



College of  
Policing

# Digest

August 2013

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

The Digest is a primarily legal environmental scanning publication intended to capture and consolidate topical and key issues, both current and future, impacting on all areas of policing. During the production of the Digest, information is included from Governmental bodies, criminal justice organisations and research bodies. As such, the Digest should prove an invaluable guide to those responsible for strategic decision making, operational planning and police training.

The College of Policing aims to provide fair access to learning and development for all. To support this commitment, the Digest is available in alternative formats upon request. Please email [digest@college.pnn.police.uk](mailto:digest@college.pnn.police.uk) or telephone +44 (0)1480 334527.

#### Disclaimer and Copyright details

This document is intended as a guide to inform organisations and individuals of current and forthcoming issues in the policing environment and the College of Policing cannot guarantee its suitability for any other purpose. Whilst every effort has been made to ensure that the information is accurate, the College of Policing cannot accept responsibility for the complete accuracy of the material. As such, organisations and individuals should not base strategic and operational decisions solely on the basis of the information supplied.

© - College of Policing Limited (the College) 2013

All rights reserved. No part of this publication may be reproduced, modified, amended, stored in any retrieval system or transmitted, in any form or by any means, without the prior written permission of the College or its representative. **The above restrictions do not apply to police forces, which are authorised to use this material for official, non-profit-making purposes only.**

Copyright Enquiries: Telephone +44 (0)1256 602650

Digest Editor: Telephone +44 (0)1480 334527

NOT PROTECTIVELY MARKED

**August 2013**

# **Digest**

**Legal Services**  
[www.college.police.uk/digest](http://www.college.police.uk/digest)

---

## College of Policing Digest August 2013

---

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

There are reports of cases on the retention of information, execution of search warrants, and the human rights of prisoners who have received whole life orders.

We look in detail at a recently published Home Office report on Drug Use in England and Wales, as well a Joint Review examining the extent to which police custody is used as a place of safety under section 136 of the Mental Health Act 1983.

Statistical bulletins are covered which relate to the police use of firearms and crime figures for 2012/2013.

Also there are various consultations covered which relate to stop and search, special constable expenses and allowance rates and criteria and the sentencing of fraud, bribery and money laundering offences.

The progress of proposed new legislation through Parliament is examined and Statutory Instruments and Circulars summarised.

---

## Contents

---

<b>LEGAL</b> .....	<b>7</b>
<b>LEGISLATION</b> .....	<b>7</b>
Bills Before Parliament 2013/2014 - Progress Report .....	7
<b>CASE LAW</b> .....	<b>11</b>
<b>CASE LAW - EVIDENCE AND PROCEDURE</b> .....	<b>11</b>
The Queen (on the Application of TD) v The Commissioner of Police for the Metropolis Secretary of State for the Home Department [2013] EWHC 2231 .....	11
<b>CASE LAW - GENERAL POLICE DUTIES</b> .....	<b>13</b>
The Queen (on the application of) Pearce & Another v Commissioner of Police of the Metropolis & Another [2013] EWCA Civ 866 .....	13
<b>CASE LAW - HUMAN RIGHTS</b> .....	<b>17</b>
Vinter and Others v United Kingdom (Application Nos. 66069/09, 130/10 and 3896/10) .....	17
<b>STATUTORY INSTRUMENTS</b> .....	<b>21</b>
SI 2013/1554 The Criminal Procedure Rules 2013 .....	21
SI 2013/1562 The Serious Organised Crime and Police Act 2005 (Designated Sites under Section 128) (Amendment) Order 2013 .....	21
SI 2013/1579 The Penalties for Disorderly Behaviour (Amount of Penalty) (Amendment) (No. 2) Order 2013 .....	21
SI 2013/1629 The Coroners (Investigations) Regulations 2013.....	21
SI 2013/1682 The Crime and Courts Act 2013 (Commencement No. 2 and Saving Provision) Order 2013 .....	22
SI 2013/1725 The Crime and Courts Act 2013 (Commencement No. 3) Order 2013.....	22
SI 2013/1746 The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2013.....	23
SI 2013/1778 The Police (Complaints and Misconduct) (Old Cases) Regulations 2013.....	24
SI 2013/1779 The Independent Police Complaints Commission (Forces Maintained Otherwise than by Local Policing Bodies) Order 2013 .....	25
SI 2013/1780 The Police (Promotion) (Amendment) Regulations 2013.....	25

SI 2013/1795 The Proscribed Organisations (Name Changes) Order 2013 .....	25
SI 2013/1813 The Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) Order 2013 ..	26
SI 2013/1814 The Protection of Freedoms Act 2012 (Commencement No. 7) Order 2013.....	27

## **POLICING PRACTICE ..... 28**

### **POLICE..... 28**

Home Office Releases Statistics Relating to Police Use of Firearms for 2011-2012.....	28
HMIC Release Joint Review Examining the Extent to Which Police Custody is Used as a Place of Safety Under Section 136 of the Mental Health Act 1983 .....	28
Home Office Launches Consultation on Stop and Search.....	30
Home Office Launches Consultation on Updating Special Constable Expenses and Allowance Rates and Criteria .....	31

### **CRIME ..... 32**

Home Office Launches Consultation on the Scheduling of Tramadol and a review of exemptions for Temazepam Prescriptions Under the Misuse of Drugs Regulations 2001 .....	32
Sentencing Council Launches Public Consultation on the Sentencing of Fraud, Bribery and Money Laundering Offences.....	33
Home Office Releases Statistical Bulletin of Crime Figures for 2012/2013 .....	34
Home Office Publishes Report on Drug Use in England and Wales .....	34

### **TRAINING AND DEVELOPMENT ..... 37**

Home Office Publishes Consultation on Changes to Codes of Practice Issued Under the Proceeds of Crime Act 2002 .....	37
---	----

## **CRIMINAL JUSTICE SYSTEM ..... 38**

Serious Fraud Office and DPP Launch Consultation on Deferred Prosecution Agreements Draft Code of Practice .....	38
---	----

---

## Bills Before Parliament 2013/2014 - Progress Report

---

On 8 May 2013, the Queen's Speech unveiled the legislative programme for the 2013-2014 Parliamentary session.

### ◆ **Anti-Social Behaviour, Crime and Policing Bill**

The Bill is divided into 13 separate parts:

- Part 1 - Injunctions to prevent nuisance and annoyance

This is a purely civil injunction, available in the county court for adults and the youth court for 10 to 17 year olds. It will allow a wide range of agencies, including the police, local councils and social landlords to deal quickly with anti-social individuals, nipping behaviour in the bud before it escalates.

- Part 2 - Criminal Behaviour Orders

This will be available following a conviction for any criminal offence and can address the underlying causes of the behaviour through new, positive requirements. Breach will be a criminal offence with a maximum penalty of up to five years in prison for adults. It will demonstrate to the offender and the community the seriousness of the breach.

- Part 3 - Dispersal Powers

This will enable officers to require a person who has committed, or is likely to commit, anti social behaviour to leave a specified area and not return for up to 48 hours.

- Part 4 - Community Protection Notices

This part is split into three Chapters covering Community Protection Notices, Public Spaces Protection Orders and Closure orders. These new powers will be faster, more effective and available to more agencies to use to tackle a whole range of place-specific anti-social and criminal behaviour.

- Part 5 - Recovery of Possession of dwelling-houses: Anti-Social Behaviour grounds

Anti-social behaviour can have a negative impact on neighbourhoods and communities. Social landlords have a key role in tackling anti-social behaviour. Provisions in the Bill introduce a new ground for possession to speed up the process in the most serious cases of anti-social behaviour bringing faster relief to victims and communities.

