

Get in on the Act

Policing and Crime Act 2017

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Background

The Policing and Crime Bill (the Bill) was introduced in the House of Commons on 10 February 2016. The legislation completed its passage through Parliament on 19 December 2016 and received Royal Assent on 31 January 2017.

The purpose of the Policing and Crime Act 2017 (the Act) is to enhance the democratic accountability of police forces and fire and rescue services, improve the efficiency and effectiveness of emergency services through closer collaboration and build public confidence in policing.

Ahead of the legislation being introduced in the House of Commons, the Government held a public consultation¹ which sought views on proposals to enable greater collaboration between the emergency services. Our submission emphasised that any changes in fire authority governance should only take place where there is local agreement, a strong business case and evidence it would lead to a better service. In our lobbying on the legislation, we made clear that governance changes should be based on voluntary local agreement.

The Act is made up of nine parts that are split into a number of chapters. Further information on the measures is included in this guide.

1. **Emergency services collaboration** (Sections 1–12)
2. **Police discipline, complaints and inspection** (Sections 13–37)
3. **Police workforce and representative institutions** (Sections 38–51)
4. **Police powers** (Sections 52–120)
5. **Police and Crime Commissioners and police areas** (Sections 12–124)
6. **Firearms and pyrotechnic articles** (Sections 125–134)
7. **Alcohol and late night refreshment** (Sections 135–42)
8. **Financial sanctions** (Sections 143–156)
9. **Miscellaneous and General** (Sections 157–184).

This publication aims to provide an introduction to the Act and summarises the main issues on which the Local Government Association (LGA) lobbied.

The role of the LGA and local government in influencing the legislation

The LGA worked with MPs and peers to provide background information and research on the proposals, support amendments to the legislation, and influence Government policy. We sought to improve provisions in the Act that would have a detrimental effect on fire and rescue authorities and councils.

Our campaigning on behalf of local government was developed with the support and input of fire and rescue authorities and councils from across the country. It led to a number of positive changes in the final Act, including:

- The Act enables Police and Crime Commissioners to take on responsibility for fire and rescue services where it can be demonstrated to benefit the economy, the efficiency of the service and public safety. We lobbied to ensure these changes to the governance of fire and rescue services included consultation with councils, residents and stakeholders. Following our engagement with the Bill, the Police and Crime Commissioner will now have to publish their response to any representations made to the consultation for governance changes, which they would not have otherwise had to do.
- We helped to amend the legislation so that the cumulative impact policies are now placed on a statutory footing in the Licensing Act 2003 to provide greater clarity about their use. This helps licensing authorities take into consideration the existing impact

of local premises in one area and the ability to refuse or place restrictions on new applications applying for the same area, if they are likely to have a negative effect on licensing objectives. It puts into law the power to limit clusters of licensed premises if they will have a negative impact. This will provide greater legal certainty about the use of cumulative impact policies.

- We secured a change to the Act which will allow licensing authorities to have the power to decide whether a late night levy should apply to premises in a particular part of their area, rather than to whole local authority areas. This new legal power will make it easier for licensing authorities to effectively implement the late night levy.
- We lobbied against a proposal to include councils in the review process for the establishment and conduct of homicide reviews for unsolved murders involving victims aged over 16. This is because the proposal did not outline whether this new provision would be appropriately funded and could have caused councils considerable financial challenges. This was removed from the Bill as it passed through its final stages in Parliament.
- We secured an important change in the Act which will help reduce stress to bereaved parents and ease some cost pressures on councils by removing the duty on coroners to conduct an inquest in all cases where the person had been subject to a deprivation of their liberty or a court of protection order.

The key provisions and their implications for local government

Emergency services collaboration

Section 1: Collaboration agreements

Section 1 provides for collaboration agreements to be made between police bodies, fire and rescue bodies and ambulance trusts. This does not affect the status of existing collaborations between the emergency services, but provides a clear legislative framework within which collaborative agreements can take place going forward.

Section 2: Duties in relation to collaboration agreements

Section 2 places a statutory duty on police, fire and rescue and emergency ambulance services to keep under consideration opportunities to collaborate with one another. This new duty will ensure that all opportunities for collaboration to improve efficiency and effectiveness are fully explored.

Section 3: Collaboration agreements: specific restrictions

Section 3 sets out a number of specific restrictions for collaboration agreements. For example emergency services will only be required to collaborate where the agreement would be in the interests of its efficiency or effectiveness.

Section 5: Collaboration agreements: definitions

Section 5 sets out in broad terms what a collaboration agreement might include. 'Fire and rescue body in England' is defined to include fire and rescue authorities in England as well as combined authorities and elected mayors exercising fire and rescue functions.

