

National Assembly for Wales

The Police Reform and Social Responsibility Bill

January 2011

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Neither policing nor licensing, the main policy areas covered by the Bill, are devolved in Wales. However, some clauses provide for distinct arrangements for Wales, notably there is a provision for **Assembly Members to be appointed by Welsh Ministers to each Police and Crime Panel**. These are the focus of this paper. The House of Commons Library has produced a comprehensive Research Paper on all aspects of the Bill.

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National Assembly for Wales

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Responsibility Bill
January 2011

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The Police Reform and Social Responsibility Bill

1. Introduction

The *Police Reform and Social Responsibility Bill* received its First Reading in the House of Commons on 30 November 2010.

Key provisions in the Bill include:

- replacing police authorities with directly elected police and crime commissioners to be introduced from May 2012;
- making changes to the *Licensing Act 1993* to give more powers to local authorities and police to deal with any premises that are causing problems;
- introducing a system of temporary bans for new psychoactive substances - so-called 'legal highs' such as GBL and BZP - whilst the health issues are considered by independent experts;
- restoring the right to non-violent protest around Parliament whilst ensuring that Parliament Square remains accessible to all by repealing sections 132-138 of the *Serious Organised Crime and Police Act (SOCPA) 2005* and prohibiting encampments and other disruptive activity on Parliament Square;
- amending the process for issuing private arrest warrants for universal jurisdiction offences.¹

The Bill mainly extends to England and Wales although some provisions extend to Scotland and Northern Ireland (in respect of misuse of drugs). Neither policing nor licensing, the main policy areas covered by the Bill, are devolved in Wales. However, some clauses in the Bill provide for distinct arrangements for Wales, notably for **Assembly Members to be appointed by Welsh Ministers to each Police and Crime Panel**. Explanatory Notes suggest that these appointments would be **subject to approval by the National Assembly for Wales** but there would **appear to be no provision for this on the face of the Bill**.

This paper focuses on clauses in the Bill specifically relating to Wales and responses from mainly Welsh stakeholders. The House of Commons Library has produced a comprehensive [Research Paper](#) on the Bill.²

2. The Consultation Paper

Following the 2010 General Election the UK Government made the following commitment as part of its Coalition Agreement:

¹ Home Office, [Police Reform and Social Responsibility Bill webpage](#) [accessed 6 December 2010]

² HC Library, [Police Reform and Responsibility Bill, Bill 116 of 2010-2011, Research Paper 10/81, 9 December 2010](#).

We will introduce measures to make the police more accountable through oversight by a directly elected individual, who will be subject to strict checks and balances by locally elected representatives.³

On 26 July 2010, the Home Secretary, the Rt Hon Theresa May MP, introduced a consultation paper, [*Policing in the 21st Century: Reconnecting police and the people*](#)⁴. She stated that police reform was a priority because "for too long, people have been faced with crime levels that are too high and a police service that has been too focused on Whitehall targets to really get to grips with what matters locally."⁵

Currently, responsibility for policing is shared between the Home Secretary, Chief Constables, and Police Authorities, under the tripartite structure established by the *Police Act 1964*. The idea behind this structure is that the Home Secretary is responsible to Parliament for the overall efficiency and effectiveness of the police in England and Wales and the maintenance of minimum standards of service; Chief Constables are responsible for the operational effectiveness of their forces; and Police Authorities set the strategic direction of the force and hold Chief Constables to account. Under the Government's proposals, directly elected Police and Crime Commissioners would replace Police Authorities, which would be abolished. The UK Government also proposes to introduce new bodies—to be known as Police and Crime Panels—in each force area to scrutinise Police and Crime Commissioners.

In respect of Wales the Consultation Paper stated:

The Government will work closely with the Welsh Assembly Government to ensure that the framework within which the directly elected Commissioners for the four forces in Wales operate reflects and respects devolved responsibilities.⁶

3. The Bill

The *Police Reform and Social Responsibility Bill* comprises five Parts and sixteen Schedules.⁷

Part 1: Police Reform contains provisions to **abolish police authorities** (excluding the City of London) and **replace them with directly elected Police and**

³ HM Government, *The Coalition: our programme for Government*, 2010.

⁴ Home Office, [*Policing in the 21st Century: Reconnecting police and the people*](#), Cm 7925, July 2010.