- Part 6 - Local involvement and accountability

The new Community Remedy will give victims of low-level crime and anti-social behaviour a say in the punishment of the offender out of court, whilst the Community Trigger will give victims of persistent anti-social behaviour the right to demand action where they feel that their problems have not been dealt with.

- Part 7 - Dangerous dogs

The proposals in the Bill are part of a wider package of measures to reduce dog attacks and make owners more responsible for their dogs. These powers sit alongside anti-social behaviour powers in the Bill that can be used to tackle dangerous dogs and irresponsible owners.

- Part 8 - Firearms

The Bill targets those who sell or transfer prohibited weapons or ammunition through the introduction of a new offence and increased sentencing powers for the courts.

- Part 9 - Forced marriages

The Bill makes two changes to tackle forced marriage more effectively: criminalising forcing someone to marry and criminalising the breach of Forced Marriage Protection Orders.

- Part 10 - Policing

The Bill builds on Government reform of the policing landscape towards greater freedom for the police to take local decisions that fit the needs of the areas they serve. It will enhance the integrity and professionalism of the police by extending the powers and remit of the Independent Police Complaints Commission and the College of Policing. The Bill will also make changes to the body that review police pay by abolishing the Police Negotiating Board and replacing it with an independent Police Remuneration Review Body. The new body will make evidence based recommendations on police remuneration. In addition, Clause 124 introduces Schedule 6, which makes amendments to the port and border security powers in Schedule 7 to the Terrorism Act 2000 and the associated Schedule 8 to that Act which governs the detention of persons detained under Schedule 7.

- Part 11 - Extradition

The measures on extradition proposed in the Bill are designed to improve the efficiency of the operation of the



Extradition Act 2003 and follow from a review of the UK's extradition arrangements by Rt. Hon Sir Scott Baker.

- Part 12 - Criminal Justice and Court Fees

The Bill will improve the speed and efficiency of the criminal justice system's response to low-level offending by enabling the police to prosecute uncontested minor offences of shoplifting. It will extend the scope of the statutory witness protection scheme to cover other vulnerable individuals and ensure that offenders sentenced to custody will contribute to the costs of supporting victims by removing the power of magistrates' courts to add additional days to a sentence of imprisonment instead of the victims surcharge.

- Part 13 - General

This part contains minor and consequential amendments to other enactments and general provisions including provisions in respect of the parliamentary procedure to be applied to orders and regulations made under the Bill.

The Committee debate (15<sup>th</sup> sitting) took place on 16 July 2013 and the report stage in the House of Commons is to take place on a date to be announced.

#### ◆ **Offender Rehabilitation Bill**

The Bill makes a number of changes to the release arrangements set out in the Criminal Justice Act 2003 Act for offenders serving custodial sentences of less than 12 months and those serving sentences of between 12 months and 2 years. The Bill is designed to ensure that all adult offenders serving custodial sentences can be supervised on release for a period of at least 12 months.

In particular the Bill:

- Applies arrangements for release under licence to offenders serving fixed-term custodial sentences of more than 1 day but less than 12 months;
- Introduces new supervision arrangements for offenders released from fixed-term custodial sentences of less than 2 years so that all offenders are supervised in the community for at least 12 months;
- Creates a new court process and sanctions for breach of supervision requirements for offenders serving fixed-term custodial sentences of less than 2 years;
- Introduces a requirement that offenders sentenced to an extended determinate sentence must have an extension period of supervision of at least 1 year;

- Introduces for offenders released from custody a new drug appointments condition for the licence or supervision period, and expands the existing drug testing requirement for licences to include Class B drugs and makes it available during the supervision period;
- Introduces a requirement that any juvenile who reaches his or her 18<sup>th</sup> birthday before being released from the custodial element of a Detention and Training Order (DTO) should spend at least 12 months under supervision in the community.

The Bill also makes some changes to the arrangements for community orders and suspended sentence orders. In particular it:

- Creates a new “rehabilitation activity requirement” for community orders and suspended sentence orders and in doing so abolishes the “supervision” and “activity” requirements;
- Introduces new arrangements for the designation of “responsible officers” in relation to the supervision of offenders and makes clear that the responsibility for bringing breach action lies with the public sector;
- Introduces new arrangements for offenders serving community orders or suspended sentence orders to obtain permission from the responsible officer or the court before changing their place of residence.

The third reading of this bill in the House of Lords took place on 9 July 2013. The second reading in the House of Commons will take place on a date to be announced.

The progress of Bills in the 2013/2014 parliamentary session can be found at <http://services.parliament.uk/bills/>

---

**The Queen (on the Application of TD) v The  
Commissioner of Police for the Metropolis  
Secretary of State for the Home Department [2013]  
EWHC 2231**

---

A hearing in the High Court of Justice Queen's Bench Division Administrative Court before Lord Justice Moses and Mr Justice Burnett.

### **Summary**

This case concerns the retention of information relating to the claimant's arrest relating to an alleged sexual assault.

### **Facts**

Nearly nine years ago, a woman staying in the same hotel as the claimant alleged that he had sexually assaulted her. He was arrested by police and his DNA and fingerprints were taken. He was interviewed and denied the allegations and no further action was taken. The Secretary of State for the Home Department has confirmed that the claimant's biometric data has since been destroyed, but 40 pages of information relating to the claimant's arrest are to be kept on the Police National Computer until 2104, when the claimant would be 128 years old.

Permission was granted to apply for judicial review in March 2013. The application only relates to the records outlined above, and not the claimant's biometric data as legislation (the Protection of Freedoms Act 2012) has amended the law relating to the retention of such data and it is no longer lawful to retain the biometric data of those in the position of the claimant. The claimant has suffered from great anxiety and distress due to the police retaining information relating to him. He had not been suspected of any other offence since his arrest in 2004 and was told through his MP in 2006 that the information would be removed. In 2010 the claimant required an Enhanced Criminal Record Certificate and the police told him that they did not believe it was necessary to disclose the information and did not do so.

The retention of this information is governed by the Metropolitan Police policy contained in its Corporate Retention, Review and Disposal Schedule. Under this guidance the information will be retained until the subject is 100 years old, with a review to ensure adequacy and necessity every ten years. The review schedule asks whether the retention of information is proportionate and still necessary for police purposes.

### **Judgment**

The High Court of Justice stated that the essential question in the case was how long the record may be retained. It stated that this

question could be resolved by striking a balance between the extent of interference, if any, with the claimant's rights enshrined in Article 8 of the European Convention on Human Rights and the use to which the police may legitimately put the information.

The High Court acknowledged that there was and could be no dispute as to whether the retention of the record of this allegation could amount to an interference with the claimant's private life and that, accordingly, Article 8 was engaged. In its judgment the High Court referred to various relevant case law relating to the retention of data to assist in this case. The defendant stated that as only nine years had elapsed since the allegation, it was too short a time to say with confidence that the records had no use.

The High Court stated:

'Every record of an allegation of crime may be of use for the indefinite future, as the research to which the Commissioner refers demonstrates. This was the very argument on which the United Kingdom Government relied in Strasbourg in *S v United Kingdom* [2008] 48 EHRR 1169, relying on the "inestimable value" of the data.... In S it was recognised that the mere storage and retention of the data amounted to an interference within the meaning of Article 8.'

