immigration and customs, the advisory panel could judge his training and accumulated knowledge in that area and advise the Home Secretary on whether it is appropriate for him to have those powers. However, he would still be offering the leadership that we require, even if he is not literally there to make an arrest when the front door is broken down.

10 am

Steve McCabe: I think the Minister is being slightly dismissive on this issue. Surely the reason why we are discussing this today is because it is his position and the Home Secretary's position that currently organised crime is not being adequately addressed. That is why he is creating this new agency, and why it is perfectly reasonable to accept that the director general will not necessarily be hands-on in an operational sense. We have to be assured that the new powers and the new arrangements will actually lead to a better, more organised series of activities against organised crime. If we cannot be assured that the people doing the job will have the required competences—and will have been properly assessed by their superiors to have those competences—the Minister has set up an agency that will fail, and we will all pay a price for that.

Mr Browne: I do not know what further to add. I do not accept that we, the Government, have dismissed this issue out of hand. We have been discussing it for the last hour in Committee.

I want to reassure everybody who is concerned that we want the NCA to be a seamless organisation. We want to make sure that it can fight serious and organised crime in different fields—police areas and customs areas and immigration areas—and obviously we will draw on people with particular backgrounds and expertise in each of those different fields. It is hard to think of any broadly-structured organisation with a head who has exactly equivalent expertise in every area for which that organisation is responsible. The director general will inevitably be drawn from one particular field; he or she will have a high degree of expertise in that field, but will also have a strong and growing working knowledge of the other fields for which he or she is responsible. We want the director general to give the operational leadership, and we are confident that Keith Bristow will do that across all of these different fields.

We want the Home Secretary to have the ultimate power to make a judgment about the narrow operational powers of the director general, as members of the Committee might be concerned that the director general ought not to make that judgment about himself. Obviously, if the director general stays in post for an extended period—as we hope they will—this advisory panel will hardly need to meet at all. It may meet once on the appointment of a new director general, and deem the director general suitable to exercise operational powers in the one field in which he or she does not currently have those powers. The Home Secretary will then endorse that recommendation, and the director general will stay in post for another decade. The advisory panel will therefore have no need to meet again for another 10 years. An entirely different set of people may be constituted the next time a director general is appointed, who may have a different range of skills and experience from that of his or her predecessor.

I hope therefore that the Committee is not unduly alarmed. All we are trying to do is formalise the arrangements that would exist in any large organisation, to recognise which levels of skill and attainment exist and ensure that a suitable person is able to make those judgments, while recognising that the overall head of the organisation is fit to lead it as a whole.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clause 10

INSPECTIONS AND COMPLAINTS

Question proposed, That the clause stand part of the Bill.

Mr Hanson: I have a few questions about the clause. As the Committee knows, it deals with inspections and complaints. It gives powers to the inspector of constabulary to carry out inspections, and to the Secretary of State to ask for inspections. It also deals with matters relating to the Independent Police Complaints Commission, and its relationship with the roles and responsibilities of the National Crime Agency.

I have a couple of questions. First, on inspections and complaints, clause 10 gives the Secretary of State the power to ask Her Majesty's inspectorate of constabulary to inspect the NCA, if requested to do so. Does the Minister envisage, in the remaining two and a quarter

years of this Government, that the Secretary of State will ask HMIC to inspect the first 18 months to two years of the operation of the NCA? There is a power to do so. Given that we are merging the Serious Organised Crime Agency, the National Policing Improvement Agency and the UK Border Force, and given that we are addressing all the matters in the Bill, I wonder whether I can tease from the Minister whether, perhaps one year from the establishment of the NCA in December 2013, or perhaps in April or May 2015, the current Government intend to review how the NCA's functions have merged, what the operational challenges are and whether the Bill, as currently drafted, meets the NCA's needs. In a sense, I am simply asking whether the Secretary of State plans to exercise the powers provided by clause 10(2) for either a general review or a specific review in the lifetime of this Parliament. An answer would clarify HMIC's review capability.

My second question is on the inspections themselves, about which I am content and happy. We will shortly address schedule 6, which is given effect by clause 10. My question is on the relationship between activities in Scotland and activities in Northern Ireland under schedule 6 and clause 10, because schedule 6 indicates that permission is required from the Department of Justice in Northern Ireland and from the Scottish Government for an inspection that affects rightly devolved areas in Scotland and Northern Ireland. I am inquiring under clause 10, but I might inquire again when we consider schedule 6: in the unlikely circumstance that permission for an inspection is refused, would we know about it? What is the relationship between the devolved Administrations and the inspectorate on those matters? I seek to tease from the Minister what the outcome will be. Such a situation is unlikely, but we can never tell, particularly with a Scottish National party Administration in Scotland—who knows what Administration Northern Ireland might end up with?—what might happen with a UK NCA where HMIC asks for an inspection and is refused. First, would we know? Secondly, what redress is there?

Ian Paisley (North Antrim) (DUP): The right hon. Gentleman has touched on the most crucial part of clause 10: who ultimately calls the shots? I came from Northern Ireland this morning with a heavy heart, in the knowledge that what we are talking about has already happened. Sinn Fein pulled the plug on this at the Executive meeting on Thursday of last week and has now said it will not support the legislative consent motion to allow the proposal to proceed. The National Crime Agency, as far as Sinn Fein is concerned, stops at Stranraer. Sinn Fein is quite content to allow paedophiles and international gangsters to run writ across Northern Ireland. We must know from the Minister, therefore, whether the Government will be able to overrule if the Executive decide, or if three members of the Executive decide, to block the operation of the legislative consent motion in Northern Ireland.

Mr Hanson: That adds value to my comments, and I am grateful to the hon. Gentleman for bringing that to the Committee's attention. Here is a little secret between you and me, Ms Dorries: I had a weekend away, and I did not keep up with the news. My BlackBerry was switched off. I know this is a terrible dereliction of duty, which I have now put in *Hansard*, but I was not aware of that piece of information.

That point does not just impact on the inspectorate issue, but on other matters in the Bill. I was simply referring to it in relation to the inspectorate. I am interested in what would happen if, for example, a Scottish National party Administration said, "We refuse permission for an inspection on matters relating to Scotland when they also have an import for England and Wales." What about if that happened either now on a cross-party basis, with no community involvement from one side or the other, or in a future Administration that might be controlled one way or another? It was refused in Northern Ireland. I am interested in the Minister's response to those scenarios and how the Bill fits into them. I am sure that he has an explanation, but I want it on the record so that we have clarity for the future.

