

## **1. Police (Amendment) Bill 2015 – Third Reading approved**

Mr Coleman to move:

*That the Police (Amendment) Bill 2015 be now read a third time.*

**The President:** We come now to the Police (Amendment) Bill for the Third Reading stage.

I call on the Hon. Member, Mr Coleman, to take the Third Reading of the Police (Amendment) Bill.

**Mr Coleman:** Thank you, Madam President.

In moving the Third Reading of this Bill it is my pleasure to summarise the main objectives behind the Bill as follows: firstly, to clarify the law relating to the re-appointment of an incumbent Chief Constable; secondly, to enable the Department to contract out functions of the Constabulary currently performed by police officers; and thirdly, in respect of police complaints, to meet international and human rights requirements that incidents involving death or serious injury following contact with the Police should be investigated.

The changes will also enable the Chief Constable to refer other serious or important concerns for investigation, even though they may not have been the subject of a complaint by a member of the public.

Members were informed in the clauses stage last week of how the Bill had been further amended in the House of Keys, in respect of clause 4 and schedule 1, to ensure that the function of executing a search warrant on entry to premises cannot be contracted out, and to correct some proofing errors.

Clause 5 was wholly substituted for technical drafting reasons.

Schedule 2 was wholly substituted by the Keys in order to take account of further human rights issues raised by Chambers. The substitution included amendments to the appointment, terms of office, retirement from office and eligibility of the Police Complaints Commissioner.

In this Council a new clause 5A was inserted by Mr Crookall in order to include special constables in section 12 of the Police Act 1993 as members of the Police Force so they can become members of the Isle of Man Police Federation. The effect will be to give special constables proper recognition for the role they perform, and representation in terms of Constabulary structures and relationships between the command team, the Federation and the Department.

During the clauses last week, Mr Turner enquired, in relation to the referral of complaints to a police force or body outside the Island, as to why the issue of complaints was not simply handed over to the UK Independent Police Complaints Commission (IPCC). What we have done through schedule 2 in the green Bill and then further enhanced through the substituted schedule 2 is to enable those cases involving death or serious injury or other serious matters to be referred to any relevant person, meaning we could refer the matter to the IPCC, any body of a similar nature in the UK or the Republic of Ireland, or any police force within the British Islands other than the Isle of Man Constabulary. This actually gives the Island far more options to have matters investigated independently from the Constabulary, and to do so in the most efficient and cost-effective manner.

The Department considers the proposals within the schedule reflect not only the Island's position as a self-governing territory but one that may call on the assistance and resources of any number of its neighbouring jurisdictions.

Mr Turner also mentioned electing police and crime commissioners. The office was established to replace police authorities, which in the UK were constituted in various ways. In the Island we have a single Constabulary directly under the oversight of the Minister, who is elected by his constituents and is accountable to them and to the electorate as a whole through the Council of Ministers, Keys and Tynwald, and in this Chamber through myself as Member of the Department. In addition, the Department is responsible for the Annual Policing Plan. It is considered the arrangements in the

Island ensure appropriate accountability with minimal bureaucracy and are effective whilst securing the operational independence of the Constabulary under the command of the Chief Constable.

Subject to reference back to the Keys in respect of the Council amendment, the Bill has completed its legislative passage through the Branches and it only remains for me to thank Mr Crookall, Mr Henderson and Mr Anderson for seconding the various elements of the Bill – Mr Crookall in particular for moving the new clause and the amendment contained therein – and to thank the Acting Attorney General for the assistance he is about to give (*Laughter*) with regard to the provisions of human rights law that were addressed by the Bill.

Madam President, I beg to move that the Police (Amendment) Bill be read for the Third time and be returned to the House of Keys to consider the amendment made by Council in respect of special constables.

**The President:** Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** Did you wish to speak, sir?

**The Acting Attorney General:** Yes. Thank you, Madam President.

If I could start by thanking the Lord Bishop for this opportunity to explain briefly the nature of the provisions of the European Convention on Human Rights, which have had to be addressed in relation to this Police (Amendment) Bill 2015.