The High Court concluded that although it emphasised that it did not suggest that the allegation against the claimant has any foundation whatever, it was necessary to recall that it was of a sexual nature and thus had potential use should a similar allegation be made by the same complainant against someone else or another complainant make a similar allegation against the complainant. It stated that the record of the allegation may therefore be of some use in the future and will only be available to those who are authorised to access the system in question. It also highlighted that the police had already demonstrated that they were not prepared to disclose it to a potential employer for the purposes of an enhanced criminal records certificate and the Commissioner had demonstrated that the use to which the records of the allegation may be put justifies their retention, at least for the time being.

The High Court stated that this conclusion was subject to an important qualification and that was that any retention of data needs to be subject to review. Since the records have only be retained for about nine years and in the context that the policy will have to be considered again in the light of recent jurisprudence, the Court stated that it did not consider it necessary to make any declaration as to review. The High Court refused the order to quash the decision to refuse to delete the records.

The full case report can be found at  
<http://www.bailii.org/ew/cases/EWHC/Admin/2013/2231.html>

---

## **The Queen (on the application of) Pearce & Another v Commissioner of Police of the Metropolis & Another [2013] EWCA Civ 866**

---

A hearing in the Court of Appeal (Civil Division) on Appeal from the High Court of Justice Queen's Bench Division, Divisional Court before Lord Justice Maurice Kay, Lord Justice Patten, and Lord Justice Fulford.

### **Summary**

This case concerned whether the execution of certain search warrants at premises described as squats in London was a lawful exercise of police powers pursuant to those warrants (which authorised the police to enter the premises to search for stolen property) or whether it was to facilitate pre-emptive action in the form of detention of persons who were suspected of being likely participants in disorder of the Royal Wedding.

This appeal challenged the findings of the Divisional Court that the dominant purpose of the police in executing the search warrants was that for which the power of search had been conferred (stolen goods) rather than to take pre-emptive action in order to prevent disruption of the Royal Wedding.

### **Facts**

Prior to the Royal Wedding, Police had been involved in the investigation of criminal events which had arisen from student demonstrations and a Trades Union Congress Day of Action, namely Operation Malone and Operation Brontide. Both these investigations were linked. Within Operation Brontide, there were concerns, but no direct evidence, that some anarchist groups intended to create serious disorder on the day of the Royal Wedding in Central London with acts of criminality. Four squats had been identified in Camberwell Road in London which featured in both investigations and there was a concern that individuals in the squats might be gathering to disrupt the Royal Wedding. Accordingly, authorisation was obtained for the police to conduct a covert surveillance operation on the four squats. This operation, which was conducted between 22-27 April 2011 did not reveal any direct evidence of Operation Brontide suspects being present at the squats, but did reveal a pattern of behaviour which suggested that the occupants were using the squats to deal in stolen goods.

On 27 April 2011 search warrants were sought in relation to the four squats. The Gold Commander set out the rationale of this decision in a witness statement, which essentially stated that there was concern that one or more of the squats could be housing individuals with the intention of committing criminal acts against the Royal Wedding. It also stated that the Bronze Commander was

able to satisfy the Gold Commander that substantive offences had been identified at each of the squats and that the warrants could legitimately be applied for to enter the squats. The Gold Commander stated:

'The intention was not to stop any individuals or groups from engaging in protest, but to prevent any criminal activity or unlawful disruption of the Royal Wedding.'

The Gold Commander also stressed that "I made it quite clear that I did not want speculative action, but would only endorse police activity where there was a good chance of a Brontide subject being present or where we had a clear legal basis for entering such as at Camberwell..."

The warrants were issued at Bromley Magistrates' Court, which authorised the police to enter the premises to search for bicycles, bicycle equipment, electrical goods, and computer equipment pursuant to Section 26 of the Theft Act 1968. At the time the warrants had been applied for no decision had been made as to when they would be executed.

Commander Johnson, chairman of the Royal Wedding Intelligence Co-ordinating Committee decided that the warrant should be executed on 28 April 2011, the day before the Royal Wedding. In a witness statement he stated that based on the facts that he had presented to him by investigating officers that the premises were being used by people who were likely to be planning or involved in criminal activity on the day of the Royal Wedding, he made the decision to take the action before the day of the wedding, bringing forward police action, which he believed would have the added benefit of making the Royal Wedding day less likely to be subject to criminal activity.

Commander Johnson went on to state that he believed that this was a proportionate step in preventing crime whilst undertaking their other responsibility of investigating crime and arresting offenders if crime was committed.

When the search warrants were executed, a further property was identified as being used and an emergency application for a search warrant was made in relation to this property, that authorised a search for stolen bicycles, bike parts and computers. During the search of the various squats, a large quantity of computer equipment was seized which was suspected of being stolen. Bicycles and bicycle parts were also seen at the squats but there was no record of any being seized. Flyers were also seen at the squats advertising a 'Zombie Wedding' at Soho Square and referred to 'Maggot Confetti' within the squats and four samples were seized. There was also evidence that electricity was being abstracted.

The claimants were taken to Harrow Road Police Station and interviewed following their arrest. They were then further arrested on suspicion of conspiracy to cause a public nuisance based on the flyers that were found. They were bailed on conditions that prevented them from entering the area of Westminster (the area of the Royal Wedding). The claimants bail was cancelled on 2 June 2011 when the CPS decided that there was insufficient evidence of a conspiracy to cause a public nuisance, and the electricity provider later decided to make no formal complaint in relation to the alleged abstraction of electricity.

## **Judgment**

The Court of Appeal stated that the central issue in this case was what the dominant purpose of the officers who executed the search warrant was. The Court of Appeal emphasised that the case concerned the lawfulness or otherwise of the execution of the search warrants and not whether the search warrants were lawfully obtained or whether the arrests were lawful.

The Court of Appeal stated that the lawfully obtained search warrants were executed for the purpose for which they were obtained, namely the recovery of the specified stolen goods which, as a result of surveillance, the officers had every reason to believe were in the premises. The Divisional Court judgment stated:

....'none of the witnesses say that the officers searched for material outside the scope of the warrants.....The seizure of the Zombie Wedding flyers is entirely consistent with the exercise of the powers conferred by Section 19 [of the Police and Criminal Evidence Act 1984] and does not show that the search extended to material outside the scope of the warrants: an officer was entitled to seize the flyers pursuant to section 19 if he came across them on the premises while searching for articles within the scope of the warrants.'

The Court of Appeal concluded by stating that in its view, the timing of the execution of the warrants was the result of an operational decision which was conditioned by a desire to maximise Royal Wedding security gains but which did not mean that the dominant purpose of the search itself was anything other than that which was authorised by the lawfully obtained warrants.

The appellants made other various submissions in relation to the application of the warrants at Magistrates' Court, the timings of the execution of the warrants, who carried out the warrants, and where those arrested were taken. The Court of Appeal asserted that although at various points it referred to the decision to apply for and execute the search warrants, including the timing, as "heavily influenced by a concern to prevent disruption of the Royal Wedding" and to its having the "underlying motivation" of such a concern,

that did not prevent the dominant purpose of the searches being the one authorised by the warrants and the appeal was dismissed.

The full case report can be found at

<http://www.bailii.org/ew/cases/EWCA/Civ/2013/866.html>



---

## Vinter and Others v United Kingdom (Application Nos. 66069/09, 130/10 and 3896/10)

---

A hearing in the Grand Chamber of the European Court of Human Rights in Strasbourg before Judge Spielman (President), Judges Casadevall, Raimondi,, Ziemele, Villiger, Berro-Lefevre, Popovic, Guerra, Trajkovska, Tsotsoria, Power-Forde, Karakas, Vucinic, Sicilianos, Lemmens, Mahoney, Silvis and M O'Boyle (Deputy Registrar)

### Summary

This case considers whether whole life orders violated Article 3 of the European Convention on Human Rights.