My final point on clause 10 is on the Independent Police Complaints Commission's responsibilities. Helpfully, in another place, a Labour amendment—I hope that Government Members will not be too shocked when I let this secret out of the bag—was accepted. It gives stronger emphasis in the Bill to the role of the IPCC. I am grateful to the Minister's counterpart in the other place for accepting my noble Friend Lord Rosser's amendment. I want to be clear in my mind, because the Bill is of great interest and is full of amendments and cross-references to other legislation. I want an assurance from the Minister that the powers of the IPCC over the former SOCA and, if need be, the NPIA and corresponding complaints procedures on the border force, are not diluted by the Bill, but are similar. If he can give me that assurance, I will be extremely happy.

I also want some indication of future IPCC budgets up to the next general election if possible, because the IPCC, which will have a role on and responsibility for National Crime Agency officers under the Bill, had a budget in 2011-12 of £343 million and staffing of 429. For 2012-13, it has a budget of £327 million and staffing of 397. I am interested in what the forward trajectory is on that, given that the Bill gives the IPCC additional responsibilities to those it already has. On 16 January last year, the IPCC was given the responsibility to decide on investigations into the Mayor's office for policing and crime in the Metropolitan police authority. On 22 November last year, the IPCC was given responsibility for deciding whether allegations against police and crime commissioners or their deputies should be investigated. The IPCC—this is particularly relevant to you and me, Ms Dorries, as Liverpool football supporters—has also been given the responsibility to take forward the investigation into the conduct of officers in the Hillsborough tragedy of some years ago.

We appear to have given three additional areas of responsibility to the IPCC over the past 12 months. We have a budget that has reduced by some £20 million in the past year and staffing has reduced by 30. Can the Minister give some trajectory on what the 2013-14 and the 2014-15 budgets will be, given the additional pressures that are being put on the IPCC, as well as confirming that the roles of the IPCC are comparable to those of previous organisations?

Mr Browne: I spent my weekend at a Liberal Democrat training event in Bedfordshire, so I can only pity the right hon. Member for Delyn for the miserable time that he had compared with the endless fun that was enjoyed

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by me and all my colleagues. On this Committee, only my hon. Friend the Member for Norwich South has had the privilege of going to such events; everyone else can only dream about the pleasure that can be had. [Interruption.] I will not dignify that heckle by allowing Hansard to put it on the record.

10.15 am

Clause 10 sets out the crucial role of Her Majesty's inspectorate of constabulary in conducting independent assessments of the agency's efficiency and effectiveness. That is obviously a permanent arrangement to reassure people that the NCA will be properly inspected and complaints acted upon. It will normally be for HMIC to determine what aspects of the agency's work to inspect. That will be set out in the annual inspections programme that HMIC will prepare, consult on with the sector and agree with the Home Secretary.

Clause 10 also includes a provision that enables the Home Secretary to initiate an in-year inspection either of the agency generally or of a particular aspect of the agency's work. We would expect that power to be rarely used, but it does enable the Home Secretary to trigger an inspection if, for example, there was a public issue about a particular aspect of the way that the NCA was operating that gave cause for concern. Importantly, there is no obligation to give notice to the NCA as to when HMIC will conduct those inspections. Further important provision has been made in schedule 6 to ensure that HMIC has the powers that it needs, such as access to NCA premises and information, robustly and independently to carry out its inspection functions.

It is not just the agency as a whole that must be accountable to the public, but its individual officers. As I have said, we expect that NCA officers will conduct themselves to the highest standards at all times. However, should a member of the public feel that that is not the case, the NCA will have a robust internal procedure for dealing with complaints. That said, the Government recognise that independent oversight of the process and recourse to independent investigation of serious complaints will be vital to maintain public confidence that NCA officers are accountable for their actions.

As a result, clause 10 provides for the Independent Police Complaints Commission to oversee the arrangements for the handling of complaints against NCA officers in England and Wales, similar to the functions that it exercises in relation to police forces. Those powers, to reassure the right hon. Gentleman, are not being diluted. We take them very seriously.

The budget issue that the right hon. Gentleman raised is not a responsibility for this Committee. Budget announcements will be made as and when appropriate, and are dependent on the overall spending priorities of the Department and the Government as a whole. However, we are confident that sufficient money will be made available to ensure that the duties contained in the clause are effectively discharged.

Mr Hanson: With respect, that is a matter for this Committee. We are giving powers to the IPCC under the Bill, which are comparable to previous powers but ones that are excisable. In the past 12 months, the IPCC

has been given additional responsibilities in relation to the Mayor of London, police and crime commissioners and the tragedy of Hillsborough, at a time when the budget and staff numbers have already shrunk. I seek assurance from the Minister that the same level of support will be focused on dealing with complaints, as the IPCC will have to deal with complaints. It can decide how to deal with those complaints, either by looking at them itself or having forces look at them. The powers rely on the ability of the budget to meet the growing demands on the IPCC.

Mr Browne: I understand the point that the right hon. Gentleman is making. It is certainly our intention that the IPCC will have the funding needed to undertake the work that the Government require. Of course the IPCC, like all other parts of Government, will need to ensure that it achieves efficiencies and value for money on behalf of the taxpayer. There is no point spending more money than is required in order to get the excellent level of work that we wish it to attain.

Members also talked about Scotland and Northern Ireland. With your permission, Ms Dorries, I should update the Committee specifically on the situation in Northern Ireland. Regarding whether Scotland or Northern Ireland Ministers can refuse to allow HMIC to carry out inspections, there is a duty to consult the devolved Administrations before an inspection is carried out in those territories, but the legislation does not require consent. We envisage that HMIC will continue to carry out its functions, and to draw on existing processes set up with the devolved Administrations to ensure that the situation does not arise.

If you will allow me, Ms Dorries, I want to speak specifically about developments in Northern Ireland since the Committee last met. The hon. Member for North Antrim raised that matter, and it is important for the future development of the NCA. I need to say, on behalf of the Government, that we are disappointed to report that despite extensive negotiation and the offer of a number of significant compromises to reflect the specific policing and accountability arrangements in Northern Ireland, the Northern Ireland Executive have chosen not to take forward the legislative consent motion for the National Crime Agency. We must, of course, respect the devolution settlement in Northern Ireland and the convention that we do not legislate at Westminster on matters within the legislative competence of the Northern Ireland Assembly without its consent.

