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4 November 2021

Dear Lord Paddick,

POLICE, CRIME, SENTENCING AND COURTS BILL: SPECIAL CONSTABLES

I am writing to follow up the debate in Committee on amendment 12 (Official Report, 20 October 2021, columns 214-219) and your request for a further explanation of why special constables are treated as “members of police forces” in Scotland, but not in England and Wales.

As I set out during the debate, as a matter of law, there is a difference in how special constables are referred to in legislation in England and Wales. Policing legislation in England and Wales uses the wording “member of a police force” to mean members of the 43 territorial forces. Subsequent legislation has been drafted on this basis, and having been subject to long standing separate regulation in England and Wales (since before 1965), the distinct nature of special constables is recognised in law with clearly defined benefits that result directly from this separate legal status.

If the term “members of police forces” were to be defined in law as including special constables, special constables could end up having access to the same conditions of service, or indeed, face the same restrictions, that legislation confers upon regular officers, which would not be appropriate. Whilst they do not currently fall under the definition of “members of police forces,” crucially, special constables are catered for in legislation in England and Wales as and where appropriate.

By contrast, the main policing legislation for Scotland does not refer to “members of police force” when defining the officers who police Scotland. Instead, the Police (Scotland) Act 1967 and the Police and Fire Reform (Scotland) Act 2012 both set out that there shall be regular constables and special constables. As a result, in Scotland, the term “constables” covers both regular constables at all ranks and special constables, except where there are provisions which provide specifically for different treatment. This is the same in England and Wales and means that, most critically, where legislation confers powers on a constable, they will also be exercisable by a special constable.

The issue of whether special constables should be defined in law as members of a police force is not an issue that has been raised by special constables in England and Wales. Equally, we have not been made aware of any links between this and special constables feeling undervalued in their roles. If this is an issue which you have been made aware of, I would ask that you to share this evidence so that we can look to address this through alternative means.

I am copying this letter to Lord Rosser, Lord Coaker, Baroness Harris of Richmond and Lord Berkeley of Knighton. I am also placing a copy in the library of the House.

Sharpe of Epsom.

LORD SHARPE OF EPSOM OBE

The Lord Paddick
House of Lords