### Facts

This case has been discussed in a previous edition of the [Digest \(February 2012\)](#) and essentially concerns three individuals, the applicants, who are serving sentences of life imprisonment for murder. The applicants have all been given whole life orders which means that they would only be released from prison at the discretion of Secretary of State, and this would only be done on compassionate grounds pursuant to section 30(1) of the Crime (Sentences) Act 1997.

Historically, prior to the Criminal Justice Act 2003 coming into force, when a person received a life sentence, the Secretary of State would decide on the minimum term a prisoner would be required to serve, including whether a whole life tariff was appropriate. It was practice for the Secretary of State to review a whole life tariff every 25 years to ascertain whether it was still justified. The House of Lords found that the power of the Secretary of State to set tariff periods for mandatory life sentence prisoners breached Article 6 of the European Convention on Human Rights (Right to a Fair Trial) and accordingly the trial judge was afforded this responsibility by virtue of the Criminal Justice Act 2003. All prisoners whose tariffs had been set by the Secretary of State were able to apply to the High Court to get their tariff reviewed.

The applicants in this case complained to the European Court of Human Rights that the whole life orders that they had received amounted to ill-treatment and was a violation of Article 3 (Prohibition of Torture) of the European Convention on Human Rights. In January 2012 a Chamber of the European Court of Human Rights ruled that there was no violation of Article 3. It was common ground between the parties before the Chamber that any grossly disproportionate sentence would amount to ill-treatment contrary to Article 3 of the European Convention on Human Rights and the Chamber agreed with this, but stated that it would only be on 'rare and unique occasions' that this test would be met. In this

case, the Chamber found that Article 3 had not yet arisen in the applicants' cases since they had not demonstrated that their continued incarceration served no legitimate penological purpose.

In July 2012 the applicants referred their case to the Grand Chamber of the ECtHR as they maintained that there was a breach of Article 3 as their sentences were irreducible and no prisoner had ever been released under section 30 of the Crime (Sentences) Act 1997 or any other power. The applicants asserted that the Chamber was wrong in finding that Article 3 issues did not arise until there ceased to be a legitimate penological purpose to justify the continued detention of the applicants and this approach had failed to address two issues:

- ◆ The substantive Article 3 issue that the applicants' whole life orders constituted ill-treatment;
- ◆ The procedural requirement for a review to be built into a whole life sentence to ensure that there was no breach of Article 3.

The applicants accepted that a life prisoner could remain in prison for the rest of their life if they remained a risk to the community and that no breach of Article 3 would arise if this occurred. The applicants' asserted, however, that where a whole life order was imposed purely for the purposes of punishment directly undermined human dignity, destroyed the human spirit and ignored the capacity for countervailing justifications for conditional release which could arise in the future. The applicants submitted that an unreviewable whole life order meant that a prisoner would remain incarcerated until death irrespective of whatever changes in these factors might take place in the course of his or her sentence. It was also submitted by the applicants that the Government could give no reason for the failure to include a 25 year review in the Criminal Justice Act 2003. Medical evidence was also evidenced which documented that the first and second applicants were in states of depression and despair and that their personalities had deteriorated which supported their complaints of being ill-treated.

### **The judgement**

The Grand Chamber held that for a life sentence to remain compatible with Article 3 of the European Convention on Human Rights there had to be a prospect of release and a possibility of review of the sentence. The Grand Chamber stated that it was axiomatic that a prisoner cannot be detained unless there is a legitimate penological reason for that detention. The Grand Chamber also stated that if such a prisoner is incarcerated without any prospect of release and without the possibility of having their life sentence reviewed, there is a risk that they can never atone for their offence: whatever the prisoner does in prison, however exceptional their progress towards rehabilitation, their punishment remains fixed and unreviewable. Therefore, even when a whole life

sentence was condign punishment at the time of its imposition, with the passage of time it becomes a poor guarantee of just and proportionate punishment.

The Grand Chamber stated that it was not persuaded by the reasons submitted by the Government for the decision not to include a twenty-five year review in the current legislation on life sentences. It stated that the need for independent judges to determine whether a whole life order may be imposed is quite separate from the need for such whole life orders to be reviewed at a later stage so as to ensure that they remain justified on legitimate penological grounds. Furthermore, given that the stated intention of the legislative amendment was to remove the executive entirely from the decision-making process concerning life sentences, it would have been more consistent to provide that, henceforth, the twenty-five year review, instead of being eliminated completely, would be conducted within a wholly judicial framework rather than, as before, by the executive subject to judicial control. The Grand Chamber stated that under Section 30 of the Crime (Sentences) Act 1997 the Secretary of State has the power to release any prisoner, but is also legally bound to act compatibly with the European Convention on Human Rights, and it would therefore be possible to read section 30 as not just providing a power to the Secretary of State but also imposing a duty on him to exercise that power and to release a prisoner if it can be shown that his or her continued detention has become incompatible with Article 3.

The Grand Chamber went on to state that the conditions to meet the 'compassionate grounds' test were highly restrictive, and even assuming that they could be met by a prisoner serving a whole life order, it doubted whether compassionate release for the terminally ill or physically incapacitated could really be considered release at all, it all it meant was that a prisoner dies at home or in hospice rather than behind prison walls.

The Grand Chamber concluded by stating that it was unable to accept the Government's submission that section 30 of the Crime (Sentences) Act 1997 could be taken as providing the applicants with an appropriate and adequate avenue for redress, should they ever seek to demonstrate that their continued imprisonment was no longer justified on legitimate penological grounds and thus contrary to Article 3 of the Convention. Due to the contrast between the broad wording of section 30 and the exhaustive conditions announced in the Prison Service Order, as well as the absence of any dedicated review mechanism for the whole life orders, the Court was not persuaded that, at the present time, the applicants' life sentences could be regarded as reducible for the purposes of Article 3 of the Convention. The Grand Chamber accordingly found that the requirements of Article 3 in this respect had not been met in relation to any of the three applicants.

The Grand Chamber did however state that the applicants had not sought to assert that there were no longer any legitimate penological grounds for their continued detention, and the applicants also accepted that even if the requirements of punishment and deterrence were to be fulfilled, it would still be possible that they could continue to be detained on grounds of dangerousness. The finding of a violation could not be understood as giving the applicants the prospect of imminent release.

The full case report can be found at  
<http://www.bailii.org/eu/cases/ECHR/2013/645.html>

### **SI 2013/1554 The Criminal Procedure Rules 2013**

In force **7 October 2013**. The Criminal Procedure Rules 2013 consolidate the Criminal Procedure Rules 2012, SI 2012/1726, with the amendments made by SI 2012/3089. The new Rules incorporate the further amendments listed within this statutory instrument. Otherwise, they reproduce the rules that they supersede.

### **SI 2013/1562 The Serious Organised Crime and Police Act 2005 (Designated Sites under Section 128) (Amendment) Order 2013**

In force on **21 July 2013** with the exception of Article 4 of this Order which shall come into force on **3 October 2013**. This Order amends the Serious Organised Crime and Police Act 2005 (Designated Sites under Section 128) Order 2007. If a person enters on the designated site as a trespasser, that person will commit an offence under section 128(1) of the Serious Organised Crime and Police Act 2005.

