



HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

5th Report of Session 2017–19

School Teachers Pay and Conditions Order 2017

Oral evidence: Criminal Justice (European Investigation Order) Regulations 2017

Includes 1 Information Paragraph on 1 Instrument

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Secondary Legislation Scrutiny Committee

The Committee was established on 17 December 2003 as the Merits of Statutory Instruments Committee. It was renamed in 2012 to reflect the widening of its responsibilities to include the scrutiny of Orders laid under the Public Bodies Act 2011.

The Committee's terms of reference are set out in full on the website but are, broadly, to scrutinise —

(a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;

(b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of these specified grounds:

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

(c) that it may inappropriately implement European Union legislation;

(d) that it may imperfectly achieve its policy objectives;

(e) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

(f) that there appear to be inadequacies in the consultation process which relates to the instrument.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Members

Lord Faulkner of Worcester	Lord Hodgson of Astley Abbots	Lord Sherbourne of Didsbury
Lord Goddard of Stockport	Rt Hon. Lord Janvrin	Rt Hon. Lord Trefgarne (<i>Chairman</i>)
Baroness Gould of Potternewton	Lord Kirkwood of Kirkhope	Baroness Watkins of Tavistock
Lord Haskel	Baroness O'Loan	

Registered interests

Information about interests of Committee Members can be found in the last Appendix to this report.

Publications

The Committee's Reports are published on the internet at www.parliament.uk/seclegpublications

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/uksi>

Information and Contacts

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is hseclegscrutiny@parliament.uk.

Fifth Report

INSTRUMENT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

School Teachers' Pay and Conditions Order 2017 (SI 2017/811)

Date laid: 3 August 2017

Parliamentary procedure: negative

This Order serves to introduce new pay and allowance ranges for school teachers, reflecting the recommendations of the School Teachers' Review Body (STRB), for a 2% uplift to the minimum and maximum of the main pay range, and a 1% uplift to the minimum and maximum of all other pay ranges and allowances in the national pay framework. The Department for Education consulted on the Order over only three weeks in July 2017, attracting widespread criticism from respondents; and laid the Order and brought it into force during the Parliamentary summer recess.

In our view, allowing only three weeks for consultation meant that the Department failed to recognise the scale of the task faced by respondents; the fact that the three weeks allocated were in July, during the busy time at the end of the school year, will have made responding all the more difficult. We are not surprised that almost all respondents were dissatisfied: we consider it unacceptable to allow so short a period for a consultation exercise at a time of year when respondents face so many other pressures.

We also regard it as unacceptable that Departments seek to make good delays in progressing secondary legislation by reducing the period for Parliamentary scrutiny or, as in this case, timing matters in such a way that scrutiny is effectively nullified. We look to Departments to manage their programmes of secondary legislation so that Parliament, and external interested parties, have genuine opportunities to influence such legislation: the Department for Education's handling of this Order fails to demonstrate such management.

We draw this Order to the special attention of the House on the ground that there appear to be inadequacies in the consultation process which relates to the instrument.

1. The Department for Education (DfE) has laid the School Teachers' Pay and Conditions Order 2017, with an Explanatory Memorandum (EM) and the "School Teachers' Pay and Conditions Document 2017 and Guidance on School Teachers' Pay and Conditions" ("the Document"). DfE explains that the Order provides that the remuneration and conditions of employment of school teachers are to be determined by reference to the provisions set out in section 2 of the Document. In turn, the Document includes new pay and allowance ranges which reflect the recommendations of the School Teachers' Review Body (STRB), for a 2% uplift to the minimum and maximum of the main pay range, and a 1% uplift to the minimum and maximum of all other pay ranges and allowances in the national pay framework.