A number of amendments made by the House of Keys to the Bill have been advised upon by law officers in my Chambers as there were concerns that the Bill as originally drafted may not have adequately dealt with provisions of the European Convention on Human Rights.

The drafting of the Bill was outsourced by the Department and, before its introduction, my Chambers identified the areas which needed to be addressed, and rather than delay introduction of the Bill, the Department decided to progress the Bill and during its passage to deal with the amendments required by Chambers to address the possible human rights issues.

As requested by the Lord Bishop, I turn to mention and identify the particular human rights issues.

Parts of the substance of the Bill, the amendments to schedule 1 of the Police Act 1993 which are made by schedule 2 of the Bill, engage the subject matter of articles 2 and 6 of the Convention. Article 2 is the right to life and this is engaged in schedule 1 of the 1993 Act. It has been amended to make specific changes in relation to the investigation of deaths occurring in custody. Article 6 is the right to a fair trial, which may also be engaged in that the investigation of the circumstances of a death in custody is presided over by a commissioner, who has to make decisions which may potentially alter the livelihood of police officers and may also result in decisions of great significance for the families of deceased persons. The changes which Chambers advise upon and which form the basis of the amendments are intended to help ensure that the commissioner is seen to be independent and impartial, and so the amendments address provisions as to the appointment and removal of the commissioner and to therefore help ensure an independent and effective investigation to ensure not only a hierarchical or institutional independence, but more importantly a practical independence.

I hope, Madam President and hon. colleagues, that this brief explanation of provisions of the European Convention on Human Rights which raised concerns necessitating amendments introduced into this Bill is helpful to you.

**The President:** Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

I would like to thank the mover for explaining some of the queries I had at the previous stages of this Bill.

I am still a little bit concerned about the process he mentioned. Whilst I understand where the Department may be coming from, saying that this gives them the ability to choose where to refer complaints to, I feel that that is not exactly the most robust way of doing things. In the UK, such as deaths due to police operations would go to an independent police commissioner, and yet I cannot see them referring those complaints to other police forces, which this Bill gives the Isle of Man Police Force the ability to do, but would appear to give the Department the ability to do.

The mover also mentioned that we could refer it to somebody from Ireland, for example. I would have thought as a British Crown Dependency we would have had it so that we would refer it to the UK's independent body, which is already constituted, already established and has clear processes in place. I feel that what this really says is that we can pick and choose to suit our own circumstances, which I do not think is entirely transparent. I would like to have seen that more definite that it would go to the appropriate body.

Those are the comments I have, Madam President, but I do thank the Member and hope that in the rare circumstances, hopefully, when we would need to use these particular provisions – one would certainly hope – the Department will think very carefully before appointing. I certainly would not like to see other police forces appointed, because I think that really goes against the grain of what you are trying to do, of getting it outside the police system where there can be no doubt that it is fully independent. Those are the comments I have and I do thank the mover for his answers.

**The President:** Hon. Member, Mr Anderson.

**Mr Anderson:** Thank you, Madam President.

Just confirmation at the Third Reading: could the mover just confirm that there will be no expected revenue, extra expense, as he has given this indication earlier in parts of the Bill? Just to confirm.

**The President:** The mover to reply.

**Mr Coleman:** Thank you, Madam President.

With reference to Mr Turner's comments, I think that one of the options which is available to us is to use an IPCC in the UK, as I said in my previous statements. I think what we have done here is ... I think we have the options. By giving us options we can look at the specific nature of the complaint. It may well be that if we ask an IPCC somewhere they may be too busy and say, 'No, we cannot do it,' and so we may well have to shop around to be able to get a complaint looked at. My own feeling is that when we have options it is not necessarily a bad thing. It is a good thing; it gives us a lot of flexibility – and not in a nefarious way, which I think was implied, but in a very positive way.

With reference to Mr Anderson, I can confirm that we do not expect this to have any effect on expenses within the Department, in that we are paying for most of this stuff already anyway, so we do not expect any increase in costs to the Department.

Madam President, I beg to move that the Police (Amendment) Bill be read and returned to the House of Keys for the amendment to be considered.

**The President:** The motion before the Council is that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.