Accordingly, in the light of the Executive's decision, we are carefully considering the part 1 provisions to see how they can best be modified to give the NCA some functionality in Northern Ireland but in a way that does not require a legislative consent motion. We will aim to introduce any necessary amendments to the Bill on Report. We will need to work carefully with the Northern Ireland Office and the Department of Justice in Northern Ireland to mitigate the operational impact and preserve as far as we can the operational relationship between the NCA and the Police Service of Northern Ireland. I say again that our commitment to a UK-wide agency, and to working with the Police Service of Northern Ireland to protect the people of Northern Ireland from the corrosive effects of serious organised and complex crime, has not diminished—it remains the same.

I pay tribute to the efforts of David Ford, the Northern Ireland Justice Minister, and his officials for their tireless efforts in the negotiations on the arrangements for the National Crime Agency. His support for the agency has been unswerving, and he has recognised the benefits that a fully operational NCA would bring to the fight against serious and organised crime in Northern Ireland. As chair of the organised crime task force in Northern Ireland, he is more than aware of the work that the Serious Organised Crime Agency has delivered for Northern Ireland, and also the extent of the challenge that all the law enforcement agencies there face. Unfortunately, not all members of the Northern Ireland Executive took that view, and that is how we find ourselves in this position. While we are considering carefully the arrangements in the Bill, we remain open to continued discussions with the Northern Ireland Executive. Time is against us, but securing the most operationally effective National Crime Agency in Northern Ireland, and supporting the efforts of the PSNI, is our utmost priority.

I am sorry, Ms Dorries, for going slightly off the beaten track, but I thought that, given our earlier deliberations, the Committee would wish to hear that from me as the relevant Minister. Regarding the inspection complaints regime, I hope that I have reassured members of the Committee that we want a vigorous and rigorous system that ensures that the best practices are upheld.

Ian Paisley: Like the Minister, I am disappointed, but disappointment is probably the least descriptive word I could use. What has happened completely changes the tone and colour of the Bill. It is not a national Bill if it does not run writ in Northern Ireland, and we have to get to grips with that. We must ensure that we do not let devolution be the altar on which we sacrifice combating organised crime. We are unfortunately now at a crossroads, being told that the Government will let some of the legislation run in Northern Ireland if they can, with the rest of it running in the other parts of the United Kingdom. All of the United Kingdom must be treated equally. That is not an ideological point; it is about the safety, security and benefit that we give to our citizens. Northern Ireland today risks becoming the capital of crime if we do not take serious action.

I have a couple of questions for the Minister that follow on from his statement. Will he outline what compromises the Government put forward to try to get the arrangement through? That would show that the Government have gone to extensive lengths to reassure people in Northern Ireland at Government level that no harm would be done to the current policing infrastructure and arrangements in Northern Ireland. Does the Minister not agree that given that the NCA is a national agency, it is outwith the devolution settlement? As the NCA deals with organised crime emanating from other parts of the world, as well as from within Northern Ireland, the Minister cannot easily, therefore, remove the necessity of consulting and getting the agreement and legislative consent of the Assembly because of the national security implications of the legislation.

Will the Minister indicate that implementing only some of the provisions would be the wrong way to go? Implementing only some of the provisions in Northern Ireland would be totally wrong for Northern Ireland and for all of the United Kingdom. Most of the illegal fuel that arrives in the United Kingdom is laundered in

Northern Ireland, in south Armagh. It just so happens that it is laundered by a friend of the leader of Sinn Féin, a Mr Murphy. It just so happens that it was his party that blocked this legislation. I do not know if you are getting the coincidence here, but I am picking up something. I think that we have to recognise that there is a vested interest by some people who are still wedded to the past—there is a vested interest for them to keep their criminal power intact.

We have to remember that a number of the drugs that arrive in the streets of Manchester and Glasgow come in through Dublin, into Northern Ireland and across into the rest of the United Kingdom.

Mr Hanson: The Serious Organised Crime Agency was accepted as having an operational role in Northern Ireland. In later clauses, the Bill abolishes SOCA, to replace it with the National Crime Agency. In the absence of the legislative consent and given the abolition of SOCA, how does the hon. Gentleman think that we will tackle the issues he has raised?

Ian Paisley: The fact of the matter is that we will be robbed of the apparatus to combat such issues. Okay, the PSNI will do its own job, but on what SOCA was doing, we will effectively have to recommence drawing up our own Northern Ireland SOCA. That would be a scandal, because it would be subject to the wishes and desires of certain people who still have their hands in the pie of organised crime. We must, therefore, take a national perspective. I want assurances that this place, this sovereign Parliament, can overrule a devolved assembly if it has to, to get the legislation through, because that would be of benefit to all our people. Who has primacy in such issues? That is really what is now on the table. We have to ensure that this place takes primacy and that the NCA has got to do it.

At St Andrews, I broke the heart of the right hon. Members for Delyn and for Neath (Mr Hain) on annexe E of the agreement reached there. Does the right hon. Member for Delyn remember? [*Interruption.*] He should, but I will remind him. Don't worry, I will not remind him of the other things—only he knows what I am talking about; I am sorry. In those arrangements, we ensured that MI5 had primacy in Northern Ireland and was not subject to the same scrutiny as that to which the Police Service would be. We ensured that that special provision was put in place because of its national importance—national security is national security.

I believe that the National Crime Agency in the Bill falls outwith the responsibilities of the Assembly, even though schedule 6 requires consultation:

“Before making a request for an inspection that would fall to be carried out wholly or partly in Northern Ireland, the Secretary of State—

I assume, the Home Secretary—

“must consult the Department of Justice in Northern Ireland.”

That assurance has been given to the parties in the Northern Ireland Assembly, and yet still the SDLP members of the Executive, and the Sinn Féin Ministers, including the Deputy First Minister, have rejected the overtures.

We need to have absolute certainty that the issue will be treated as one of national importance, and that it will be pushed through if the Assembly is not prepared to do its duty in combating national crime that emanates from and affects Ulster.

10.30 am

Paul Goggins (Wythenshawe and Sale East) (Lab): I will not detain the Committee for long; all the pertinent points have been made. I am, however, perplexed by what the Minister has told us about the lack of progress with the legislative consent motion in Northern Ireland. It is almost three years since policing and justice powers were devolved to a Justice Minister in Belfast and, to those of us no longer involved in Northern Ireland day to day, the arrangement seemed to work perfectly well. David Ford has been an excellent Minister who has done a fine job. It seemed as though the compromises and the arrangements that led to the devolution of policing and justice were holding firm.

One of those arrangements was that SOCA, as the UK-wide organisation dealing with organised crime, had a real role to play in combating organised crime in Northern Ireland, as did Garda Síochána. It is deeply saddening and worrying to hear that there is a block in the way of the new SOCA, the National Crime Agency, being able to do that important job. My hon. Friend has made all the relevant and pertinent points about cigarette smuggling, fuel smuggling and people trafficking, which we know take place in Northern Ireland, and which still, to an extent, fund the activities of dissident groups that seek to kill police officers and undermine the peace process, which has been so successful.