2. DfE says that, in October 2016, the Secretary of State asked the STRB to consider application of the 2017 pay award for teachers within the context of the Government's policy that public sector pay awards should average 1%. The STRB's 27th Report¹ and recommendations were received by the Department in April 2017; DfE held a three-week consultation process from 10 to 28 July, after which the Secretary of State accepted the STRB's recommendations. DfE laid the Order on 3 August, to come into force on 1 September 2017.
3. In the EM, DfE gives an explanation for the delay between receiving the STRB's report in April and launching the consultation in July. It attributes this delay, first to the General Election "purdah" arrangements, and then to the need for the new Government to consider the recommendations again within the context of the Election result and, in particular, "the need to gain cross-government clearance of the report's recommendations at a time when there was wider ongoing discussion around the public sector pay cap". It was only after such discussion had been concluded that the STRB report was published and consultation began.
4. At paragraph 8.3 of the EM, DfE notes that all respondents did not consider that STRB's recommendations went far enough to address significant recruitment and retention issues; and that almost all respondents were dissatisfied with the three-week consultation period.
5. We put a number of questions to DfE about the Order, and we are publishing the replies received from the Department as Appendix 1.
6. DfE has told us that the objective of the pay system is to provide schools with the flexibility to recruit and retain capable teachers and school leaders; ensuring affordability, both nationally and at school level; and increasing the autonomy available to school leaders to address individual circumstances through pay. Against this objective, we asked DfE how it reacted to respondents' claims that there were significant recruitment and retention issues for the teaching profession. The Department has said that "at a national level we are retaining and recruiting the teachers we need. We recognise however that the situation is becoming increasingly challenging and that this is more acute in certain subjects and particular schools or areas of the country".
7. Noting DfE's statement in the EM that it would have preferred a longer consultation period, and that most respondents were dissatisfied with the three-week consultation period, we queried whether the Department regarded the consultation as a satisfactory basis for implementing the proposals. DfE has said that, taking account of the recommendations in the STRB report, it took the view (in July) that it would be possible to hold a meaningful consultation and still ensure that teachers received their pay awards on time. It has also said that consultees had previously had a six-week period in which to submit written evidence to the STRB, and that the Department regularly meets most of the statutory consultees to discuss pay and conditions issues. It considers, therefore, that the wider views of the consultees on teacher pay were well known prior to this consultation.

1 See : https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626156/59497_School_Teachers_Review_Accessible.pdf

8. We are not persuaded by the Department's arguments. We have already noted that DfE attributed some of the delay in publishing the STRB report to ongoing discussion around the public sector pay cap, after the June election. Given that there appeared to be a shift in the climate of opinion on this fundamental issue since the STRB completed its work, it would have been reasonable to expect respondents to re-assess views and comments expressed in earlier contacts, and potentially to present new arguments. **In our view, allowing only three weeks for this process meant that the Department failed to recognise the scale of the task faced by consultation respondents; the fact that the three weeks allocated were in July, during the busy time at the end of the school year, will have made responding to the consultation all the more difficult. We are not surprised that almost all respondents were dissatisfied: we consider it unacceptable to allow so short a period for a consultation exercise at a time of year when respondents face so many other pressures.**
9. We also asked DfE to justify its handling of an Order that is of undoubted significance for public sector pay policy, given that the instrument was laid on 3 August, well over a week after Parliament rose for the summer recess, and brought into force on 1 September, before the return of Parliament, rendering Parliamentary scrutiny ineffectual.
10. DfE has said that it has been annual practice since 2009 to make and lay the Pay Order and Document in the first or second week of August, with the Order coming into effect on 1 September; and that the laying of the pay order is the end of a lengthy process in which there is little room for manoeuvre. It states that it usually receives the STRB report in April each year and in normal circumstances is able to conduct separate consultation exercises for the report and the Document; but it adds that, in the past three years, there have been two general elections and the EU referendum, all of which have significantly delayed the process. It adds that this is not a practice about which it has previously received criticism, apart from last year.
11. In relation to the School Teachers' Pay and Conditions Order 2016 (SI 2016/831), we noted in our 8th Report of Session 2016–17² that DfE held a four-week consultation process, from 6 July to 2 August 2016, on the STRB's 26th Report and the revised draft Document; and that the majority of the respondents were unhappy about what they saw as an unacceptable and avoidable delay in publishing the report and consultation, which in their view left schools very little time to digest and implement the pay award in September.
12. Again, we are not persuaded by DfE's arguments about the timing of these processes. Experience in recent years has shown up the difficulty caused to respondents by late and shortened consultations which, albeit that there have been unforeseen political events, could have been avoided if the Government formulated its public sector pay strategy sooner. **We re-emphasise the concern which we have expressed in other recent reports, that we regard it as unacceptable that Departments seek to make good delays in progressing secondary legislation by reducing the period for Parliamentary scrutiny or, as in this case, timing matters in such a way that scrutiny is effectively nullified. We look to Departments to manage their programmes of secondary**

2 [8th Report](#), Session 2016–17 (HL Paper 42).

legislation so that Parliament, and external interested parties, have genuine opportunities to influence such legislation: the Department for Education's handling of this Order fails to demonstrate such management.

