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24 March 2022

*Dear Lord Hooker.*

**POLICE, CRIME, SENTENCING AND COURTS BILL: FOOD STANDARDS  
AGENCY - LORDS AMENDMENT 58**

Following the decision by the Lords on Tuesday to insist on your amendment to enable certain police powers under the Police and Criminal Evidence Act 1984 (PACE) to be conferred on the National Food Crime Unit (NFCU) of the Food Standards Agency (FSA), I am writing to set out the Government's approach to this amendment for the next stages of the Bill.

As I have previously made clear, the Government recognises that food crime is a very serious issue and empowering the NFCU to investigate these offences independently will ensure that their specialist knowledge is put to best use and that the burden on police forces is reduced. But as I have sought to explain, the legislative solution is not as straightforward as your amendment suggests. For these reasons, it would have been preferable not to rush the legislation and to allow time for the FSA to consult on a comprehensive package of legislative changes. That said, given the decision by the Lords following Tuesday's debate, we have now tabled the attached amendments in lieu for the Commons which provide for the outcome you have been seeking. The Government's amendment in lieu will insert a new section 114C into PACE, analogous to section 114B which gives power to the Secretary of State to make regulations conferring relevant PACE powers upon the Gangmasters and Labour Abuse Authority (GLAA). Our amendments will also amend the Criminal Justice and Public Order Act 1994 to allow for regulations to be made extending to the NFCU certain powers within that Act, on drawing inferences from a suspect's failure to account for their presence, that they have specifically indicated would be useful to them alongside PACE powers. In addition, the amendments in lieu will create an offence of obstructing a food crime officer in the execution of the functions conferred on them under the new section 114A of PACE, mirroring the provision for GLAA officers.

As I set out in the House on Tuesday, we cannot confer police powers to any organisation without the inclusion of formal independent oversight arrangements. These are intrusive powers of the State and to that end it is vital that we ensure the exercise of powers is necessary, proportionate and legitimate to prevent any misuse of

powers, and to deal with misuse swiftly should it arise. Lords Amendment 58 does not address this important issue.

As such, our amendments in lieu will also amend the Police Reform Act 2002 to bring the NFCU within the remit of the Independent Office for Police Conduct (IOPC). It will create a further regulation-making power within this Act giving powers to the Secretary of State to confer functions on the Director General of the IOPC in relation to officers of the FSA acting for law enforcement purposes.

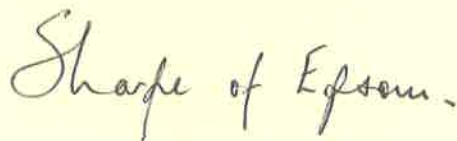
In addition to the IOPC, we would also like to bring the NFCU within the remit of HMICFRS to allow for inspection of their use of police powers in order to maintain transparency and public confidence. This will require additional changes to primary legislation which it will not be possible to complete within the timescales of this Bill. We will be seeking to legislate for this as soon as parliamentary time allows.

Our amendments will be confined to England and Wales at this stage as we also need to consult further on the extension of powers in Northern Ireland, and we will liaise with the Northern Ireland Executive on how best to make equivalent provision in Northern Ireland.

Before exercising these new regulation-making powers, we continue to believe it would be appropriate to undertake a consultation on the detail. To this end, we are committed to taking this work forward with the FSA and DHSC who will consult later this year on the extent of the powers that should be made available.

I hope these amendments in lieu will be acceptable to you when the Bill next returns to the Lords.

I am copying this letter to Lord Coaker, Lord Paddick, Baroness Bakewell of Hardington Mandeville, Lord Krebs, Lord Blencathra and Sarah Jones MP. I am also placing a copy in the library of the House.

A handwritten signature in dark ink, reading "Sharpe of EPSOM". The signature is written in a cursive, slightly slanted style.

**LORD SHARPE OF EPSOM OBE**

The Rt Hon the Lord Rooker  
House of Lords