### **SI 2013/1579 The Penalties for Disorderly Behaviour (Amount of Penalty) (Amendment) (No. 2) Order 2013**

In force **1 July 2013**. This Order is made under section 3(1) of the Criminal Justice and Police Act 2001 and amends the Penalties for Disorderly Behaviour (Amount of Penalty) Order 2002 (SI 2002/1837).

Article 3 of this Order amends the 2002 Order with the effect that the penalties payable in respect of penalty offences are increased. The term "penalty offence" is defined in section 1 of the Criminal Justice and Police Act 2001. Article 4 provides that the amendments to the 2002 Order in article 3 will not apply to an offence alleged to have been committed before 1 July 2013. The amounts specified in the 2002 Order applicable before that date will continue to apply in respect of that conduct.

This Order supersedes the Penalties for Disorderly Behaviour (Amount of Penalty) (Amendment) Order 2013 (SI 2013/1165) and is being issued free of charge to all known recipients of that Order.

### **SI 2013/1629 The Coroners (Investigations) Regulations 2013**

In force **25 July 2013**. These Regulations regulate the practice and procedure relating to investigations into deaths carried out under Part 1 of the Coroners and Justice Act 2009. Part 1 of the 2009 Act introduced a new regime for death investigations, which replaces the Coroners Act 1988 and the Coroners Rules 1984. Under the 2009 Act a coroner must conduct an investigation into violent or unnatural deaths, deaths where the cause is unknown

and deaths which occur in custody or otherwise in state detention. In certain cases this investigation will include the coroner holding an inquest. These Regulations form part of a package of new rules and regulations made under the 2009 Act which come into force at the same time as these Regulations.

**SI 2013/1682 The Crime and Courts Act 2013  
(Commencement No. 2 and Saving  
Provision) Order 2013**

Article 2 of this Order brings into force, on **29 July 2013**, parts of Schedule 20 to the Crime and Courts Act 2013, which deals with extradition. It brings into force Part 3 of that Schedule, which relates to devolution issues in Scotland. It also brings into force, for England and Wales, Part 2 of that Schedule, which relates to human rights issues. Article 3 of this Order brings into force, on **7 October 2013**, Part 1 of the Act, together with the related Schedules, except for paragraph 11 of Schedule 8 and those provisions that are already in force. Part 1 of the Act abolishes the Serious Organised Crime Agency and the National Policing Improvement Agency and establishes the National Crime Agency. Article 4 of this Order makes saving provision in relation to extradition proceedings in Scotland.

**SI 2013/1725 The Crime and Courts Act 2013  
(Commencement No. 3) Order 2013**

This Order is the third commencement order made under the Crime and Courts Act 2013. This Order commences a number of provisions of the Act on **15 July 2013**, and a smaller number on **1 October 2013**.

The provisions which are commenced on **15 July 2013** are:

- ◆ Section 20 (which provides for Schedule 13, concerning judicial appointments, to have effect), for the purpose of bringing Parts 2, 6 and 7 of Schedule 13 into force;
- ◆ Section 23, which makes provision about permission to appeal from the Upper Tribunal to the Court of Session;
- ◆ Section 25, in part. Section 25 amends Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to insert two new paragraphs (18A and 19A), to repeal provision which allows for regulations to prescribe circumstances where the use of force against the person may be authorised, and to make other minor and consequential amendments. Section 25(4) inserts new paragraph 19A, sub-paragraphs (2) and (4) of which require or enable various matters to be dealt with in regulations: it is commenced only to the extent that it provides for those matters to be in regulations, so that the regulations may be made in advance of the main provisions which they will support coming into force. Section 25(5) repeals provision in paragraphs 24(2)

and 31(5) of Schedule 12 to the 2007 Act which allow for regulations to prescribe circumstances in which the use of force against the person in the process of taking control of goods may be authorised. The effect is that it will not be permissible to use force against the person in that process in any circumstances. Section 25(8) makes amendments which are consequential on the repeals in section 25(5), removing references to the repealed provision;

- ◆ Section 29, which makes provision about the appointment and terms and conditions of the chief executive, officers and staff of the Supreme Court of the United Kingdom;
- ◆ Section 32, which makes provision for the Lord Chancellor (with the concurrence of the Lord Chief Justice) to be able by order to enable the making, and use, of films and other recordings of proceedings in courts in England and Wales; and
- ◆ Parts 2 (diversity), 6 (appointment of a judge to perform functions of a Head of Division in case of incapacity or a vacancy, etc.) and 7 (abolition of the office of Assistant Recorder) of Schedule 13.

The provisions which are commenced on **1 October** are:

- ◆ Section 17(5) (which provides for Schedule 9, concerning the establishment of a single county court, to have effect), to the extent necessary to bring paragraphs 21 (except for sub-paragraph (3)), 27 and 30 of Schedule 9 into force;
- ◆ Section 22, which makes provision about the transfer of immigration, asylum and nationality judicial review applications to the Upper Tribunal; and
- ◆ Paragraphs 21 (except for sub-paragraph (3)), 27 and 30 of Schedule 9 (which concern the abolition of patents county courts).

### **SI 2013/1746 The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2013**

In force **12 July 2013**. Part 2 of the Terrorism Act 2000 makes provision about proscribed organisations (including setting out offences in relation to such organisations in sections 11 to 13). An organisation is proscribed if it is listed in Schedule 2 to that Act or, in most cases, if it operates under the same name as an organisation so listed (section 3(1)). Article 2 of this Order adds "Jama'atu Ahli Sunna Lidda Awati Wal Jihad (Boko Haram)" and "Minbar Ansar Deen (Ansar Al Sharia UK)" to the list in that Schedule.



## SI 2013/1778 The Police (Complaints and Misconduct) (Old Cases) Regulations 2013

In force **9 August 2013**. These Regulations modify the application of Part 2 of the Police Reform Act 2002 and any provision made under it, by virtue of the power in section 28A(10) of that Act, to a matter in relation to which the Independent Police Complaints Commission has made a direction under section 28A(1) or (4) of the 2002 Act.

Regulation 3 makes provision to modify the application of the Police (Complaints and Misconduct) Regulations 2012 (SI 2012/1204) to a matter which is the subject of a direction.

Regulation 4 of the 2012 Regulations will apply so as to require the appropriate authority to refer a complaint to the Commission if that complaint is the subject of a direction.

Regulation 7 of the 2012 Regulations will apply so as to require the appropriate authority to refer a conduct matter to the Commission if that matter is the subject of a direction.

The 2012 Regulations will apply as if they contained a further provision (regulation 37), and in relation to a direction this modifies the application of Part 2 of the 2002 Act and any provision made under it in a number of respects.

First, it requires that a complaint, conduct matter or DSI matter is treated as, and recorded as, a new matter regardless of whether it had come to the attention of the appropriate authority before, on or after 22 November 2012. This ensures that the matter will be investigated in accordance with the legislative framework which applies on and after that date, and not in accordance with the procedures set out in the legislative framework which applies to the investigation of older matters.

Secondly, it provides that exceptions in the 2002 Act from the duty to notify or record a complaint do not apply to a complaint which is the subject of a direction. For example, the exception from the requirement to record a complaint for a repetitious complaint does not apply to a complaint which is the subject of such a direction.

Thirdly, it makes provision which modifies the 2002 Act to the effect that a person who has previously been the subject of a disciplinary procedure in relation to certain conduct may not, as a result of the Commission giving a direction, become subject to a further disciplinary procedure in relation to the same conduct. The earlier disciplinary procedure may relate to the person's conduct, or performance in respect of that conduct, and need not have been concluded.