Section 6: Provision for police and crime commissioner (PCC) to be fire and rescue authority (FRA)

Section 6 makes provision for a PCC to assume responsibility for the fire and rescue service in their area where a local case is made (the 'governance' model), as well as to take the additional step to create a single employer for police and fire (the 'single employer' model). The Home Secretary has the power to make an order making the PCC the FRA for the area covered by the order (a 'PCC-style FRA'). This section ensures the Secretary of State can only make an order creating a PCC-style FRA if they are satisfied that the PCC's proposal would be in the interests of either a) economy, efficiency and effectiveness or b) public safety.

Section 7: Involvement of police and crime commissioner in fire and rescue authority

Section 7 seeks to encourage collaboration in areas where a PCC does not take on responsibility for fire and rescue, these provisions enable a PCC to be represented on an FRA (outside of London) with voting rights, where the FRA agrees.

Section 8: Combined authority mayors: exercise of fire and rescue functions

Section 8 enables the Secretary of State to make provision that enables a combined authority mayor who exercises the functions of fire and rescue authority and Police and Crime Commissioner to delegate fire and rescue functions to the chief constable of the police force for their area and for the chief constable to further delegate these functions to both police and fire and rescue personnel.

Section 9: The London Fire Commissioner

Section 9 abolishes the London Fire and Emergency Planning Authority and transfers the residual functions to the new London Fire Commissioner.

Section 11: Inspection of fire and rescue services

Section 11 amends the process for appointing inspectors, assistant inspectors and other officers and provides for one of the inspectors appointed to be the chief fire and rescue inspector for England. This aligns with the process for appointing Her Majesty's Inspectors of Constabulary.

Police powers

Section 80: Extension of powers under sections 135 and 136 of the Mental Health Act 1983

Section 78 extends the powers under sections 135 and 136 of the Mental Health Act to give greater flexibility to a police officer to keep a person at the place at which they have been detained, if it is a place of safety.

Section 81: Restrictions on places that may be used as places of safety

Section 81 prevents the use of police cells as a place of safety in any circumstances where the detainee is under 18 years of age. The Secretary of State will have the power to restrict the circumstances in which police cells may be used as a place of safety for adults (aged 18 years or over) and to make provision for the treatment of such adults whilst they are detained, including provision for the review of their detention.

Section 82: Periods of detention in places of safety etc.

Section 82 replaces the 72 hour time limit to detain a person in a place of safety pending a mental health assessment, with the term 'a permitted period of detention'.

Alcohol and late night refreshment

Section 137: Summary reviews of premises licences: review of interim steps

Section 137 gives licensing authorities the power to revoke or suspend a personal licence where there has been a conviction for a relevant offence.

Section 138: Personal licences: licensing authority powers in relation to convictions

Section 138 extends the power to suspend or revoke personal licences to councils. Extending the power of revocation to councils will enable them to take prompt action to ensure that people convicted of relevant criminal activity are unable to authorise the sale of alcohol.

Section 140: Licensing Act 2003: guidance

Section 140 removes the requirement for guidance issued by the Secretary of State under section 182 of the Licensing Act to be approved by Parliament.

Section 141: Cumulative impact assessments

Section 141 ensures that a licensing authority can publish a cumulative impact assessment if it considers that the number of licensed premises in an area is such that it is likely that granting further licences would be inconsistent with its duty to promote the licensing objectives. The licensing authority must publish the evidence for its opinion before publishing the assessment.

Section 142: Late night levy requirements

Section 142 amends the Licensing Act 2003 to allow licensing authorities to target specific geographical locations (rather than, as now, the whole of the local authority area) for the late night levy. It will also extend the levy to include late night refreshment outlets; enable PCCs to request the licensing authority to propose introducing a levy; and require licensing authorities to publish information about how funds raised by the levy are spent so that those paying it are clearer about how it is being used.

Protection of children and vulnerable adults

Section 177: Licensing functions under taxi and PHV legislation: protection of children and vulnerable adults

Section 177 empowers the Secretary of State to issue statutory guidance to local taxi and PHV licensing authorities in relation to the safeguarding of children (that is, persons under 18 years) and vulnerable adults and requires such authorities to have due regard to the guidance when exercising their taxi and PHV licensing functions.

Coroners' investigations into deaths

Section 178: Coroners' investigations into deaths: meaning of "state detention"

Section 178 removes the duty on coroners to conduct an inquest in all cases where the deceased had an authorisation for the deprivation of their liberty in place either under Deprivation of Liberty Safeguards or a Court of Protection Order or the deprivation of liberty was otherwise authorised by the Mental Capacity Act 2005, where there are no other grounds to conduct an inquest.

Next steps

We will continue to work on behalf of councils to ensure this legislation is deliverable for councils, particularly as the Government draws up secondary legislation and guidance.

A note of thanks

We extend our thanks to all those parliamentarians that supported us in our detailed work on the Act and championed the concerns in speaking on behalf of local government during key debates.

Useful links

For the full text of the Act and the explanatory notes please refer to: www.legislation.gov.uk

For the LGA's briefings at each stage of the Bill, please go to: www.local.gov.uk/parliament/briefings-and-responses/policing-and-crime-bill



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REF: 10.7