⁵ Home Office, [*Radical Reforms for Police Announced*](#), Press Release, 26 July 2010

⁶ Op.cit., *Policing in the 21st Century*, para. 2.11

⁷ [*Police Reform and Social Responsibility Bill 2010-2011*](#)

Crime Commissioners for each police force outside London, and the Mayor's Office for Policing and Crime for the Metropolitan Police.⁸

Part 1 of the Bill will create **elected Police and Crime Commissioners** who will be **responsible for holding the chief constable of their police force to account** for the full range of their responsibilities. The chief constable will retain responsibility for the direction and control of the police force. Part 1 also contains provisions for **establishing Police and Crime Panels** for each police area. The role of the Police and Crime Panel will be to advise and scrutinise the work of the Police and Crime Commissioner.

Part 1 states the basic **duties of a Police and Crime Commissioner**. These include publishing a **police and crime plan**, setting the local police and crime **objectives**, and **setting the local precept and annual force budget** (including contingency reserves) in discussion with the chief constable. Provisions are also included in Part 1 for Police and Crime Commissioners to appoint, suspend and dismiss the chief constable of their police force. The appointment of all other officers will remain a matter for the chief constable.

The Police and Crime Panels will be able to **veto a Commissioner's proposed budget by a three quarters majority vote**. They will also be able to **veto any candidate recommended by the Commissioner for Chief Constable**.

Part 1 makes provisions for replacing the Metropolitan Police Authority with the Mayor's Office for Policing and Crime, to be run by the Mayor of London

Part 1 also contains **provisions for the first and subsequent elections of Police and Crime Commissioners**. Police and Crime Commissioners will hold office for four years and can only hold office for a maximum of two terms. The two terms need not be consecutive.

Part 2 : Licensing contains provisions to amend the *Licensing Act 2003* to give licensing authorities, the police, local authorities with responsibility for controlling noise nuisance, and communities **a greater say in licensing decisions**. Provisions also enable Primary Care Trusts in England and **Local Health Boards in Wales**, to have a say, for the first time, in licensing processes.

Part 2 gives greater powers to licensing authorities to remove or refuse licences by enabling them to fulfil the same functions as existing responsible authorities, and to communities to make representations in relation to licensing decisions or call for a review of licensed premises. **There is provision for doubling the**

⁸ [Police Reform and Social Responsibility Bill 2010-2011, Explanatory Notes](#)

maximum fine for premises which persistently sell alcohol to those under 18, and increasing the period of suspensions which can be imposed on such premises. Provisions reduce the evidential burden on licensing authorities and the police when making decisions under the *Licensing Act 2003*. **Provisions also give licensing authorities greater flexibility in making early morning restriction orders**; they will be able to make such orders for the whole, or part, of their areas for a period of any duration between midnight and 6am, and will be able to impose different restrictions on different days.

Part 2 introduces **greater flexibility in relation to the scrutiny and utility of temporary event notices**. The police and local authorities exercising environmental health functions will be able to object to a temporary event notice on the basis of all the licensing objectives in the *Licensing Act 2003*, and licensing authorities will be able to impose conditions on a temporary event notice in limited circumstances. Provisions will also enable premises users, in any calendar year, to hold a single event under a temporary event notice for up to seven days, use a single premises for up to 21 days and to give a limited number of temporary event notices later than the existing process permits.

Part 2 will **bolster the ability of licensing authorities to enforce payment of unpaid fees** by enabling them to suspend a premises licence or club premises certificate for non-payment of an annual fee. Provisions also impose a requirement on the Secretary of State to review the impact of all the amendments introduced by Part 2 into the regulatory regime under the *Licensing Act 2003* after a period of five years following their coming into force.

Part 2 makes provision to enable licensing authorities **to introduce a levy** in their areas which will be **payable by premises which supply alcohol as a part of the late night economy**. Licensing authorities will be able to impose the levy on such premises for a period of any duration between midnight and 6am, although some premises may benefit from an exemption or discount. At least 70 per cent of the funds generated by the levy will be paid to the police and crime commissioner and it is intended to also pay such funds to bodies which operate measures to address the effect of alcohol related crime and disorder.