## **SI 2013/1779 The Independent Police Complaints Commission (Forces Maintained Otherwise than by Local Policing Bodies) Order 2013**

In force **16 August 2013**. This Order is made under section 26 of the Police Reform Act 2002, which imposes a duty on the Secretary of State to secure the establishment and maintenance of procedures corresponding or similar to those made by or under Part 2 of that Act in relation to the Ministry of Defence Police and the British Transport Police Force.

This Order accordingly provides that procedures which are similar to Part 2, and to subordinate legislation made under Part 2, are to be established and maintained in relation to those two bodies of constables. This has the effect that the Ministry of Defence Police and the British Transport Police Force are required to establish and maintain procedures by each entering into an agreement with the Independent Police Complaints Commission. This also has the effect that officers, special constables and civilian employees of those two bodies will be subject to a similar framework in accordance with which the handling of complaints and other matters is overseen by the Commission as that which applies to the police.

## **SI 2013/1780 The Police (Promotion) (Amendment) Regulations 2013**

In force **19 August 2013**. These Regulations amend the Police (Promotion) Regulations 1996 to allow a police constable who is on temporary promotion to the rank of sergeant while undertaking a work-based assessment for substantive promotion to that rank, and who is taking part in the High Potential Development (HPD) Scheme, to undertake the initial written examination for promotion to the rank of inspector. At present, the Promotion Regulations prevent any police constable temporarily promoted to the rank of sergeant from taking the inspectors' written examination.

Regulation 6 of the Promotion Regulations makes provision for temporary promotion. Regulation 7 makes provision for the HPD Scheme. Paragraph 1 of Schedule 1 makes provision for the use of written examinations (referred to as Part I of the qualifying assessment) and a work-based assessment (referred to as Part IIB).

## **SI 2013/1795 The Proscribed Organisations (Name Changes) Order 2013**

In force **19 July 2013**. Part 2 of the Terrorism Act 2000 makes provision about proscribed organisations (including setting out offences in relation to such organisations in sections 11 to 13). An organisation is proscribed if it is listed in Schedule 2 to that Act or

operates under the same name as an organisation so listed (section 3(1)).

Section 3(6) of the Terrorism Act 2000 (as inserted by section 22(2) of the Terrorism Act 2006) enables the Secretary of State, by order, to provide that a name that is not specified in Schedule 2 to that Act is to be treated as another name for an organisation that is listed in that Schedule. Article 2(2) of this Order exercises this power to specify other names for the listed organisation referred to in article 2(1).

**SI 2013/1813 The Protection of Freedoms Act 2012  
(Destruction, Retention and Use of Biometric  
Data) (Transitional, Transitory and Saving  
Provisions) Order 2013**

This Order shall come into force on **31 October 2013** other than article 3 which shall come into force on **31 January 2014**. This Order makes transitional, transitory or saving provision in connection with the coming into force of Chapter 1 of Part 1 of the Protection of Freedoms Act 2012 (destruction, retention and use of biometric data).

Articles 2 to 5 provide for the destruction or retention of biometric material taken before those provisions came into force (legacy material). Subject to certain exceptions and transitional arrangements, legacy material is subject to the same regime for destruction, retention and use as material taken after Chapter 1 comes into force.

Article 4(a) has the effect that legacy material taken from people who have not been charged with an offence must be destroyed, and there is no process of applications to the Commissioner for the Retention and Use of Biometric Material for its retention.

Article 4(b) has the effect that applications to court to extend from 3 years to 5 years the retention period for fingerprints and DNA profiles will be available in relation to legacy material only where the retention period ends at least three months after the commencement date.

Article 5(a) has the effect that legacy samples need not be destroyed if they are, or may become, disclosable under the Criminal Procedure and Investigations Act 1996 or its attendant Code of Practice.

Article 5(b) has the effect that legacy samples need not be destroyed if they were taken consensually and are required for purposes related to the identification of a missing person.

Article 6 provides that material taken before the coming into force of Chapter 1 which has been identified as requiring consideration of whether it should be retained by virtue of a national security

determination is not subject to destruction for a period of two years.

Articles 7 and 8 provide for the destruction or retention of material taken under regimes other than PACE before the coming into force of Chapter 1.

Article 9 makes transitory and saving provision which for a limited period has the effect that fingerprints and DNA profiles may be loaded onto their respective databases for 63 days, allowing for searches against those databases, before they are destroyed.

### **SI 2013/1814 The Protection of Freedoms Act 2012 (Commencement No. 7) Order 2013**

This Order commences provisions in the Protection of Freedoms Act 2012 which relate to the destruction, retention and use of material including fingerprints, DNA samples and DNA profiles.

Article 2 provides for the commencement of most provisions of Chapter 1 of Part 1 of the Act on **31 October 2013**.

Article 2(c) has the effect that section 14 of the Act, which inserts section 63R into the Police and Criminal Evidence Act 1984, is commenced except for the purpose of samples which are, or may become, disclosable under the Criminal Procedure and Investigations Act 1996 or its attendant Code of Practice. Legislation is currently before Parliament which, if enacted, will exclude such samples from the ambit of section 63R.

Article 2(i) has equivalent effect to article 2(c) in respect of samples taken under the Terrorism Act 2000.

Article 3(a) provides for the commencement of section 13 of the Act (insofar as it provides for the destruction of copies of fingerprints) on **31 January 2014**. Article 3(b) has equivalent effect in relation to material taken under the Terrorism Act 2000.

---

## Home Office Releases Statistics Relating to Police Use of Firearms for 2011-2012

---

The Home Office has released statistics for 2011-2012 relating to the use of firearms within the police throughout England and Wales. The statistics show how many police operations took place where firearms were authorised, the number of authorised firearms officers there are for each police force and the number of operations that took place involving armed response vehicles. The statistics also show the number of incidents in 2011/2012 where conventional firearms were discharged. Some of these key statistics are outlined below:

- ◆ In 2011/2012 there were 12,550 operations that took place in which firearms were authorised, in comparison to 13,496 from the previous year;
- ◆ In 2011/2012 there were 6,756 authorised firearms officers in comparison to 6,653 in the previous year;
- ◆ The Metropolitan Police Service had the highest number of authorised firearms officers, namely 2,731 followed by Greater Manchester Police who had 236 authorised firearms officers;
- ◆ In 2011/2012 14,261 operations took place that involved armed response vehicles;
- ◆ In 2011/2012 5 incidents took place where conventional firearms were discharged in comparison to 2010/2011 where 4 incidents took place.

Further information can be found at  
<https://www.gov.uk/government/publications/statistics-on-police-use-of-firearms-in-england-and-wales-2011-2012>

---

## HMIC Release Joint Review Examining the Extent to Which Police Custody is Used as a Place of Safety Under Section 136 of the Mental Health Act 1983

---

Her Majesty's Inspectorate of Constabulary, Her Majesty's Inspectorate of Prisons, the Care Quality Commission and the Healthcare Inspectorate Wales have published a joint review into the use of police custody as a place of safety under section 136 of the Mental Health Act 1983.

The review states that police officers, in the course of their work, deal with people who have mental health issues and if a police officer believes that someone has a mental disorder in a public place, and that person is in immediate need of care or control, section 136 of the Mental Health Act 1983 provides the authority to take the person to a "place of safety" so they can be assessed. The

Code of Practice for England and the Code of Practice for Wales state that a police cell should be used as a “place of safety” on an exceptional basis.