We need to know from the Minister not that the Home Office is waving a white flag, but that it is prepared to go back and have some further, detailed discussions with the Justice Minister and with the parties in Northern Ireland to underline the consequences of the position that they are taking. I warn the Minister that negotiations in Northern Ireland are painstaking. They require detail and attention because the prize is always worth it. Who will lead such negotiations? Will it be the Minister? Will it be the Home Office? Will it be the Northern Ireland Office? We need to know, and we need to know that such discussions and negotiations will be pursued with the greatest possible vigour.

There is another disappointment, and I do not know whether colleagues in Northern Ireland fully grasp this. As Justice Minister, David Ford has championed the recycling of criminal assets back into the community. Where SOCA has been able to seize the assets—the ill-gotten gains—of the criminal element in Northern Ireland, many of those assets have been recycled back into some of the most disadvantaged parts of Northern Ireland. Surely, that in itself is a prize worth having. At all levels, what the Minister has told us is deeply worrying. I think the Committee will want to hear from him that he is prepared to continue to discuss the matter to see what is possible.

Mr Browne: All I can say at this point is that I endorse what the right hon. Member for Wythenshawe and Sale East has just said, drawing on his considerable background experience as a former Northern Ireland Minister and Home Office Minister. The Government want the maximum powers for the NCA in Northern Ireland for precisely the reasons that the hon. Gentleman and the hon. Member for North Antrim gave. There is a problem with serious organised criminality in Northern Ireland, as there is elsewhere in the United Kingdom. In some cases, however, there are particular problems in Northern Ireland, and we want to make sure that the

new agency can use its breadth and expertise to protect the citizens of Northern Ireland from serious and organised crime. Obviously, we do not want people in Northern Ireland to be less adequately protected than those in England, Wales and Scotland.

We intend at the outset that the NCA should cover Northern Ireland. The hon. Member for North Antrim said that some provisions are not good enough. To be frank, some provisions may be the best that we can achieve following further discussions. They may be the alternative to having no provisions at all, rather than the alternative to having every provision, and we want the coverage to be as extensive as possible. There are some red lines for the Home Secretary. She was not prepared to negotiate on the wholesale removal of Northern Ireland police powers from NCA officers, because we felt that that level of concession would compromise too fully the NCA's ability to function in Northern Ireland. We will have to look at the best outcome that can be achieved for the people of Northern Ireland.

Finally, the hon. Member for North Antrim said that the competence should reside with the Westminster Parliament rather than with Northern Ireland. The Northern Ireland Assembly, of course, has primacy on transferred matters, and this House has primacy on reserved and exempted matters. The NCA covers a mix of transferred and reserved matters, and the United Kingdom Government had to try to find a working arrangement satisfactory to all parties in Northern Ireland precisely because of the hybrid nature of the arrangements. That is why we have been having a conversation and why we have not made the progress for which we had hoped; it is not a case of us here in Whitehall or Westminster declaring what we want the outcome to be, and that being the end of the matter. A process of negotiation is required, and I reassure the right hon. Member for Wythenshawe and Sale East that we do not intend, as he put it, to put up a white flag; we want an arrangement that provides maximum security and protection to the people of Northern Ireland.

Mr Hanson: I hope you will bear with me, Ms Dorries. We have already considered clause 4, which states:

“Any of the following persons may perform a task if the Director General requests the person to perform it—the chief officer of a UK police force”.

That is not an England or Wales police force but a UK police force. Under clause 4:

“A person given a direction under this section must comply with it.”

So there are powers under clause 4 for the director general of the NCA to tell Chief Constable Matt Baggott of the Police Service of Northern Ireland that this is a task he wishes him to perform, and under clause 4 Mr Baggott must comply with that direction. Yet a legislative competence order has been drawn to the Committee's attention by the hon. Member for North Antrim on which the Executive, to whom the Chief Constable is accountable, have not accepted the direction of travel.

I do not want the Minister to respond to those issues now, but will he, outside the Committee, ensure that—before the Government table any amendments on the relationship, particularly in Northern Ireland, with the NCA, which they may have to do on Report—discussions take place, perhaps on a Privy Council basis, on the Government's

concerns and the direction of travel? From my own experience, and as my right hon. Friend the Member for Wythenshawe and Sale East indicated, Northern Ireland discussions take significant time and painstaking energy to reach a conclusion. The Bill's Committee stage may finish before the February recess and Report will be in early March at the latest, which does not give much time for amendments to be tabled.

Ian Paisley: I want to emphasise what is happening practically on the ground. My understanding is that the NCA will task the Police Service of Northern Ireland to do a particular thing, but what will actually happen on the ground? PSNI officers are already operational in C division, which is the crime agency part, and they will continue doing their work with an added emphasis on work tasked by the NCA. There will not be different officers on the ground doing the job. That is why it is so frustrating that two parties in the Assembly have tried to block the measure, because on a practical basis it is the same officers doing the job but given, not direction, but instruction and indication of areas where the NCA would like an investigation to take place, yet that has been frustrated.

The Minister may say, "Well, there are all sorts of political reasons," but there is one simple reason why that is happening: there is an attempt to play the Government. There is an attempt to try to open a negotiating line: "If you want us to agree to something that already happens and to stop blocking this, you have to give us something in exchange." That is an old bartering trick that has been played too long in Northern Ireland. I understand the hybrid aspect of the negotiation process, but that is why the Government have to be firm and indicate that, if there is an attempt to block the measure, because of the national security aspect and the fact that the measure will affect all parts of the UK, this will go ahead and will run in Northern Ireland, too. There is room for the Minister to say that, and there is room for the Government to proceed that way.

We have a terrible situation where the leader of a political party in Northern Ireland who is in the Government of Northern Ireland has described one of the single largest gangsters in Northern Ireland, who is involved in the most fuel fraud activities, as "a fine gentleman". I think that man has got problems. The reason why they now want to block this is because they want something out of it for this "fine gentleman". We must therefore stamp our feet here and make it very clear that although we will have this negotiation, be in no doubt that we will protect the national security of all the people of these islands that are part of the United Kingdom of Great Britain and Northern Ireland. We will protect these people and we will put this in place if we have to.