Part 3: Parliament Square Garden and surrounding area contains a new legal framework for Parliament Square which aims to prevent encampments and other disruptive activity. The provisions confer power on constables and authorised officers to prohibit persons from engaging in certain activities in a specified area of Parliament Square (being the central garden area and adjoining pavements), including the unauthorised operation of any amplified noise equipment; the erection and keeping of tents or other structures designed to

facilitate sleeping or staying in a place for any period; the using of any tent or structure to sleep or stay in the area, and the placing or using of any sleeping equipment for the purpose of sleeping overnight in the area.

Part 3 also **repeals existing provisions governing protests in the vicinity of Parliament set out in sections 132-138 of the *Serious Organised Crime and Police Act 2005***. The 2005 Act made it an offence to organise or take part in a demonstration in the designated area around Parliament without the authorisation of the Metropolitan Police or use a loudspeaker in the designated area. These were introduced in response to the permanent peace camp of Brian Haw and the Countryside Alliance march on Parliament in 2002. These provisions have been controversial. Free speech activists were prosecuted for staging picnics in Parliament Square in an attempt to exploit the ambiguity surrounding what the police could regard as a “demonstration” under the Act. Brian Haw’s demonstration continued despite the legislation and other protestors took up residence in Parliament Square, most recently as part of a “Democracy Village” that appeared during May 2010. A police raid on the day of the Queen’s Speech on 26 May 2010 saw Mr Haw arrested, reportedly on charges of obstructing the police.

The effect of the Bill means that people wishing to stage a static demonstration in Parliament Square will no longer need advance police authorisation but officers will still be able to impose conditions on these protests where necessary. However, “peace camps” would not be permitted.

Part 4: Miscellaneous amends the *Greater London Authority Act 1999* and the *Local Government Act 1972* to enable local authorities to attach powers of seizure and retention of any property in connection with any breach of a byelaw made under section 385 of the *Greater London Authority Act* and section 235 of the *Local Government Act*.

Part 4: Misuse of drugs amends the *Misuse of Drugs Act 1971* by introducing a **new power for the Secretary of State to temporarily control a substance for up to one year by statutory instrument**. These are so called “legal highs” such as BZP and GBL. A toxicologist summed up the problem this provision is trying to address:

as toxicologist Dr John Ramsey explains, the authorities are locked in a cat-and-mouse game with dealers of these substances. The problem, says Dr Ramsey, who analyses drug “amnesty bins”, “is it takes a long while to control each of these compounds and as soon as you control one, another set appears”.

“The government is always playing catch-up, there's a lot of money to be made.”⁹

⁹ [BBC Magazine Online, *High, Above the Law*, 24 June 2008](#)

There are also provisions in Part 4 to **amend the constitution of the Advisory Council on the Misuse of Drugs (ACMD)** by removing the statutory requirement on the Secretary of State to appoint members with experience in specified activities. This will allow for greater flexibility in the membership of the Advisory Council on the Misuse of Drugs (AHMD). The background to this provision lies in the sacking of the Professor David Nutt under the last UK Government for expressing views contrary to government policy and the subsequent resignation of other members of the AHMD. Paul Flynn MP, a long standing advocate of drug liberalisation put down a topical question on 6 December 2010:

Paul Flynn (Newport West) (Lab): Do the Government really intend to end the obligation for scientists to be members of the Advisory Council on the Misuse of Drugs? Will this not result in the failing Government drugs policy ending up being evidence-free and prejudice-rich?

James Brokenshire: I am grateful to the hon. Gentleman for his question, because it allows me to underline the importance that the Government place on scientific advice and the important role that the Advisory Council on the Misuse of Drugs plays in the formulation of our drugs policies. I can make it absolutely clear that our proposals are intended to add greater flexibility to the provision of advice given to government, in order to ensure that we are able to get more effective policies, given the changing nature of the drugs threat. The proposals were drawn up in conjunction with the Advisory Council on the Misuse of Drugs, and I should add that they have the support of the Government's chief scientific officer, Professor John Beddington.¹⁰

Part 4: Arrest warrants gives effect to a commitment of the Justice Secretary announced in a [Written Ministerial Statement on 22 July 2010](#) that the Government intended to bring forward a legislative amendment **to require the consent of the Director of Public Prosecutions (DPP) before an arrest warrant can be issued on the application of a private prosecutor in respect of offences over which the United Kingdom has asserted universal jurisdiction.** These offences would include war crimes and others of “exceptional gravity”.¹¹

Part 5: Final Provisions contains technical clauses on orders and regulations, money, the territorial extent of the Bill, how clauses are to be commenced and the short title for the Bill.