The review has found that in some areas, police custody is being used regularly as a place of safety and in 2011-2012 over 9,000 people were detained in police custody under section 136 of the Mental Health Act 1983 in comparison to 16,035 people who were taken to a hospital. The review reiterates that those detained under section 136 have not committed any crime but rather are suspected of having a mental disorder. Currently the legislation allows for them to be detained up to 72 hours without any requirement for review within this period.

The review examines the extent to which police custody is used as a place of safety under section 136 and identifies the factors which either enable or inhibit the acceptance of those detained under section 136 into a preferred place of safety, such as a hospital or other medical facility. It focused on the following areas:

- ◆ Police use of Section 136;
- ◆ Strategic oversight and direction among partner agencies;
- ◆ Multi-agency working;
- ◆ Recording and monitoring the use of section 136;
- ◆ Training;
- ◆ The perspectives of those detained under section 136.

Key findings from the review included the fact that the reason why police custody had been used as a place of safety was not documented in many cases and those detained under section 136 who were taken to a police station were generally treated like any other person in respect of the booking in procedure. The average time that each person was detained in police custody was 10 hours 32 minutes. All of the places that had been visited as part of the review had strategic partnerships in place and it was clear that where local champions were driving the agenda, significant improvements had been made. The review states that better use should be made of police IT and intelligence systems in the recording of information about those detained under section 136.

The review makes recommendations in order to improve the use of section 136 including:

- ◆ The Codes of Practice should be amended to bring detention times for those detained in police custody under section 136 in line with those in the Police and Criminal Evidence Act 1984 which allows up to 24 hours in police custody out of the maximum of 72 hours for which they can be detained overall.

Any assessments which are needed once the 24 hour period in police custody has elapsed, should be undertaken in a hospital;

- ◆ The College of Policing, the Royal College of Psychiatrists, the College of Social Work, police forces and mental health service providers should work together to develop and deliver joint training to staff;
- ◆ The Office for Standards in Education, Children's Services and Skills (Ofsted), HMIC, CQC, HIW, HMI Probation, HMIP and Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) should examine and highlight, as part of their multi-agency inspections of child protection arrangements, the inappropriate use of police custody as a place of safety for children under 18 years who are detained under section 136;
- ◆ Police custody officers should ensure that a full explanation is recorded in the custody record as to why a person detained under section 136 has not been accepted into a health-based place of safety.

The full review can be found at  
<http://www.hmic.gov.uk/media/a-criminal-use-of-police-cells-20130620.pdf>

---

## Home Office Launches Consultation on Stop and Search

---

The Home Office has launched a consultation in relation to Stop and Search, specifically in relation to section 1 of the Police and Criminal Evidence Act 1984 (PACE), section 23 of the Misuse of Drugs Act 1971 and section 60 of the Criminal Justice and Public Order Act 1994.

The consultation focuses on effectiveness, fairness, balancing public protection with the preservation of individual freedoms and bureaucracy in policing.

The consultation is comprised of 16 questions which can be found at  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/210248/Stop\\_and\\_Search\\_consultation\\_WEB.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210248/Stop_and_Search_consultation_WEB.pdf)

The consultation closes on **13 August 2013** and is open to the public. Responses can be submitted online at [www.gov.uk](http://www.gov.uk) or sent to:

Stop and Search Consultation  
Home Office  
Police Transparency Unit  
6<sup>th</sup> Floor Fry Building  
2 Marsham Street

London  
SW1P 4DF  
stopandsearch@homeoffice.gsi.gov.uk

---

## Home Office Launches Consultation on Updating Special Constable Expenses and Allowance Rates and Criteria

---

The Home Office has launched a consultation in relation to special constable expenses and allowances rates and criteria. The consultation contains proposals to update these, in addition to removing the requirement for the Secretary of State to approve local allowance schemes under the Special Constable Regulations 1965.

The consultation is seeking views on whether the proposals are clear, fair and reasonable and aims to understand the potential impact of the proposals on all affected parties. The Consultation closes on **5 September 2013**.

The consultation document can be found at  
<https://www.gov.uk/government/consultations/special-constables-revised-expense-and-allowance-rates>

Responses can be received by way of an online form which can be found at  
<http://www.homeofficesurveys.homeoffice.gov.uk/s/specials>

Or sent to:

Special Constabulary expenses and allowances consultation  
Home Office  
Police Transparency Unit  
6<sup>th</sup> Floor Fry  
2 Marsham Street  
London  
SW1P 4DF  
[SpecialConstabularyEnquiries@homeoffice.gsi.gov.uk](mailto:SpecialConstabularyEnquiries@homeoffice.gsi.gov.uk)

---

## Home Office Launches Consultation on the Scheduling of Tramadol and a review of exemptions for Temazepam Prescriptions Under the Misuse of Drugs Regulations 2001

---

The Home Office has launched a consultation seeking views on the Advisory Council on the Misuse of Drugs' recommendation to place Tramadol in Schedule 3 to the Misuse of Drugs Regulations 2001 (as amended) following control under the Misuse of Drugs Act 1971 as a Class C drug, more specifically on the prescribing and safe custody requirements applicable to Schedule 3 drugs. Tramadol is currently a prescription only medicine.

The consultation is also seeking views on the continued application of current exemptions for prescriptions for the Schedule 3 drug temazepam.

The consultation is aimed at the general public, and especially health and social care professionals. Responses to the consultation should be received by **11 October 2013**.

The consultation document provides the background of Tramadol and Tamazepam and sets out the proposals which can be selected and key questions that can be answered by those that choose to respond to the consultation.

The consultation document states that implementation of the proposed changes will take place in 2014 subject to any comments received in response to this document, views of Ministers and the timescale for the parliamentary process.

The consultation document can be found at <https://www.gov.uk/government/consultations/scheduling-of-tramadol-and-exemptions-for-temazepam-prescriptions>

Responses to the consultation can be sent to:

MDR Consultation  
Drug Legislation Team  
Drugs and Alcohol Unit  
4<sup>th</sup> Floor, Fry  
Home Office  
Marsham Street  
London  
SW1P 4DF  
[Drugconsultations@homeoffice.gsi.gov.uk](mailto:Drugconsultations@homeoffice.gsi.gov.uk)



---

## Sentencing Council Launches Public Consultation on the Sentencing of Fraud, Bribery and Money Laundering Offences

---

The Sentencing Council has launched a public consultation on the sentencing of fraud, bribery and money laundering offences, and seeking views specifically relating to:

- ◆ The principal factors that make any of the offences included within the draft guideline more or less serious;
- ◆ The additional factors that should influence the sentence;
- ◆ The approach taken to structuring the draft guidelines;
- ◆ The sentences that should be passed for fraud, bribery and money laundering offences for both individuals and corporations; and
- ◆ Anything else that should be considered.

The Consultation document states that it does not concern the legislation that relates to these offences, but is only consulting on the sentencing.

The consultation is open to all members of the public, including members of the judiciary, legal practitioners and individuals that work in or have an interest in criminal justice.

The consultation closes on **4 October 2013** and information relating to the consultation can be found at [https://consult.justice.gov.uk/sentencing-council/fraud-bribery-money-laundering-offences-guideline/consult\\_view](https://consult.justice.gov.uk/sentencing-council/fraud-bribery-money-laundering-offences-guideline/consult_view)

Responses can be submitted online at <https://consult.justice.gov.uk/sentencing-council/fraud-bribery-money-laundering-offences-guideline>

Responses can be sent to:

Lissa Matthews  
Office of the Sentencing Council  
Room EB20  
Royal Courts of Justice  
Strand  
London  
WC2A 2LL

---

## Home Office Releases Statistical Bulletin of Crime Figures for 2012/2013

---

The Home Office has released crime figures for the financial year 2012/2013 in a statistical bulletin.