Mr Browne: I can only reassure the hon. Gentleman again that it remains the intention of the United Kingdom Government to have the NCA apply as far as possible to every part of the United Kingdom. This is obviously a setback, but we wish the end outcome to be the most extensive presence. He has put his case forcefully for the role of the NCA in Northern Ireland. On the points raised by Opposition Front Bench, clearly, if the legislation did not apply to Northern Ireland to the extent which we had hoped and envisaged, that would have implications for some drafting aspects of the Bill which we would

have to consider. We have brought the legislation forward, and I think we should continue to proceed, on the basis that we would have a UK-wide NCA. If further problems were to arise they would obviously need to be addressed by clerks with drafting expertise, to ensure that the NCA reflected the reality of the situation on the ground.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Schedule 6

INSPECTIONS AND COMPLAINTS

Question proposed, That the schedule be the Sixth schedule to the Bill.

Paul Goggins: I apologise to the Whip; I will try not to take too long. This is a genuine attempt to help the Minister in his negotiations with colleagues in Northern Ireland. I draw his attention to paragraph 1, which deals with inspections in Scotland. It requires that, before an inspection is carried out, there is consultation by the Secretary of State with Scottish Ministers, and there is a parallel in paragraph 2 for what is required in Northern Ireland; the Department for Justice must also be consulted. However, in sub-paragraphs (2) and (3) of paragraph 1, arrangements are made for HMIC to carry out an inspection jointly with the Scottish inspectors, where the matter to be inspected falls wholly or partly within Scotland. Yet it does not make the same arrangement in Northern Ireland.

Northern Ireland has its own criminal justice inspection system, Criminal Justice Inspection Northern Ireland, which has the power to inspect not just prisons, probation, the justice system, the prosecution service and the courts, but also to inspect the police. I think it would be a very welcome addition if the Minister would consider putting in the same arrangements for Northern Ireland as are in for Scotland. This would give more confidence that the inspection arrangements in Northern Ireland could be added to HMIC's efforts to inspect the work of NCA in Northern Ireland, in a way that is wholly constructive. This would hopefully help to reassure colleagues who may be sceptical of what is proposed that there will be full scrutiny which is accessible to their own system.

There is one very particular reason why I encourage the Minister to think along these lines. If, under the Bill, an NCA officer in Northern Ireland is using the powers of a constable, and if there is a complaint about the conduct of that officer, that complaint will be handled by the Police Ombudsman for Northern Ireland. It would not be dealt with by the independent inspectorate here. The Police Ombudsman for Northern Ireland is inspected by Criminal Justice Inspection Northern Ireland. For both those reasons, and for general reassurance about the very practical issues relating to the powers of oversight that the Ombudsman has, I do not expect a long response from the Minister now. I genuinely encourage him to see if arrangements parallel to those he has already provided for Scotland could be made for Northern Ireland.

Ian Paisley: Given our earlier discussion, the sort of compromise that the right hon. Gentleman has just mentioned might be worth while in certain discussions the Minister might be having.

Mr Browne: Obviously, the situation in Northern Ireland is somewhat fluid. Perhaps we would like it to be more fluid—it is perhaps too set—but anyway it is not entirely predictable. The right hon. Member for Wythenshawe and Sale East has raised a constructive point, and I undertake to add his constructive contribution to the wider deliberations that are taking place.

Question put and agreed to.

Schedule 6 accordingly agreed to.

Clause 11 ordered to stand part of the Bill.

Schedule 7

INFORMATION: RESTRICTIONS ON DISCLOSURE

10.45 am

Question proposed, That the schedule be the Seventh schedule to the Bill.

Mr Hanson: In part 5 of schedule 7, in relation to disclosure, the Bill states:

“It is a defence for a person charged with an offence under this paragraph to prove that the person reasonably believed...that the disclosure was lawful”.

Does that mean that ignorance of the law is a valid legal defence under the Bill in relation to disclosure?

Mr Browne: I cannot believe that that would be the case. It seems highly unlikely. I am sure that the right hon. Gentleman can be confident that the Bill has been drafted to be consistent with precedent. I hope that reassures him.

Question put and agreed to.

Schedule 7 accordingly agreed to.

Clause 12

NCA OFFICERS WITH OPERATIONAL POWERS: LABOUR RELATIONS

Question proposed, That the clause stand part of the Bill.

Mr Hanson: I have a few brief questions on the clause, which, broadly speaking, I think is a reasonable one. Subsection (1) states:

“A person must not induce the Director General or any NCA officer designated under section 9 to withhold (or to continue to withhold) services as an NCA officer.”

Will the Minister clarify when he believes that that provision, and the other provisions under the clause, would be exercised by a future Home Secretary? For example, he will know that this very week the Police Federation is commencing a ballot of its members on whether they should have the right to request strike action. Whatever the result of that ballot, if in future, for example, someone from the Police Federation put a motion to the Police Federation conference that there should be a withdrawal of labour by persons covered by subsection (1), that motion was passed and went to the federation’s national executive committee, and then plans started to be made, at what stage does the Minister envisage the Home Secretary exercising powers under the Bill that would impact on labour relations?

It is a genuine question, because the provision is similar to that operational with regard to prison officers in the Prison Officers Association, which I exercised as a Minister: I took the Prison Officers Association to court when it threatened a strike, and an injunction was issued against it. In that case, we had 12 hours’ notice of the strike—it was a wildcat strike. We took the association to court and eventually its members went back to work because the association faced sequestration of its assets under other provisions.

At what stage, then, does the Minister envisage the Home Secretary potentially exercising any power under the clause? Would it be when initial discussions were taking place, when motions were passed or when actual action had been taken?

Mr Browne: The provisions are in the Bill because we believe that the threat to the citizens of the United Kingdom from serious and organised crime is, regrettably, constant, or at least never disappears: the threat ebbs and flows, but it is permanent and we do not want the NCA, as the law enforcement body tasked with trying to address serious and organised crime, to be subject to strikes. Obviously, we want to have a level of resilience that matches the scale of the threat and not to have the NCA be disabled by strike activity.

The Government’s approach has not been confrontational in any way. It will still be possible for NCA officers to belong to a trade union. If they find the functions of membership of a trade union attractive, they are entirely entitled to draw on those functions if they choose to become members.

We are seeking a voluntary agreement that NCA officers will not strike; I have confidence that they all join the NCA because they want to fight serious and organised crime. That will be done through consensus and negotiations rather than through legal obligation. Clause 12 is a backstop, because we regard protecting the public as being of paramount importance.

As to when the powers will be exercised—the reason for which I have just told the Committee—we hope that the reciprocal nature of the voluntary agreement will mean that it will not come to that point.