¹⁰ HC Debates, 6 December 2010, cols.19-20

¹¹ HC Debates, 22 July 2010, col 47ws

4. Reaction

4.1. *The Welsh Context*

In commenting on the UK Government's proposals in the Consultation Paper, a number of key stakeholders have commented on the distinct context of policing in Wales as a non-devolved function but which involves close engagement with devolved partners such as local authorities in a range of ways such as Crime Safety Partnerships and Local Service Boards .

At Westminster, the Home Affairs Select Committee conducted an inquiry into the proposals in the Bill when they were at the consultation stage. In its memorandum of evidence to the Committee, the Welsh Local Government Association (WLGA) stated:

While the Home Office in its' consultation paper makes reference to the Welsh Assembly Government and its areas of responsibility as they relate to this agenda, we do not believe that the paper adequately reflects the current context of how Police Authorities operate in Wales. The consultation paper is predicated on the assumption that Police Authorities are not effective in relation to their accountability role in that they are "invisible to the public" and that the public are often "unaware of police authorities themselves". These statements do not reflect the situation in Wales. A recent survey undertaken by the Police Authorities of Wales (PAW) identified that 97% of those surveyed either agreed or strongly agreed that they had heard of Police Authorities and 82% agreed that they knew what a Police Authority does. Such evidence therefore reflects awareness of Police Authorities and their role in Wales.¹²

The WLGA also sketched out the overlapping roles of devolved and non-devolved roles in respect of crime and community safety:

The relationships and partnerships that have developed locally, regionally and nationally in tackling crime and community safety is one of the particular strengths of the current arrangements in Wales. Local authorities have taken their responsibilities under the Crime and Disorder Act 1998 seriously and have developed extremely effective relationships with the police and other partners in establishing and operating Community Safety Partnerships (CSPs). Police Authorities are represented on CSPs which shows how shared priorities can be addressed through individual agencies' business plans. There are also statutory mechanisms through which Police Authorities engage collectively with local government and the Assembly Government such as the Partnership Council (which has been established by the National Assembly for Wales) and the Consultative Forum on Finance—these structures provide Police Authorities with an opportunity to voice issues of concern to Assembly Government Ministers and feed into broader on-going discussions affecting local government policy in Wales.

The Association of Chief Police Officers (ACPO) Cymru expressed concern that "existing relationships with partners and the benefits that those partnerships

¹² [HC Home Affairs Select Committee, Inquiry on Police and Crime Commissioners, Memorandum of Evidence from the Welsh Local Government Association, October 2010.](#)

bring to our communities could be damaged through an approach that is focused on achieving consistency across England and Wales rather than facilitating the needs of communities in Wales.”¹³

4.2. *Police and Crime Commissioners and Panels*

The Wales Office Minister, David Jones MP, welcomed the provisions in Part 1 of the Bill:

The reforms published today will put the public at the heart of our drive to cut crime and give people a greater say and influence over their local communities. Directly elected Police and Crime Commissioners will give people a say in how their local area is policed, reconnecting the police with the communities they serve.

For far too long, the fight against crime has been tangled up in a web of centrally imposed red tape – today’s reforms will put the public back at the heart of policing. The Commissioners will replace faceless authorities and make forces truly accountable to the local community.¹⁴

The Chief Executive of the national charity Victim Support was supportive:

There is so much talk of putting victims and witnesses at the heart of the justice system - but their treatment by the police varies hugely. These plans could be an opportunity to design the role of locally elected police commissioners in a way that strengthens the voice of victims and witnesses¹⁵.