The bulletin discusses the number of detections and divides those further into categories such as method and offence group.

In summary the statistics showed that:

- ◆ There were 3,502,320 offences (excluding fraud) recorded by the police in 2012/2013;
- ◆ There were 1,012,151 offences detected in 2012/2013;
- ◆ Of those crimes detected, 94% were sanction detections and 6% were non-sanction detections;
- ◆ The overall detection rate was 28.9% in 2012/2013 which was an increase 0.3% from the previous year;
- ◆ There was a wide variation in overall detection rates for different types of crime, with the highest detection rate of 94% for drugs offences and the lowest rate of 16% for offences of criminal damage and arson;
- ◆ Detection rates showed little change for many offences between 2012/2013 and the previous year;
- ◆ The offence group with the largest increase in detection rate was drugs offences and the offence group with the largest decrease in detection rates was public order offences.

The full statistical bulletin can be found at <https://www.gov.uk/government/publications/crimes-detected-in-england-and-wales-2012-to-2013>

---

## Home Office Publishes Report on Drug Use in England and Wales

---

The Home Office has published a report on the misuse of drugs in 2012/2013. It examines the extent and trends in illicit drug use among a nationally representative sample of 16-59 year old residents in England and Wales, and is based on results obtained from the 2012/2013 Crime Survey for England and Wales. In relation to trends in illicit drug use the report outlined the following key facts:

- ◆ Around 1 in 12 adults had taken an illicit drug in the last year, which equates to around 2.7 million people;

- ◆ 2.6% of adults aged 16-59 had taken a Class A drug in the last year which was the equivalent to 850,000 people;
- ◆ Cannabis was the most commonly used drug, with 6.4% of adults aged 16-59 using it last year;
- ◆ 1.9% of adults aged 16-59 used cocaine and 1.3% of adults used ecstasy last year;
- ◆ The proportion of adults aged 16-24 taking any drug in the last year was 16.3%, which was a decrease from 19.3% in 2011/2012.

The report details specific trends in relation to the use of individual drugs. In relation to the use of cannabis, the report states that the proportion of adults that have used it in the last year is the lowest it has been since measurement began in 1996. Powder cocaine is the next most commonly used drug, and usage remained at a similar level to the previous year. The report stated that the use of cocaine is up from 1996, however is lower than the peak usage in 2008/2009 when 3% of adults had used it.

The report outlines other drugs which were statistically significant when considering usage by young adults aged 16 to 24 in 2012/2013 in comparison to 2011/2012:

- ◆ The use of mephedrone decreased from 3.3% to 1.6% in 2012/2013;
- ◆ The use of Ketamine decreased from 1.8% to 0.8% in 2012/2013;
- ◆ The use of magic mushrooms decreased from 1.2% to 0.6% in 2012/2013;
- ◆ The use of methadone decreased from 0.4% to 0.0% in 2012/2013.

The report states that questions relating to Nitrous Oxide and Salvia, two emerging legal highs, had been added to the Crime Survey and the following statistics had been generated:

- ◆ 2.0% of adults aged 16-59 had taken nitrous oxide in the last year;
- ◆ 0.3% of adults aged 16-59 had taken Salvia last year;
- ◆ 6.1% of young adults aged 16-24 had taken nitrous oxide in the last year;
- ◆ 1.1% of young adults aged 16-24 had taken Salvia in the last year.

The report also provides statistics on frequent drug use, accessibility of drugs and attitudes towards the acceptability and safety of drug-taking.

The report confirmed that 8 in 10 respondents to the Crime Survey considered taking cannabis was 'very' or 'a bit' unsafe. The vast majority of respondents thought that it was 'a bit' or 'very' unsafe to take heroin, cocaine or ecstasy.

The full report can be found at  
<https://www.gov.uk/government/publications/drug-misuse-findings-from-the-2012-to-2013-csew>

---

## Home Office Publishes Consultation on Changes to Codes of Practice Issued Under the Proceeds of Crime Act 2002

---

The Home Office has launched a consultation relating to the Codes of Practice issued under the Proceeds of Crime Act 2002. Changes to the codes of practice have been proposed to reflect recent developments in legislation such as the Policing and Crime Act 2009, the Coroners and Justice Act 2009, UK Borders Act 2007 and the Crime and Courts Act 2013. The proposed new codes of practice are closely parallel to the existing version and therefore the Home Office states that familiarisation with the new code in the financial investigation community would not be an onerous exercise.

The training will be part of existing investigators' Continuous Professional Development (CPD) and it is envisaged that officers will familiarise themselves with the new codes, undertake practical exercises and training is expected to be no more than half a day. For new financial investigators the new codes of practice will be covered in pre-course study and a pre-course online exam. This will be followed by a practical based case study in the classroom. Once the Parliamentary and consultation process has concluded the new code will be available on the Financial Investigation Support System (FISS).

The consultation seeks comments and representations on the guidance provided in the four codes of practice, which are issued to provide guidance to investigators on the use of investigation and supporting powers in the Proceeds of Crime Act 2002 (as amended).

The consultation document can be found at <https://www.gov.uk/government/consultations/codes-of-practice-issued-under-the-proceeds-of-crime-act-2002>

Comments can be submitted by using an online form which can be found at <http://www.homeofficesurveys.homeoffice.gov.uk/s/84960EDAMJ>

Alternatively responses can be sent to [POCACOPconsultation@homeoffice.gsi.gov.uk](mailto:POCACOPconsultation@homeoffice.gsi.gov.uk) or

POCA Codes of Practice  
Cyber and Financial Crime Unit  
Home Office  
5<sup>th</sup> Floor Fry Building  
2 Marsham Street  
London  
SW1P 4DF

The consultation closes on **30 August 2013**.

---

## Serious Fraud Office and DPP Launch Consultation on Deferred Prosecution Agreements Draft Code of Practice

---

The Director of the Serious Fraud Office and the Director of Public Prosecutions have published a draft code of practice on Deferred Prosecution Agreements (DPAs) for consultation.

DPAs have been introduced in the Crime and Courts Act 2013, although they are not yet in force. DPAs can be used by prosecutors when a company is charged with a criminal offence. If the company agrees to a number of conditions, such as paying a financial penalty, paying compensation and co-operating with future prosecutions of individuals, the proceedings will be suspended. If these conditions are not complied with by the company, the prosecution against the company may resume. DPAs are only applicable to organisations and can be used for fraud, bribery and other economic crime.

The consultation relates to the draft code of practice which has been produced to explain how the Serious Fraud Office and the Director of Public Prosecutions intends to use DPAs.

Views are sought in relation to eight points which are discussed within the draft code, which include the circumstances when a prosecutor should consider a DPA and the criteria that should apply when making this decision.

The consultation is open to interested individuals and organisations and closes on **20 September 2013**. Further information can be found at

<http://www.sfo.gov.uk/about-us/our-policies-and-publications/deferred-prosecution-agreements--consultation-on-draft-code-of-practice.aspx>

Responses can be sent to:

DPA Team  
Serious Fraud Office  
2-4 Cockspur Street  
London  
SW1Y 5BS

Or emailed to:  
[dpateam@sfo.gsi.gov.uk](mailto:dpateam@sfo.gsi.gov.uk)

---

## Notes

---



**College of  
Policing**

**Legal Services**  
[www.college.police.uk](http://www.college.police.uk)