Mr Hanson: I am trying to be helpful and to find out what happens if the Secretary of State ever exercises the powers, which I hope she will not have to. Subsection (1) states:

“A person must not induce the Director General”.

For future reference, what does inducing the director general mean?

Mr Browne: Were the statutory non-strike provisions in force, what constituted an inducement to strike would be determined by the particular circumstances of a given case. It would be inappropriate to speculate on what they might be, but I assure the right hon. Gentleman that the power would be exercised in a way that is wholly appropriate to the circumstances and designed to protect the public to the maximum degree.

Mr Hanson: I can but try. As one who has exercised such powers myself, I just wanted the Minister to give some indication. The power is an important one and

there may be occasions when he would wish to use the power. We have, for reasons I understand, not really had any clarity. I was attempting to test the Minister as to what he regards as inducement to strike, so that we had clarity about any actions he subsequently takes.

Question put and agreed to.

Clause 12 accordingly ordered to stand part of the Bill.

Clause 13 ordered to stand part of the Bill.

Clause 14

ABOLITION OF SOCA AND NPJA

Question proposed, That the clause stand part of the Bill.

Mr Hanson: I want to test the Minister on some of the issues regarding the abolition of the National Policing Improvement Agency.

To all intents and purposes, the Government abolished the NPJA 12 months ago. They have been winding down its role and transferring its responsibilities to both the new NCA and the Home Office, but operationally it completed its service in December 2012, and clause 14 provides for its statutory abolition when the legislation receives Royal Assent. The majority of the NPJA's functions have been transferred to the new college of policing, the Home Office, and SOCA in anticipation of the NCA. A small number of its functions—I am helpfully told this by a fact sheet—have been discontinued. I want to test the Minister on a couple of points regarding responsibilities relevant to the NCA. I will give him a heads-up on what they are.

We are we with the information technology company, which was a responsibility of the NPJA? Will the Minister give me a sense of the roles and responsibilities of the NCA? I want to examine the issues that have been brought in-house by the Home Office, and further clarification on the costs of dissolving the NPJA—for example, what is happening to its capital assets, including Bramshill college of policing? If you will allow it, Ms Dorries, I am happy to deal with the issues individually and then get a response from the Minister on each topic, rather than to do all four at once, so that we get some dialogue.

The creation of the police ICT company was announced by the Home Secretary on 4 July 2011. It was being developed under the auspices of the NPJA, but obviously will not be any longer. How is it progressing? In parliamentary questions to the Minister for Policing and Criminal Justice, I have not got to the nub of precisely where we are. What progress has been made in the negotiations with police and crime commissioners, who were elected on 15 November, to take over the responsibility for the company?

There are two key issues. First, the ICT company being developed by the to-be-abolished NPJA was established to take forward national ICT for police forces, but the programme's development is not clear and I have not had satisfactory answers to my parliamentary questions. Given that the NPJA is being abolished by the Bill and that the ICT company is being established, what is the time scale for that establishment? To date, how many police and crime commissioners have indicated that they will sign up to the company? What happens if

an insufficient number of police and crime commissioners sign up? What happens if they decide not to sign up? To date, how much investment, cash-wise and capital-wise, has been put into the police ICT company? Does the Minister intend, through his right hon. Friend the Minister for Policing and Criminal Justice, to mandate and effectively force police and crime commissioners to participate in the national police computer system in the event of non-acceptance and non-delivery?

The Minister has indicated that it is far too early in the process to answer those questions. On 4 July 2011, 18 months ago, the Secretary of State determined that she would announce the creation of a new police ICT company, which was established as a private company limited by guarantee under the auspices of the NPJA in June 2012. It is now under the temporary ownership of the Home Office and the Association of Police and Crime Commissioners. Now that we have police and crime commissioners, what progress has been made? What would happen in the event of several or some of the bigger ones deciding not to participate? I ask because the NPJA was the body that originally dealt with that national procurement; when the NPJA is abolished, where do the liabilities go?

I will stop at that point to see whether the Minister wants to respond to those points before I move on. If the Minister wants to deal with them all at once, I will happily wait for the answers.

Mr Browne: With your permission, Ms Dorries, and that of the right hon. Gentleman, it may make sense to address the issues in one block.

11 am

Mr Hanson: I was only trying to help the Minister and give him an opportunity to focus on different issues rather than all together.

The National Policing Improvement Agency's functions are being transferred. It says in the helpful note from officials on the background to the Bill that:

“on 1 April 2012 SOCA took over responsibility for the Central Witness Bureau, the Crime Operational Support Unit, the Serious Crime Analysis section, the Specialist Operations Centre and the National Missing Persons Bureau”.

The note continues:

“The NPJA's Proceeds of Crime Centre, together with its statutory responsibilities under the Proceeds of Crime Act 2002 to train, accredit and monitor Financial Investigators, will also transfer to the NCA when it is established”.

In earlier discussions, the Minister helpfully told us that the budget of the NCA is expected to be £407 million for its first year of operation. The budget for the Serious Organised Crime Agency was just over £390 million. The Minister says in his helpful note that the central witness bureau, the crime operational support unit, the serious crime analysis section, the national missing persons bureau and potentially the Proceeds of Crime Act training, accrediting, monitoring and so on are transferring to the National Crime Agency, as are the responsibilities of the border force, yet the NCA budget for next year is only £407 million. Those functions are transferring, other functions might transfer and we have the border force on top. We need some clarity about the monetary value that the Minister puts on the work of the central witness bureau, the crime operational

[Mr Hanson]

support unit, the serious crime analysis section, the specialist operations centre, the national missing persons bureau and ultimately the Proceeds of Crime Act training, accrediting and monitoring.

Again—I say this helpfully, I hope—on 1 October 2012 the Home Office took responsibility for 101 emergency numbers, crime mapping, pathology services, forensics, training policy, the automotive and equipment section and non-ICT procurement. I would like some idea of the split between the budget and staffing of the NPIA and how that fits into its transfer of responsibilities to the new NCA and the repatriation of certain issues to the Home Office. Frankly, the budgets of these bodies do not add up. How did the Minister reach his conclusion on the £407 million budget for the first year, when the responsibilities for the National Crime Agency are bigger than SOCA's, and include those of the NPIA and the border force? How will this work be undertaken?