ORAL EVIDENCE

Criminal Justice (European Investigation Order) Regulations 2017 (SI 2017/730)

13. In our 4th Report, we drew these Regulations laid by the Home Office to the attention of the House on the ground of public policy interest. The instrument transposes Directive 2014/41/EU on the European Investigation Order (EIO) which standardises the procedure by which investigators in one Member State can request assistance from another with gathering evidence, investigating banking information, executing search warrants or taking evidence from witnesses. These Regulations standardise the format and the timetable for executing such requests.
14. In a letter to the responsible Minister, Nick Hurd MP, dated 19 July, the Committee raised questions about how “temporary transfers” of UK prisoners to another Member State to help with their investigations are to be handled (see Appendix 1 to our 4th Report).³ The Home Office failed to respond in time for the Committee’s subsequent meeting even though it was seven weeks after our initial request. We therefore invited Mr Hurd to attend the Committee to answer our concerns and to explain why our letter had received no response.
15. On 7 September, we finally received a response (see Appendix 2 to this report) which we were able to explore further at the evidence session. The full transcript is available on our webpage.⁴ We are grateful to the Minister for meeting the Committee at short notice and for the fulsome apology he made for the lamentable lapse by his department in failing to answer our queries in a timely manner.

Transfer of Prisoners

16. A key concern was how the transfer of prisoners to give evidence is to be handled. We noted that, in contrast to an item of evidence, the standard form set out in the Directive does not allow for a date to be specified for the return of a prisoner. The Home Office letter explained that the practical arrangements, including the date on which the individual is to be returned, would be a matter for separate agreement between the Secretary of State and the issuing authority. In evidence the Minister stated that such transfers are rare and would all be authorised at Ministerial level.
17. The Committee also asked what the recourse would be if the receiving Member State failed to return a transferred prisoner or object in compliance with the EIO. Stephen Jones, a Home Office Legal Adviser, explained that that would be a matter for the European Court of Justice. The Committee was however unclear about how far matters agreed separately between the Minister and the issuing authority would be justiciable. We also enquired what the recourse would be if a transferred prisoner then refused to return to the UK. Mr Jones explained that in such circumstances the prisoner could be forcibly returned.

³ [4th Report](#), Session 2017–19 (HL Paper 17).

⁴ See: <http://www.parliament.uk/business/committees/committees-a-z/lords-select/secondary-legislation-scrutiny-committee/publications/> (available from 18 September 2017)

Parallel systems

18. Although the Directive was due to be transposed by 22 May 2017, the Explanatory Memorandum (EM) states that only nine other Member States have so far done so. The list of the participating states, given in Schedule 2 of the Regulations, is much longer, but the Home Office officials explained that, where there was any mismatch in the legislation, the request would be treated under the existing Mutual Legal Assistance (MLA) system.
19. The impact section of the EM states that the new system is expected to be more efficient and effective, so the Committee enquired whether the UK will revert to the less efficient MLA process once the UK leaves the European Union. The Minister replied that he hoped that close cooperation between Member States on security matters would continue, but the precise nature of future relations would be the subject of negotiation.

Interception of telecoms

20. The EM also explains that regulation 59 designates the EIO as an acceptable mechanism under the Investigatory Powers Act 2016 to allow the UK to provide information to other Member States on the interception of telecommunications. We asked what that would mean in practice. The Minister explained that the execution of any such request would require a warrant under the Regulation of Investigatory Powers Act 2000⁵ and so would be reviewed by the courts on a case by case basis.