In an oral statement to Plenary on 12 October, the Social Justice and Local Government Minister, Carl Sargeant AM told Members that he had “made clear to the Home Secretary that the Welsh Assembly Government remains firmly opposed to these proposals.” He went on:

...we do not think that the Home Office has made a case for changing the current system. It suggests that it will replace bureaucratic accountability with democratic accountability, but forces are already accountable to their local communities through their police authorities. Police authorities already have either 17 or 19 members, the majority of whom are democratically elected councillors, and the remainder independent representatives from the communities served by the forces. It is hard to see how replacing 17 or 19 members with one commissioner will increase democratic accountability.¹⁶

¹³ [HC Home Affairs Select Committee, Inquiry into Police and Crime Commissioners, Memorandum of Evidence from ACPO Cymru, October 2010.](#)

¹⁴ [Wales Office, Wales Office Minister welcomes new policing reforms, Press Release, 1 December 2010](#)

¹⁵ [Victim Support, Javed Khan responds to plans for elected police commissioners, Press Release, 1 December 2010](#)

¹⁶ [Oral Ministerial Statement, Carl Sargeant AM, Minister for Social Justice and Local Government, The Welsh Assembly Government’s response to the Home Office consultation on the Police Reform and Social Responsibility Bill 12 October 2010.](#)

Mr Sargeant said that he had told the Home Secretary that the Welsh Government favoured a compromise whereby, in Wales, police authorities remain, but with the elected commissioner as chair and that this would offer the democratic accountability that the Home Office is seeking, while maintaining the important strengths of the current system.¹⁷

In its memorandum to the Home Affairs Select Committee, the WLGA outlined its strong opposition to Police and Crime Commissioners:

The WLGA is extremely concerned at the level of powers and responsibilities that will be placed in the hands of one individual and believes that this is unprecedented in British constitutional arrangements and therefore a risky proposal. The Police Commissioner model remains untested, uncosted, and without any clearly evidenced business case.

Police Authorities Wales' (PAW) evidence to the Select Committee stated:

PAW recognises that public consultation has identified there is a public appetite for an identifiable individual to be publicly accountable for policing. However, there were clear public concerns around politicising policing and one person having too much power.

PAW recognises that there is room for improvement and we are open to change, but we believe that changes should be focused on ensuring high quality, accountable policing, with the involvement of a wide range of stakeholders in agreeing policing priorities and agree that this is best achieved through governance arrangements which promote a consensual, involving approach with appropriate safeguards.

PAW believes that the appropriate structure to achieve the Government's objectives is that of a body corporate with the Commissioner part of a Police and Crime Board Model, jointly responsible for holding assets, entering into contracts and employing staff. A dispute resolution procedure would ensure that the primacy of the Commissioner is appropriately recognised. A comparison would be the executive decision making models in Local Government, or the private sector.¹⁸

ACPO Cymru was also of the opinion that the proposals place “too much power in the hands of a single individual. Proper scrutiny powers for the PCP are needed so as to provide the checks and balances so important to genuine democratic accountability”.¹⁹

The House of Commons Home Affairs Select Committee's report on the Consultation Paper proposals stated that:

¹⁷ Ibid.

¹⁸ [HC Home Affairs Select Committee, Inquiry into Police: Policing and Crime Commissioners, Memorandum of Evidence from Police Authorities Wales, October 2010.](#)

¹⁹ [HC Home Affairs Select Committee, Inquiry into Police: Policing and Crime Commissioners, Memorandum of Evidence from ACPO Cymru, October 2010.](#)

Given that there is concern in some quarters that Police Authorities do not currently have sufficient powers, we certainly do not think that Police and Crime Commissioners should have any fewer powers than Police Authorities, or be given new powers beyond those currently enjoyed by Police Authorities. **We recommend that Police and Crime Commissioners be responsible for the budget, staff, estate and other assets in their force area, and that they have the same power to appoint and dismiss senior officers that is currently held by Police Authorities.**²⁰

The Select Committee was, however, concerned about senior police officers moving seamlessly from an operational role to that of an elected Commissioner. It therefore recommended that:

there should be no restrictions on who can stand for the post of Police and Crime Commissioner beyond the criteria that normally apply to standing for public office. However, we consider that there should be a cooling-off period of four years—one term for a Police and Crime Commissioner—if a former senior officer of the rank of Assistant Chief Constable or above decides to stand as a Police and Crime Commissioner in the same area in which he or she has served. This is because otherwise a former senior officer could be in the position of scrutinising the effects of decisions he or she had made while still in office.²¹

However, this recommendation has not been included in the Bill.