I would welcome an update on the college of policing. The college, only recently established, was effectively a large part of the responsibility of the NPIA, which is formally abolished under clause 14, but which has been winding down since December 2012. How does the Minister see the policing college fitting into the new landscape, particularly in relation to its budget and how it will fund its activities, given that it is being disaggregated from the NPIA? I would also welcome some information about the locations and how the college will physically be established, given that it has already been announced that Bramshill police college is for sale. That was effectively both the major police training centre in the United Kingdom and, in part, the focus for a large number of NPIA responsibilities that are now being divested to SOCA and/or repatriated to the Home Office. Will the Minister provide some detail on whether the governance of the policing college has finally been settled and its physical location?

I would like an answer to the question I asked last time, on which I have still not received a letter: what is happening to capital receipts? Do other NPIA sites—for example, Harperley hall in Crook, County Durham, Yew Tree lane in Harrogate, Wyboston lakes in Bedford, the Peel centre in Hendon, Hendon data centre, the Crown Prosecution Service headquarters in London, Orchard Works in Carterton, and Leamington road in Coventry—face the same changes as Bramshill? Is there a plan to sell or dispose of any other NPIA assets?

I would welcome that information because the chief constable of Greater Manchester, Sir Peter Fahy, has expressed concern about the abolition of the NPIA and the changes to Bramshill. I do not have the quote to hand at the moment. The Minister will know that Sir Peter, who is ACPO's lead on work force development, has expressed concern about the fact that Bramshill college is being sold when the details of the policing college have not yet been finalised. Alex Marshall, the former chief constable of Hampshire and the new head of the college, took up his post only in December, but decisions on Bramshill, the training college and the physical locations have been taken prior to Mr Marshall coming into post.

I want to try to finish on these provisions by 11.25 am, but, as a starting point, I would welcome the Minister's views on where we are with those three central issues.

Mr Browne: There are, as the right hon. Gentleman says, three issues: the budget, the ICT company and the policing college. I will deal with each in turn.

Following our earlier deliberations, I have commissioned from the Department an extremely handy graph. If only we were allowed to use PowerPoint presentations I could share it more easily, but I do not see any reason why everybody could not look at it. It shows where the individual parts of the NPIA are being functioned. Some are going to SOCA and then transitioning to the NCA. Some are going to the Home Office, some to the police ICT company, and some to the college of policing.

I should say as a caveat that the following figures are rounded to the nearest million pounds. It is notable that, of the £337 million NPIA budget in 2013-14, only £12 million is for parts of the NPIA that are going to SOCA and then the NCA. Opposition Members keep making the point that adding together the SOCA and NPIA budgets gives a bigger number than the NCA budget, so it is worth drawing the Committee's attention to the fact that, actually, only a reasonably small component of the NPIA will eventually be part of the NCA. The bulk of it—about two thirds of the budget—is going to the Home Office. That is explained by the fact that, of these figures, more than £200 million is related to the national police radio system, Airwave, which rather distorts the overall picture. There is also a budget allocation of £53 million to the college of policing in 2013-14, which will fall slightly to £48 million in 2014-15, although with the caveat that that is rounded to the nearest million pounds and does not take into account opportunities to adjust the budget between now and 2014-15, so it is indicative, not absolute.

The overall point I wish to make is that NPIA functions that are going through SOCA to the NCA are the proceeds of crime centre, the central witness bureau, crime operational support, the national missing persons bureau, the serious crime analysis team and the specialist operations centre. The list is impressive, but in budgetary terms it constitutes only £12 million of the £337 million budget for the NPIA for 2013-14.

Steve McCabe: On a point of order, Ms Dorries. If the Minister is relying on this note to explain the position to the Committee, would it not be reasonable to let us have a copy so that we can understand its detail and status?

The Chair: I am sure the Minister has heard your suggestion and will respond accordingly.

Mr Browne: I will. I am instinctively in favour of letting the Committee have the information, but the hon. Gentleman can get a copy of the Committee *Hansard* tomorrow. I have just read out all the key numbers.

Steve McCabe: That is tomorrow. I would like to read it while we are still dealing with it.

Mr Browne: Well, I just read the crucial numbers to the Committee. If I had done that from memory rather than putting the note in front of the hon. Gentleman, he would never have known that there was a note. I chose to hold it up, but it is common knowledge.

The Minister for Policing and Criminal Justice, my right hon. Friend the Member for Ashford, and others have explained that the functions of NPIA are going to different parts of the Home Office family—if I can put it in those terms. The parts that are going to the NCA are £12 million out of £337 million in 2013-14. All of that information is available.

I come to the point about the college of policing. In the letter about the policing college that I wrote to you, Ms Dorries, on 25 January, and which was copied to all Committee members, I addressed the Bramshill freehold issue. While the right hon. Member for Delyn was having a restful weekend, I was labouring away, sending letters out to make sure that every single member of the Committee is fully informed.

Mr Hanson: Well, it has not arrived.

Mr Browne: I will ensure the right hon. Gentleman receives that letter. The relevant paragraph says, “The Bramshill freehold transferred to the Home Office from the National Policing Improvement Agency when the agency operationally closed last year. Therefore the sales process and any associated risk, such as failure to sell, are for the Department to manage, and the capital proceeds of any sale will be received directly by the Home Office.” That may not be the answer he wanted, but it is the accurate answer. The college will be brought into place, and will have a budget allocated to it.

The right hon. Gentleman made a point about the ICT company. Information technology is crucial for police officers in their fight against crime. The costs of developing and providing information communications technology at a local level forms a significant part of force budgets. Currently, the Government regard there to be a failure to exploit the full potential of economies of scale that should come when 43 police forces are spending £1 billion each year on information communications technology. There is significant scope to get better economies of scale. That is why in July 2011 the Home Secretary announced she would support the creation of a police owned and led ICT company. It has been established to support PCCs and their forces in getting the maximum value out of ICT, and to help fix the current confused, fragmented and expensive approach to police ICT procurement and management.

It is proposed that the new police ICT company will be owned and controlled by police and crime commissioners, and be led and funded by its customers, who will determine the services it provides. It will be responsive to local operational needs and will offer forces a route to better value for money and innovation in service delivery.

The police ICT company board will determine when the company will become operational when the business plan has been completed. Police and crime commissioners have been briefed on the police ICT company and the opportunities to get involved as the company develops, but they have not yet been formally invited to participate. PCCs will not be compelled to buy the company’s services. However, they are accountable locally if they opt not to buy critical services required by forces, or purchase more costly solutions in a less efficient manner. The Government envisage that PCCs and forces would wish to be involved in an organisation that would give them collective purchasing muscle and innovation insights,

which they might not otherwise be able to acquire, but they would not be compelled to be involved, as I just explained to the Committee.

11.15 am

Mr Hanson: I have not really had an answer to my question about the cost of the development to date, and what the liabilities are. The key point is what happens if the police and crime commissioners do not participate in the police ICT company.