Quality of Explanatory Memorandum

21. The Committee pointed out that the reason that they had so many questions was because the EM presented with this instrument assumed the reader had an extensive knowledge of both Directive 2014/41/EU and of the current UK system. It says for example: “*The transposition ... broadly aligns with existing procedures under the Crime (International Cooperation) Act 2003*” (EM para 4); and “*For outgoing requests, the policy position has been to align the process for making European Investigation Orders with existing ones as far as possible*” (EM para 7.3). Our guidance makes clear that we expect an EM to assume the reader has no prior knowledge of the subject and a better-targeted EM could have avoided the need for some of our more basic questions.
22. The Minister described the failure to respond to the Committee’s letter as an isolated incident, and the circumstances around it were being considered at the highest level in the Home Office. The Committee however commented that we had been in this position before: Home Office Ministers in July 2015⁶ and November 2016⁷ had both given undertakings to improve the way that the Home Office’s statutory instruments are presented. This case not only raised questions about the Home Office’s mechanisms for dealing with Parliamentary requests and the priority that they are given but also about the quality of the EM and the clearance process.
23. The Committee stressed the need for the Home Office to establish a robust system for dealing with secondary legislation that would not be disrupted by a change of Minister. **The Committee also made clear that although**

5 See: <https://www.legislation.gov.uk/ukpga/2000/23/section/29>

6 [8th Report](#), Session 2015–16 (HL Paper 34).

7 [17th Report](#), Session 2016–17 (HL Paper 75).

an increased volume of SIs was to be expected from all Government Departments during the Brexit period, that pressure would not be an acceptable excuse for any decrease in the quality of the material presented to the House for scrutiny.

INSTRUMENT OF INTEREST

Co-ordination of Regulatory Enforcement Regulations 2017 (SI 2017/835)

24. The Department for Business, Energy and Industrial Strategy (BEIS) has laid these Regulations, with an Explanatory Memorandum (EM) and Impact Assessment (IA). BEIS says that Primary Authority is a statutory scheme in which a local authority (“a primary authority”) can partner with business, to take on responsibility for providing regulatory advice and guidance to it. This advice and guidance then guide the way in which that business is regulated by all other local authorities. These Regulations set out which national regulators⁸ can support primary authorities when they are developing advice etc. for business, as well as providing additional clarification about other aspects of the operation of the Primary Authority scheme.
25. BEIS consulted on a draft of the Regulations over an eight-week period from February to April 2017; published a response to consultation in July 2017 and, in parallel, published draft guidance on the Regulations which BEIS will issue in final form by 1 October, when the Regulations come into force; and laid the Regulations before Parliament on 15 August, with an IA. **We commend BEIS on this timetable; in particular, we welcome the fact that the Department has made the guidance available alongside the Regulations.**

⁸ The regulators specified are the Health and Safety Executive, the Food Standards Agency, the Gambling Commission the Competition and Markets Authority and the Secretary of State in relation to weights and measures regulation and product safety regulation.

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Instruments subject to annulment

- SI 2017/781 Tax Credits (Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments) Order 2017
- SI 2017/807 Education (Information About Children in Alternative Provision) (England) (Amendment) Regulations 2017
- SI 2017/825 Merchant Shipping (Monitoring, Reporting and Verification of Carbon Dioxide Emissions) and the Port State Control (Amendment) Regulations 2017
- SI 2017/835 Co-ordination of Regulatory Enforcement Regulations 2017
- SI 2017/837 Merchant Shipping (Ship-to-Ship Transfers) (Amendment) Regulations 2017
- SI 2017/841 Water Infrastructure Adoption (Prescribed Water Fittings Requirements) (England) Regulations 2017
- SI 2017/845 Investigatory Powers Act 2016 (Consequential Amendments and Saving Provisions) Regulations 2017
- SI 2017/847 Warm Home Discount (Reconciliation) (Amendment) Regulations 2017
- SI 2017/848 Caseins and Caseinates (England) Regulations 2017
- SI 2017/855 Petroleum and Offshore Gas Storage and Unloading Licensing (Amendment) Regulations 2017
- SI 2017/857 Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) (No. 2) Regulations 2017
- SI 2017/872 Protection of Wrecks (Designation) (England) (No. 2) Order 2017

APPENDIX 1: SCHOOL TEACHERS' PAY AND CONDITIONS ORDER 2017 (SI 2017/811)

Additional Information from the Department for Education (DfE)

Q1: What view does DfE take of respondents' claims that there are significant recruitment and retention issues for the teaching profession?