4.3. *Licensing*

The UK Government's Coalition Agreement included a number of commitments for mitigating the social effects of alcohol:

- We will ban the sale of alcohol below cost price.
- We will overhaul the *Licensing Act* to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems.
- We will allow councils and the police to shut down permanently any shop or bar found to be persistently selling alcohol to children.
- We will double the maximum fine for under-age alcohol sales to £20,000.
- We will permit local councils to charge more for late-night licences to pay for additional policing.²²

Wales Office Minister, David Jones MP, said that the Bill will “rebalance the Licensing Act giving the public and local agencies greater control over alcohol licensing”. He further stated that:

²⁰ [HC Home Affairs Committee, *Police: Policing and Crime Commissioners*, 2nd Report 2010-2011. 1 December 2010.](#)

²¹ *Ibid.*

²² UK Government, *The Coalition: our programme for Government*, 2010.

The introduction of 24 hour licensing has made our towns and cities ‘no go’ areas leaving the police fighting a constant battle against drink fuelled crime and disorder. Our new measures will give the public and local agencies greater control over the licensing decisions that affect their local communities and provide the powers needed to reclaim their cities and towns.²³

The Local Government Group of the Local Government Association, also speaking for the WLGA in this context, welcomed the UK Government’s changes to the *Licensing Act 2002*. However, it noted that:

Licensing premises to sell alcohol is only one of several factors that affect how people consume alcohol, and other interventions – such as increasing the cost of alcohol – may be a more effective way of achieving the government’s stated policy goals. The LG Group regrets therefore that nothing has been included on the face of the Bill on the below cost price sale of alcohol.²⁴

However, the Home Office has committed to “taking forward proposals to implement the ban on sale below cost without delay”²⁵ via alternative means. The Local Government Group will therefore be seeking clarification on how this will be implemented, and reassurance that the burden of implementing and enforcing such a ban would not fall on councils.

In respect of the Bill’s proposals relating to alcohol sales, the Association of Convenience Stores, the British Retail Consortium and the Wine and Spirit Trade Association jointly stated:

There are already plenty of legislative tools available that can be used to tackle problems associated with alcohol and there have been many additions and alternations to licensing law since the 2003 Act. Rather than further legislation, a focus on proper and targeted enforcement of existing legislative tools may be more successful.²⁶

5. Provisions relating specifically to Wales

In his statement on the then proposed Bill on 12 October 2010, the Minister for Social Justice and Local Government indicated that he would be seeking further discussion with Home Office Ministers about the impact of the Bill in Wales.²⁷ The main change in respect of Wales from the White Paper is paragraph 4 in Schedule 6 to the Bill which can be seen in Annex 1 below. This deals with the membership of the Policing and Crime Panels. Ten members are to be appointed from members of the local authority in the police force area and two members are to be co-opted by the panel. However, Welsh Ministers are to make one appointment of a “local elected representative” to each panel. This is defined as:

²³ Op.cit., *Wales Office Minister welcomes policing reforms*, 1 December 2010

²⁴ [Local Government Association, *Police Reform and Social Responsibility Bill Briefing*, 1 December 2010.](#)

²⁵ [Home Office, *Responses to consultation: Rebalancing the Licensing Act, 2010*, para.30](#)

²⁶ [Association of Convenience Stores, the British Retail Consortium and the Wine & Spirit Trade Association; *Joint Briefing for Commons Second Reading of the Police Reform and Social Responsibility Bill: 13 December 2010*.](#)

²⁷ Op.cit.; Oral Statement by Minister for Social Justice and Local Government, 12 October 2010.

- (a) a person who is a member of the National Assembly of Wales for an Assembly constituency which falls wholly or partly within the police area;
- (b) a person who is a member of the National Assembly of Wales for an Assembly electoral region whose area is the same as, includes part of, or is included in, the police area;
- (c) a person who is a member of a county council or county borough council whose area is the same as, or included in, the police area;
- (d) a person who is the elected mayor of the mayor and cabinet executive (within the meaning of Part 2 of the Local Government Act 2000) of a county council or county borough council whose area is the same as, or included in, the police area.

Welsh Ministers may, therefore, appoint an Assembly Member to a panel or a councillor, although commentary implies that Assembly Members are likely to be appointed.