The Government, under the NPIA, which will be abolished under the clause, have tried to develop standardised ICT across the policing service. There has been a veil of secrecy over the development of the ICT company. There has not been full discussion, and now the 40-odd police and crime commissioners who were elected on 15 November have to decide whether to participate in the new ICT company.

I accept that the decision is locally determined, and that the police and crime commissioners will have to account to their electors, but there has been considerable investment by the Government in time, energy and other matters to develop the ICT company. I am trying to establish the cost of such development and the Government’s investment to date. If the police and crime commissioners do not participate, what will be the critical mass for the Government to ensure that the ICT company continues?

For example, if one or two large metropolitan areas chose not to participate, would that mean that the ICT company did not progress? If five or six small shire counties did not participate, would that mean that it did not progress? What is the critical mass for the ICT company to be operational and deliverable, and when will the decision be taken? It is now nearly 20 months since the Home Secretary’s announcement of the establishment of the company. What is the time scale for when the final decision will be taken? I have not received answers to my parliamentary questions in that regard. Given the NPIA’s abolition, now is an opportunity to tie down the views of the Minister and the Policing Minister on whether the company will be a success.

On a personal basis, when I was the Policing Minister, we wanted greater coherence. I am talking about the practical delivery of such a proposal. Now that it has been devolved to the police and crime commissioners to sign up, the Minister seems to be saying that he would not mandate people to be involved. Therefore, what is the critical mass? How will the proposal be a success? When will the decision be taken? At what stage will the Government determine matters? If the proposal does not proceed because of people not participating, what has been the cost to date of the process?

Mr Browne: I have been asked an entirely reasonable set of questions, and I wish that I could give more comprehensive answers to them. I have no desire to be evasive, but the comprehensive answers are not yet known so I am not in a position to share them with the Committee. It is not possible to provide the cost of establishing the police ICT company, as the work to establish it is still under way. The interim form of the company is not yet operational, so no staff are employed. We are not at the stage of the company’s development

[Mr Jeremy Browne]

to know the sort of costs that it would incur and cannot answer such a question in the way that the right hon. Gentleman hopes.

The right hon. Gentleman is right that individual police forces led by their PCCs will not be compelled to buy services or participate in the company. We envisage that it will be very much in their interests to do so, but the nature of directly elected post holders is that they sometimes make decisions that the Government regard as not even being in their own interest to make. However, that is the essence of a vibrant democracy.

We hope that giving the powers to police and crime commissioners and allowing them to exercise discretion does not mean that they will make unwise decisions. We see that as an entirely preferable and viable option for them to take, but we are not yet at the stage when we can do a headcount of which PCCs want to buy into the service and which do not. We hope that if any do not come to our view that it is a bad value for money decision not to buy into the services, what they are missing out on will quickly become apparent to them from the forces that do buy into them. We hope that the ICT company will be a success, but I can only recommend that the right hon. Gentleman continues to probe this matter with his customary diligence. Regardless of whether he probes, the Government will be keen to release all information that will help the House as soon as we can provide further details of an evolving picture.

Mr Hanson: Suffice it to say that the words “head” and “brick wall” come to mind, but I shall continue to use my head against that brick wall whenever the opportunity arises.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Schedule 8

ABOLITION OF SOCA AND NPIA

Mr Browne: I beg to move amendment 45, in schedule 8, page 91, line 5, leave out ‘under a staff transfer scheme’.

The Chair: With this it will be convenient to discuss Government amendments 46 to 48.

Mr Browne: These are all essentially technical amendments, so unless the Committee would like a detailed explanation, I propose that they be made.

Amendment 45 agreed to.

Amendments made: 46, in schedule 8, page 98, line 14, at end insert—

- (aa) in paragraph (bfa) (inserted by Schedule 1 to the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013), in sub-paragraph (vi), for “member of staff of SOCA” substitute “National Crime Agency officer”.

Amendment 47, in schedule 8, page 98, line 18, leave out paragraph (a) and insert—

- (a) for paragraph (c) substitute—

“(c) in relation to any such service as is mentioned in subsection (1)(bfa)(vi) or subsection (1)(ca) above, or

any service of the kind described in section 97(1)(c) of the Police Act 1996, “police pension authority” means the Director General of the National Crime Agency and “pension supervising authority” means the Secretary of State;”.

Amendment 48, in schedule 8, page 112, line 29, at end insert—

“(2) In Schedule 3 to that Act (handling of complaints and conduct matters etc), in paragraph 19F(7), for paragraph (b) substitute—

- (b) the National Crime Agency.”.—(Mr Browne.)

Question proposed, That the schedule, as amended, be the Eighth schedule to the Bill.

Mr Hanson: Schedule 8 currently excludes the National Crime Agency from the operation of the Freedom of Information Act 2000. Again, I have some sympathy with that because for some issues involving the security service, the intelligence service, GCHQ and national criminal intelligence, that is appropriate. There are also policing issues for which it is appropriate, but the National Crime Agency will now undertake work from the border force, and immigration and customs services are not exempt from the Act.

Will the Minister clarify how it will work in practice? If an FOI application is made about aspects such as immigration and customs work, will it be refused on grounds of national security, which effectively apply to other areas? I ask not because I am particularly interested in the point—I think that the National Crime Agency should be able to get on with its work—but because Liberty has put it to me that the agencies covering the work of the former agencies must be subject to the same FOI regime as previously, and schedule 8 might change that.

Mr Browne: We envisage the NCA having a pooled information-gathering capacity, so it would be difficult for freedom of information measures to apply to some parts of the NCA but not others. Information about one part of the NCA will lead to information being garnered about another part, which it would not be in the public interest to disclose.

That is the reason for the overall exemption in the clause, but I reassure the Committee that the duty to publish an annual report and other publishing requirements mean that the Government will be keen to share knowledge that it is entirely reasonable for the public to know about the NCA without having insights into its intelligence or operational practices, which could compromise the security of its operations.

Question put and agreed to.

Schedule 8, as amended, accordingly agreed to.

Clause 15

INTERPRETATION OF PART 1

Mr Hanson: I beg to move amendment 4, in clause 15, page 14, line 25, at end insert—

- (i) The Association of Police and Crime Commissioners’.

Amendment 4 is designed to clarify what is meant by the phraseology in the Bill, which indicates that “strategic partners” means

“such persons as appear to the Secretary of State to represent the views of local policing bodies”.

I added the Association of Police and Crime Commissioners, because I am expecting somebody of that sort—

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No.88).

Adjourned till this day at Two o'clock.