A1: Paragraphs 2.16 to 2.18 and 2.26 to 2.28 of the STRB's report clearly set out the Government's position in relation to recruitment and retention. At a national level we are retaining and recruiting the teachers we need. We recognise however that the situation is becoming increasingly challenging and that this is more acute in certain subjects and particular schools or areas of the country.

Q2: What information does DfE hold about recruitment and retention of teachers, and about the impact of these issues on the quality of teaching in the maintained sector?

A2: The STRB in arriving at its recommendations on teacher pay made a detailed consideration of the current evidence on recruitment and retention. Chapter 3 of the STRB's report sets out a detailed description and analysis of this evidence.

The DfE Schools Workforce Census⁹ publishes statistics on the recruitment and retention figures—this includes figures on the number of new entrants to teaching, retention rates and vacancy rates. The department also publishes the ITT Census and Performance Profiles data¹⁰ which show numbers (and characteristics of) trainees starting ITT and outcomes of ITT (i.e. achieving QTS, being employed in a state school within 6 months of qualifying) respectively.

In relation to the issue of impact on quality, we would agree with the STRB's paragraph 5.22 which says that it “is essential that the national pay and allowance framework for teachers attracts high quality graduates to the profession, retains experienced and capable teachers, and motivates and rewards fairly those who take on additional responsibilities and leadership positions.” We believe that the pay and allowances framework enables schools to recruit and retain quality teachers, although the framework in itself is not directly about assessing teacher quality.

Q3: Has DfE made any assessment of the impact of the pay and conditions specified in this Order on the future recruitment and retention of teachers?

A3: As in all previous years, in determining whether to accept the STRB recommendations the department assessed whether the recommendations would meet the objectives listed below, and were in line with the analysis already submitted to the STRB.

Q4: What does DfE see as the objective to be achieved by the annual determination of teachers' pay and conditions: is the objective to recruit and retain sufficient numbers and quality of teachers, or is it intended to meet a different aim?

A4: The pay system is intended to provide schools with the flexibility to recruit and retain capable teachers and school leaders; ensuring affordability, both nationally and at school level; and increasing the autonomy available to school leaders to address individual circumstances through pay.

9 See: <https://www.gov.uk/government/statistics/school-workforce-in-england-november-2016>

10 See: <https://www.gov.uk/government/collections/statistics-teacher-training>

Q5: Given that DfE would have preferred a longer consultation period, and that most respondents were dissatisfied with the 3 week consultation period, how can DfE regard the consultation it carried out as a satisfactory basis for implementing these proposals?

A5: The Government took the view that its absolute priority was not to disadvantage teachers by delaying the implementation of the pay award if possible. It took the view that, taking account of the recommendations in this year's report and the consequential amendments to the STPCD, it would be possible to hold a meaningful consultation and still ensure teachers received their pay awards on time. All consultees to the process submitted their responses within the required timeframe, ministers were able to consider those responses and agree final amendment to the STPCD.

In addition, it should be noted that this was not the only consultation opportunity during the STRB process. Consultees also had a 6-week period in which to submit written evidence to the STRB, as well as the opportunity to give oral evidence on how the STRB should enact its remit and on teacher pay more generally. The Department also meets on a regular basis throughout the year most of the statutory consultees to discuss pay and conditions issues. Therefore, the wider views of the consultees on teacher pay were well known prior to this consultation and this shorter consultation was focussed on the department's decision to accept the recommendations.

Q6: The Order was laid on 3 August, well over a week after Parliament rose for the summer recess, and it is being brought into force on 1 September, before Parliament returns. How does DfE justify this handling of an instrument that is of undoubted significance for public sector pay policy, which means that the scope for Parliamentary scrutiny is almost nugatory?

A6: ...it has been annual practice since 2009 to make and lay the Pay Order and STPCD in the first or second week of August ensuring that this is achieved at least 21 days in advance of the Order coming into effect on 1 September. The laying of the pay order is the end of a lengthy process in which there is little room for manoeuvre—the STRB will usually receive its remit in Sept or Oct (the precise timing is normally determined by the Chief Secretary of the Treasury's annual letter to review body chairs setting out the Government's strategy on public sector pay). Once it has received its remit the STRB will normally require six or seven months (depending on the complexity of the remit) to accumulate and analyse written and oral evidence from each of the statutory consultees. The Department will usually receive the STRB report in April each year and in normal circumstances would be able to conduct separate consultation exercises for the report and the STPCD. However, in the past 3 years we have had two general elections and the EU referendum, all of which have significantly delayed the process. At every stage of the process the Department is at pains to ensure that other parties to the process are given the maximum amount of time, whilst ensuring we are as efficient as possible in our own timings.