In its summary of responses and next steps document, the Home Office states:

We have agreed that each PCP within Wales will have appointed to it, by Welsh ministers, a member of the National Assembly as a representative of the Welsh Assembly Government. Westminster will play no part in determining the mechanism of the appointment other than to stipulate that the chosen individual must have an elected mandate held within either a local, regional or national elected representative and that their ward, constituency or regional electorate is drawn entirely or in part from within the force area of the PCP to which they shall be appointed. The Bill will not seek to vary ability of a PCC to raise or lower the precept within Wales, but that it will also not vary the WAG's current ability to cap the precept within a force area. The Home Secretary will retain a power to set a minimum force budget if a PCC intends to set a precept to low that places public safety at risk.²⁸

Explanatory Notes to the Bill state:

Paragraph 4 [in Schedule 6] provides for the membership of a police and crime panel in Wales arrangements in Wales. The arrangements are essentially the same as for police and crime panels in England, save that each panel in Wales will have an additional member appointed by Welsh Ministers from among members of the National Assembly for Wales.

In respect of the appointment of a member of the National Assembly for Wales, the member's Assembly constituency must be wholly or partly within the police area and his or her electoral region must include all or part of the police area. The Explanatory Notes state that "the appointment must be approved by the Assembly" **but there does not appear to be such a provision in the Bill itself.**

²⁸ [Home Office, *Policing in the 21st Century: Reconnecting police and the people, Summary of Consultation Responses and Next Steps*, December 2010.](#)

Paragraph 10 provides for the appointment of local elected representatives in Wales:

10 (1) The panel arrangements for a police and crime panel in Wales must make provision about the holding of office by the member of the panel who is the local elected representative.

(2) The provision that may be made under this paragraph includes provision about—

- (a) the term of office of the member;
- (b) resignation, and removal, of the member;
- (c) conditions for re-appointment of the member.

However, there is no reference on the face of the Bill to approval by the Assembly.

Although several Welsh MPs spoke in the Second Reading Debate on the Bill on 13 December 2010, none alluded to this provision.²⁹

The Bill provides for elections of police and crime commissioners for all police areas (an “ordinary election”) to be held in 2012 and in each subsequent fourth year. In Wales, the elections will be held on the same day as the local elections (clause 50).

Assembly Members (and all other elected members) are disqualified as serving as Policing and Crime Commissioners (clause 68) and as co-opted Members of Policing and Crime Panels (Schedule 6, paragraph 7).

²⁹ HC Debates, 6 December 2010, col.707

Annex 1

Membership: Wales

4 (1) In the case of a single-authority panel for a police area in Wales, the police and crime panel is to consist of—

- (a) ten members appointed from among the members of the participating authority by that authority,
- (b) two members co-opted by the panel, and
- (c) one member appointed by the Welsh Ministers from among the local elected representatives.

(2) In the case of a joint panel for a police area in Wales with ten participating authorities, the police and crime panel is to consist of—

- (a) ten members, each of whom is appointed by a different participating authority from among the members of that participating authority,
- (b) two members co-opted by the panel, and
- (c) one member appointed by the Welsh Ministers from among the local elected representatives.

(3) In the case of a joint panel for a police area in Wales with nine or fewer participating authorities, the police and crime panel is to consist of—

- (a) ten members appointed by the participating authorities from among the members of the participating authorities,
- (b) two members co-opted by the panel, and
- (c) one member appointed by the Welsh Ministers from among the local elected representatives.

(4) In the case of a joint panel for a police area in Wales with eleven or more participating authorities, the police and crime panel is to consist of—

(a) the relevant number of members, each of whom is appointed by a different participating authority from among the members of that participating authority,

(b) two members co-opted by the panel, and

(c) one member appointed by the Welsh Ministers from among the local elected representatives.

(5) In sub-paragraph (4), “relevant number”, in relation to a joint panel, means the number that is equal to the number of participating authorities.

(6) The police and crime commissioner for a police area may not be a member of the police and crime panel for that area.

(7) In this Schedule “local elected representative”, in relation to the police and crime panel for a police area, means any of the following—

(a) a person who is a member of the National Assembly of Wales for an Assembly constituency which falls wholly or partly within the police area;

(b) a person who is a member of the National Assembly of Wales for an Assembly electoral region whose area is the same as, includes part of, or is included in, the police area;

(c) a person who is a member of a county council or county borough council whose area is the same as, or included in, the police area;

(d) a person who is the elected mayor of the mayor and cabinet executive (within the meaning of Part 2 of the Local Government Act 2000) of a county council or county borough council whose area is the same as, or included in, the police area.