... this is not a practice we have received criticism for in the past, apart from last year, and the delay to publication caused by the election meant that any alternative date for laying would not have been possible for the order to come into force for the start of September.

22 August 2017

APPENDIX 2: CRIMINAL JUSTICE (EUROPEAN INVESTIGATION ORDER) REGULATIONS 2017 (SI 2017/730)

Letter from Nick Hurd MP, Minister of State for Policing and the Fire Service at the Home Office, to Lord Trefgarne, Chairman of the Secondary Legislation Scrutiny Committee

Thank you for your letter of 19 July in respect of the above Regulations. Please accept my sincere apologies for the length of time it has taken to respond. I assure you that I, and my officials, take the business of Parliamentary scrutiny very seriously and it is not my intention for replies to be sent to you as late as on this occasion.

In your first question, you ask about the conditions necessary for the temporary transfer of prisoners under regulation 54(5)(c). Under regulation 54(2), the Secretary of State has a discretion to authorise transfer where the prisoner has consented to it (see paragraph (4) of that regulation). This discretion becomes an obligation *only* where the additional conditions in paragraphs 5(b) and (c) are met. Under Article 22 of Directive 2014/41 ('the Directive'), a European Investigation Order (EIO) for the temporary transfer of a prisoner can only be issued where the presence of the prisoner is required on the territory of the issuing state, for example in order to give live oral evidence as a witness in criminal proceedings. The necessary conditions in paragraphs 5(b) and (c) are there to ensure that the obligation to comply with such an EIO only arises where the Secretary of State is satisfied that the individual's participation cannot be achieved by other means. If the evidence can be provided in the form of a witness statement supplied voluntarily by the prisoner concerned, then the mechanism under regulation 35, where evidence is received before a court in the UK and transmitted in written format to the issuing state, will be the appropriate response. In such a case the condition in paragraph 5(c) would not be satisfied and so no duty on the part of the Secretary of State to authorise a temporary transfer of a prisoner would arise.

Regulation 56 is intended to transpose Article 22(8) of the Directive, which provides:

Without prejudice to paragraph 6, a transferred person shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the issuing State for acts committed or convictions handed down before his departure from the territory of the executing State and which are not specified in the EIO.

The equivalent restriction, applicable where a prisoner from the UK is temporarily transferred to the territory of another Member State, will be found in the domestic transposing legislation of that Member State. The equivalent restriction found in regulation 56 for a limitation on specialty for a UK prisoner being transferred to another member state can be found in article 22(8) of the Directive. Under article 22(1) a prisoner has to be sent back to the executing State within the period stipulated by the executing State. Regulation 54 provides for the issue of a domestic warrant which is used to secure the release of the prisoner from custody in the UK. The practical arrangements, including the date on which the individual is to be returned, would be a matter for separate agreement between the Secretary of State and the issuing authority.

In relation to your last point, under the agreement a country receiving a prisoner under an EIO must return the prisoner back to the executing state. To use your example a prisoner transferred from the UK must be returned to the UK by a member state. Therefore any country not party to the EIO, i.e. any other member state or third country, must apply to the executing state (the UK in this example).

I trust this response adequately addresses your questions and clarifies the Committee's concerns.

7 September 2017

APPENDIX 3: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at www.publications.parliament.uk/pa/ld/ldreg.htm. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 12 September 2017, Members declared the following interests:

School Teachers' Pay and Conditions Order 2017 (SI 2017/811)

Lord Faulkner
Baroness O'Loan
Baroness Watkins of Tavistock

These Members all have close relatives who are teachers.

Attendance:

The meeting was attended by Lord Faulkner of Worcester, Baroness Finn, Baroness Gould of Potternewton, Lord Janvrin, Lord Kirkwood of Kirkhope, Baroness O'Loan, Lord Sherbourne of Didsbury, Lord Trefgarne and Baroness Watkins of Tavistock.